

On approval of the Instruction for applying the minimum rates of remuneration for performers and phonogram producers

Invalidated Unofficial translation

Order of the Minister of Justice of the Republic of Kazakhstan dated September 10, 2019, No. 461. Registered with the Ministry of Justice of the Republic of Kazakhstan on September 18, 2019 No. 19387. Abolished by the Order of the Minister of Justice of the Republic of Kazakhstan dated 06/23/2023 No. 407

Unofficial translation

Footnote. Abolished by the Order of the Minister of Justice of the Republic of Kazakhstan dated 06/23/2023 No. 407 (effective after ten calendar days after the date of its first official publication).

In accordance with clause 1-1 of the Resolution of the Government of the Republic of Kazakhstan dated November 23, 2011 No. 1373 "On approval of the minimum rates of remuneration for performers and phonogram producers" **I HEREBY ORDER:**

1. To approve the attached Instruction for applying the minimum rates of remuneration for performers and phonogram producers.
2. The Department for Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan shall ensure:
 - 1) state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;
 - 2) placement of this order on the official Internet resource of the Ministry of Justice of the Republic of Kazakhstan.
3. Control over implementation of this order shall be entrusted to the supervising Vice Minister of Justice of the Republic of Kazakhstan.
4. This order shall come into force upon expiration of ten calendar days from the date of its first official publication.

Minister

M. Beketayev

Approved
by the order of
the Minister of Justice
of the Republic of Kazakhstan
dated September 10, 2019, No. 461

Instruction for applying the minimum rates of remuneration for performers and phonogram producers

Chapter 1. General provisions

1. This Instruction specifies the application of minimum rates of remuneration for performers and phonogram producers for the types of using performances and phonograms stipulated by the resolution of the Government of the Republic of Kazakhstan dated November 23, 2011 No. 1373 "On approval of the minimum rates of remuneration for performers and phonogram producers" (hereinafter referred to as the resolution of the Government).

2. The amount of remuneration, the procedure and terms for its payment shall be established by the parties in a license agreement, concluded by the user with performers, phonogram producers, copyright holders or an organization administering property rights on a collective basis.

3. When paying remuneration, the monthly calculation index established by the legislation of the Republic of Kazakhstan, effective as on the date of payment of such remuneration, is used.

4. Concepts, used in this Instruction, are used in the meanings, determined by the Law of the Republic of Kazakhstan "On copyright and the related rights".

5. Remuneration to performers and producers of phonograms for the use of performances and phonograms is charged for public performance, display, release and availability to the public, reproduction (duplication) and (or) distribution for the purpose of making a profit, reproduction for personal purposes without the consent of the performer and phonogram producer on the territory of the Republic of Kazakhstan.

Chapter 2. Applying the rