



On approval of risk assessment criteria and a checklist for compliance with the legislation of the Republic of Kazakhstan on advertising

Unofficial translation

Order of the Minister of National Economy of the Republic of Kazakhstan dated March 29, 2019 № 22. Registered in the Ministry of Justice of the Republic of Kazakhstan on April 10, 2019 № 18490.

Unofficial translation

In accordance with subparagraph 3) of paragraph 2 of Article 85, paragraph 4 of Article 141 and paragraph 1 of Article 143 of the Entrepreneurial Code of the Republic of Kazakhstan dated October 29, 2015, **I HEREBY ORDER:**

Footnote. The preamble is in the wording of the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

1. To approve:

- 1) risk assessment criteria for compliance with the legislation of the Republic of Kazakhstan on advertising in accordance with Appendix 1 to this order;
- 2) a checklist for compliance with the legislation of the Republic of Kazakhstan on advertising in accordance with Appendix 2 to this order.

2. The Department of enterprise development in the manner established by the legislation shall ensure:

- 1) state registration of this order in the Ministry of Justice of the Republic of Kazakhstan;
- 2) within ten calendar days from the date of state registration of this order, sending it in the Kazakh and Russian languages to the Republican state enterprise on the right of economic management "Republican center for legal information" for official publication and inclusion to the Standard control bank of regulatory legal acts of the Republic of Kazakhstan;

3) placement a copy of this order on the official Internet resource of the Ministry of National Economy of the Republic of Kazakhstan;

4) submission of information on implementation of measures provided for in sub-paragraphs 1), 2) and 3) of this paragraph to the Legal department of the Ministry of National Economy of the Republic of Kazakhstan within ten working days after the state registration of this order in the Ministry of Justice of the Republic of Kazakhstan.

3. Control over execution of this order shall be assigned to the supervising Vice-Minister of National Economy of the Republic of Kazakhstan.

4. This order shall be enforced upon expiry of ten calendar days after its first official publication.

AGREED

Committee on legal
statistics and special records of the
General Prosecutor's office
of the Republic of Kazakhstan

Appendix 1
to the order of the Minister
of National Economy
of the Republic of Kazakhstan
dated March 29, 2019 № 22

Criteria for assessing the degree of risk for compliance with the legislation of the Republic of Kazakhstan on advertising

Footnote. Appendix 1 - as amended by the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated 28.11.2022 No. 94 (shall be enforced from 01.01.2023).

Chapter 1. General provisions

1. These Criteria for assessing the degree of risk for compliance with the legislation of the Republic of Kazakhstan on advertising (hereinafter referred to as the Criteria) have been developed in accordance with paragraph 6 of Article 141 of the Entrepreneurial Code of the Republic of Kazakhstan (hereinafter referred to as – Code), as well as by the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated July 31, 2018 No. 3 "On approval of the form of the checklist" (registered in the Register of state registration of regulatory legal acts under No. 17371), by the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated June 22, 2022 No. 48 "On approval of the Rules for formation by regulatory state bodies of the risk assessment and management system and on amendments to the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated July 31, 2018 No. 3 "On approval of the Rules for formation by state bodies of the risk assessment system and the form of the checklists" (registered in the Register of state registration of regulatory legal acts under No. 28577) and are intended for selection of the subjects of control in the field of advertising activities and their attribution to the degrees of risk when monitoring by the authorized body in the field of advertising activities (hereinafter referred to as the authorized body).

2. The following concepts are used in the Criteria:

- 1) subjects (objects) of control – individual and legal entities whose activities are monitored for compliance with the legislation of the Republic of Kazakhstan on advertising;
- 2) score – a quantitative measure of risk calculation;

- 3) data normalization is a statistical procedure involving the reduction of values measured in various scales to a conditionally common scale;
- 4) significant violations – violations of the requirements established by regulatory legal acts for compliance with the legislation of the Republic of Kazakhstan on advertising, regarding compliance with the prohibition of advertising of religious associations and spiritual (religious) educational organizations not registered in accordance with the legislation of the Republic of Kazakhstan;
- 5) minor violations – violations of the requirements established by regulatory legal acts for compliance with the legislation of the Republic of Kazakhstan on advertising, regarding the dismantling of the object of outdoor (visual) advertising after the expiration of its placement;
- 6) gross violations – violations of the requirements established by regulatory legal acts for compliance with the legislation of the Republic of Kazakhstan on advertising, entailing administrative responsibility, regarding the absence of notification before the start of activities or actions and propaganda or agitation of a violent change in the constitutional order, violation of the integrity of the Republic of Kazakhstan, undermining the security of the state, war, social, racial, national, religious, class and tribal superiority, the cult of cruelty and violence, pornography, as well as the dissemination of information, constituting state secrets of the Republic of Kazakhstan and other secrets protected by law;
- 7) risk – the probability of causing harm as a result of the activities of the subject of control and supervision to human life or health, the legitimate interests of individuals and legal entities, the property interests of the state, taking into account the severity of its consequences;
- 8) risk assessment and management system – the process of making managerial decisions aimed at reducing the likelihood of adverse factors by attributing the subjects (objects) of control by degrees of risk for the subsequent implementation of preventive control with a visit to the subject (object) of control and (or) checks for compliance with the requirements for the minimum possible degree of restriction of freedom of entrepreneurship, while ensuring an acceptable level of risk in the relevant areas of activities, and also aimed at changing the level of risk for a particular subject (object) of control and (or) releasing such a subject (object) of control from preventive control with a visit to the subject (object) of control and (or) checks for compliance with the requirements;
- 9) objective criteria for assessing the degree of risk (hereinafter – objective criteria) – criteria for assessing the degree of risk used to select the subjects of control depending on the degree of risk for compliance with the legislation of the Republic of Kazakhstan on advertising and not directly dependent on a separate subject of control;
- 10) criteria for assessing the degree of risk – a set of quantitative and qualitative indicators related to the direct activity of the subject of control, the specifics of industry

development and factors affecting this development, allowing the subjects (objects) of control to be attributed to various degrees of risk;

11) subjective criteria for assessing the degree of risk (hereinafter referred to as subjective criteria) – criteria for assessing the degree of risk used to select the subjects of control depending on the results of the activities of a particular subject of control;

12) checklist – a list of requirements for the activities of subjects (objects) of control, non-compliance with which entails a threat to human life and health, the environment, the legitimate interests of individuals and legal entities, the state.

13) sample set (sampling) – a list of assessed subjects (objects) related to a homogeneous group of subjects (objects) of control in a specific area of state control, in accordance with paragraph 2 of Article 143 of the Code.

Footnote. Paragraph 2 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

3. The criteria for assessing the degree of risk and checklists used to conduct preventive control with a visit to the subject (object) of control and (or) verification of compliance with the requirements are approved by an act of the authorized body for entrepreneurship and posted on the Internet resources of regulatory state bodies in accordance with paragraphs 5, 6 of Article 141 of the Code.

Regulatory legal acts of state bodies on approval of criteria for risk assessment and risk management, checklists before their approval are subject to coordination with the authorized body for legal statistics and special accounting for the technical possibility of automation of risk assessment and management systems and compliance with the requirements of the information system – the unified register of subjects and objects of inspections.

The deadline for approval by the authorized body for legal statistics and special accounting is five working days from the date of receipt of the project for approval.

Chapter 2. Formation of a risk assessment and management system during the verification of compliance with the requirements and preventive control of subjects (objects) of control

4. When carrying out preventive control with a visit to the subject (object) of control and checking for compliance with the requirements, the subject (object) of control belongs to one of the following degrees of risk (hereinafter referred to as the degree of risk):

1) high risk;

2) medium risk.

The frequency of preventive control with a visit to the subject (object) of control is determined by the results of the analysis and evaluation of the information received according to subjective criteria, but not more than twice a year.

For the areas of activity of subjects (objects) of control classified as high risk, the frequency of inspections for compliance with the requirements is determined by the criteria for assessing the degree of risk, but not more than once a year.

For the areas of activity of subjects (objects) of control classified as medium risk, the frequency of inspections for compliance with the requirements is determined by the criteria for assessing the degree of risk, but not more than once a year.

5. The criteria for assessing the degree of risk for carrying out preventive control of the subject (object) of control are formed by determining objective and subjective criteria.

Paragraph 1. Objective criteria

6. The criteria for assessing the degree of risk for a check of compliance and preventive control of the subjects (objects) of control are formed by determining objective and subjective criteria.

7. Objective criteria are determined by determining the risk.

8. Risk determination is carried out depending on the specifics of the area in which state control is carried out, taking into account one of the following criteria:

1) the level of danger (complexity) of the object;

2) the scale of severity of possible negative consequences, harm to the regulated sphere (area);

3) the possibility of an adverse event for human life or health, the environment, the legitimate interests of individuals and legal entities, the state.

9. After the analysis of possible risks, the subjects (objects) of control are classified according to two degrees of risk (high and medium).

the high degree of risk includes – advertising distributors;

the medium degree of risk includes – advertising producers, advertisers.

Paragraph 2. Subjective criteria

10. The definition of subjective criteria is carried out using the following steps:

1) database formation and information collection;

2) information analysis and risk assessment.

11. The formation of a database and the collection of information are necessary to identify subjects (objects) of control that violate the legislation of the Republic of Kazakhstan.

The following sources of information are used to assess the risk of preventive control with a visit:

1) the results of previous inspections and preventive control with visits to the subjects (objects) of control;

2) the presence and number of confirmed complaints and appeals;

3) the results of preventive control without visiting the subjects (objects) of control (final documents issued following the results of preventive control without visiting the subject (object) of control (certificate, conclusion, recommendations) for compliance with the legislation of the Republic of Kazakhstan on advertising).

The following sources of information are used to assess the degree during the checks for compliance:

- 1) results of previous inspections;
- 2) the presence and number of confirmed complaints and appeals;
- 3) the results of preventive control without visiting the subjects (objects) of control (final documents issued following the results of preventive control without visiting the subject (object) of control (recommendations) for compliance with the legislation of the Republic of Kazakhstan on advertising).

Footnote. Paragraph 11 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

12. On the basis of available sources of information, regulatory state bodies form subjective criteria to be assessed in accordance with Appendix 1 to the Criteria.

Footnote. Paragraph 12 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

13. Depending on the possible risk and significance of the problem, the uniqueness or systemic nature of the violation, the analysis of previously made decisions for each source of information, subjective criteria are determined, which, in accordance with the criteria for assessing the degree of risk of the regulatory state body correspond to the degree of violation – gross, significant and minor.

At the same time, definitions of gross, significant and minor violations are established in the criteria for assessing the degree of risk of the regulatory state body, taking into account the specifics of the relevant area of state control.

When forming subjective criteria, the degree of violation (gross, significant, minor) is assigned in accordance with the established definitions of gross, significant, minor violations.

Chapter 3. The procedure for calculating the degree of risk according to subjective criteria

Footnote. The title of Chapter 3 is in the wording of the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

14. To classify the subject of control to the degree of risk, the following procedure for calculating the degree of risk is applied.

The calculation of the risk index according to subjective criteria (R) is carried out in automated mode by summing the risk index for violations based on the results of previous

inspections and preventive control with visits to the subjects (objects) of control (SP) and the risk index according to subjective criteria (SC), followed by normalization of data values in the range from 0 to 100 scores.

$R_{prom} = SP + SC$, where:

R_{prom} is an intermediate indicator of the degree of risk according to subjective criteria;

SP – indicator of the degree of risk for violations,

SC - an indicator of the degree of risk according to subjective criteria determined in accordance with paragraph 9 of these Criteria.

The calculation is made for each subject (object) of control of a homogeneous group of subjects (objects) of control of each area of state control. At the same time, the list of assessed subjects (objects) of control related to a homogeneous group of subjects (objects) of control of one area of state control forms a sample set (sample) for subsequent normalization of data.

Footnote. Paragraph 14 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

14-1. According to the data obtained from the results of previous inspections and preventive control with visits to the subjects (objects) of control, an indicator of the degree of risk for violations is formed, estimated in scores from 0 to 100.

If one gross violation is detected by any of the sources of information specified in paragraph 11 of these Criteria, a risk score of 100 points is equated to the subject of control and preventive control is carried out with a visit to the subject (object) of control.

If gross violations are not detected, the indicator of the degree of risk for violations is calculated by the total indicator for violations of a significant and minor degree.

When determining the indicator of significant violations, a coefficient of 0.7 is used.

This indicator is calculated using the following formula:

$SP_3 = (SP_2 \times 100 / SP_1) \times 0,7$, where:

SP_3 is an indicator of significant violations;

SP_1 – the required number of significant violations;

SP_2 – the number of significant violations detected;

When determining the indicator of minor violations, a coefficient of 0.3 is applied.

This indicator is calculated using the following formula:

$SP_H = (SP_2 \times 100 / SP_1) \times 0,3$, where:

SP_H is an indicator of minor violations;

SP_1 – the required number of minor violations;

SP_2 – the number of minor violations detected;

The indicator of the degree of risk for violations (SP) is calculated on a scale from 0 to 100 points and is determined by summing the indicators of significant and minor violations according to the following formula:

$SP = SP_3 + SP_H$, where:

SP is the indicator of the degree of risk for violations;

SP₃ is an indicator of significant violations;

SP_H is an indicator of minor violations.

The obtained value of the indicator of the degree of risk for violations is included in the calculation of the indicator of the degree of risk according to subjective criteria.

Footnote. The Rules are supplemented by paragraph 14-1 in accordance with the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

14-2. The calculation of the risk index according to subjective criteria determined in accordance with paragraph 11 of these Criteria is carried out on a scale from 0 to 100 points and according to the following formula:

$$SC = \sum_{i=1}^n x_i * w_i, \text{ где}$$

x_i – indicator of the subjective criterion;

w_i – the specific weight of the indicator of the subjective criterion x_i ;

n – the number of indicators.

The obtained value of the risk indicator according to subjective criteria determined in accordance with paragraph 10 of these Criteria is included in the calculation of the risk indicator according to subjective criteria.

Footnote. The Rules are supplemented by paragraph 14-2 in accordance with the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

14-3. The values calculated by subjects (objects) for the R indicator are normalized in the range from 0 to 100 points. Normalization of data is carried out for each sample set (sample) using the following formula:

$$R = \frac{R_{\text{пром}} - R_{\text{min}}}{R_{\text{max}} - R_{\text{min}}}, \text{ где :}$$

R is an indicator of the degree of risk (final) according to the subjective criteria of an individual subject (object) of control,

R_{\max} – the maximum possible value on the scale of the degree of risk according to subjective criteria for subjects (objects) included in one sample set (sample) (the upper limit of the scale),

R_{\min} is the minimum possible value on the scale of the degree of risk according to subjective criteria for subjects (objects) included in one sample set (sample) (the lower limit of the scale),

$R_{\text{ПРОМ}}$ is an intermediate indicator of the degree of risk according to subjective criteria, calculated in accordance with paragraph 14 of these Criteria.

Footnote. The Rules are supplemented by paragraph 14-3 in accordance with the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

Chapter 4. Checklists

15. Checklists are compiled for homogeneous groups of subjects (objects) of control and include requirements in accordance with paragraph 2 of Article 132 of the Code and in compliance with the conditions defined in Article 143 of the Code.

16. The checklists are formed according to the form according to Appendix 2 to this order

Appendix 1
to the Criteria for assessment
of the degree of risk for
compliance with the legislation
of the Republic of Kazakhstan
on advertising and advertising
activity

Footnote. The text in the upper right corner is in the wording of the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

Risk assessment criteria for compliance with the legislation of the Republic of Kazakhstan on advertising

№	Criteria	Degree of violation
Results of previous inspections and preventive control (the degree of severity is established in case of non-compliance of the following requirements)		
1	Availability of the notification on placement of outdoor (visual) advertising in the open space outside the premises in the settlements, in the right-of-way of public roads, in the open space beyond the areas outside settlements and outside the right-of-way of public roads	gross

2	Compliance with the requirement not to use in advertising of propaganda or agitation of violent change of the constitutional order, violation of the integrity of the Republic of Kazakhstan, undermining state security, war, social, racial, national, religious, class and tribal superiority, cult of cruelty and violence, pornography, and dissemination of information constituting state secrets of the Republic of Kazakhstan and other secrets protected by the Law.	gross
3	Compliance with the prohibition on placement of outdoor (visual) advertising on historical and cultural monuments and in their protected areas, on religious buildings (structures) and on their designated territories and their fences, as well as on specially protected natural territories	gross
4	Compliance with the prohibition of advertising a residential house (residential building) under construction or put into operation that does not meet the classification of residential house (residential buildings) in the approved project documentation	gross
5	Compliance with the requirement for advertising goods (works, services) that are prohibited from production and sale in accordance with the legislation of the Republic of Kazakhstan	gross
6	Compliance with the prohibition of advertising of religious associations and spiritual (religious) educational organizations, not registered in accordance with the legislation of the Republic of Kazakhstan	significant
7	Compliance with the prohibition of advertising of electronic casinos and online casinos	significant
8	Availability of requirement in advertising of goods (work, service) sold on the territory of the Republic of Kazakhstan to specify the price (tariffs, prices, rates) in tenge	significant
	Compliance with the requirement on dismantling the object of outdoor (

9	visual) advertising after the expiration of its placement period established by the contract	minor
Availability of confirmed complaints and appeals from individuals and legal entities about violations of the requirements for compliance with the legislation of the Republic of Kazakhstan on advertising		
1	Availability of one confirmed complaint or appeal for compliance with the legislation of the Republic of Kazakhstan on advertising	significant
2	Availability of two or more confirmed complaints or appeals for compliance with the legislation of the Republic of Kazakhstan on advertising	gross
Results of preventive control without a visit of the subjects (objects) of control		
1	Non-provision of information on implementation of recommendations issued within the framework of preventive control without a visit of the subjects (objects) of control	gross

Appendix 2
to the Criteria for assessment
of the degree of risk for
compliance with the legislation
of the Republic of Kazakhstan
on advertising and advertising
activity

The list of subjective criteria for determining the degree of risk according to subjective criteria for compliance with the legislation of the Republic of Kazakhstan on advertising in accordance with Article 138 of the Entrepreneurial Code of the Republic of Kazakhstan in relation to the advertiser, advertising distributor, advertising producer

Footnote. The criteria are supplemented by Appendix 2 in accordance with the Order of the Minister of National Economy of the Republic of Kazakhstan dated 10.05.2023 No. 61 (shall be enforced ten calendar days after the date of its first official publication).

№	Indicator of the subjective criterion	Source of information on the indicator of the subjective criterion	Specific weight in significance, score (in total should not exceed 100 points), w_i	Conditions / values, x_i	
				Condition1/ value	Condition2/ value
1	2	3	4	5	6
For preventive control with a visit					
		the results of previous inspections and preventive control with visits , the presence and		0	1 +

1	No notification of outdoor visual advertising placement	number of confirmed complaints and appeals; the results of preventive control, final documents issued following the results of preventive control, certificate, conclusion, recommendations .	100	0%	100%
2	Failure to provide information on the implementation of recommendations issued within the framework of preventive control without visiting the subjects (objects) of control	the results of previous inspections and preventive control with visits , the presence and number of confirmed complaints and appeals; the results of preventive control, final documents issued following the results of preventive control, certificate, conclusion, recommendations .	100	0%	1+ 100%
For compliance checks					
		the results of previous inspections and preventive control with visits , the presence and number of confirmed complaints and appeals; the results of preventive control, final documents issued		0	1+ 100 %

1	No notification of outdoor visual advertising placement	following the results of preventive control, certificate, conclusion, recommendations .	100	0 %	
2	Failure to provide information on the implementation of recommendations issued within the framework of preventive control without visiting the subjects (objects) of control	the results of previous inspections and preventive control with visits , the presence and number of confirmed complaints and appeals; the results of preventive control, final documents issued following the results of preventive control, certificate, conclusion, recommendations .	100	0 0 %	1 + 100 %

Appendix № 2
to the Order of the Minister
of national economy
of the Republic of Kazakhstan
dated March 29. 2019 № 22

Checklist

Footnote. Appendix 2 - as amended by the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated 28.11.2022 No. 94 (shall be enforced from 01.01.2023).

For compliance with the legislation of the Republic of Kazakhstan on advertising

_____ in accordance with Articles 138 of the Entrepreneurial Code of the Republic of Kazakhstan

in relation to the advertiser, advertising distributor, advertising producer, the name of a homogeneous group of subjects (objects) of control

_____ The state body that appointed the inspection/preventive control with a visit to the subject (object) of control _____

_____ The act on the appointment of inspection / preventive control with a visit to the subject (object)

of control _____ №, date

The name of the subject (object) of control _____

_____ (Individual identification number), business- identification number of the subject (object) of control _____

_____ Location address _____

№	The list of requirements	Meet the requirements	Do not meet the requirements
1	2	3	4
1	The presence of a notification about the placement of outdoor (visual) advertising in an open space outside the premises in settlements, in the lane of public highways , in an open space outside the premises outside settlements and outside the lane of public highways		
	Compliance with the requirement not to use in advertising propaganda or agitation of violent change of the constitutional order, violation of the integrity of the Republic of Kazakhstan , undermining the security		

2	of the state, war, social, racial, national, religious, class and tribal superiority, cult of cruelty and violence , pornography, as well as the dissemination of information constituting state secrets of the Republic of Kazakhstan and other legally protected secrets		
3	Compliance with the prohibition on the placement of outdoor (visual) advertising on historical and cultural monuments and in their protected areas, on religious buildings (structures) and on the territory assigned to them and their fences, as well as on specially protected natural territories		
4	Compliance with the prohibition of advertising of a residential building (residential building) under construction or put into operation that does not correspond to the classification of residential buildings (residential buildings) in the approved project documentation		
5	Compliance with the requirements for advertising of goods (works, services) prohibited for production and sale in accordance with the legislation of the Republic of Kazakhstan		
6	Compliance with the prohibition of advertising of religious associations and spiritual (religious) educational organizations not registered in accordance with the legislation of the Republic of Kazakhstan		

7	Compliance with the prohibition of advertising of electronic and online casinos		
8	The presence of a requirement in the advertising of goods (work, services) sold on the territory of the Republic of Kazakhstan, an indication of the price (tariffs, prices, rates) in tenge		
9	Compliance with the requirement to dismantle the object of outdoor (visual) advertising after the expiration of its placement period established by the contract		

Official (s) _____
position _____ signature _____

surname, name, patronymic (if any)

The head of the subject of control and supervision _____
position _____ signature _____

surname, name, patronymic (if any)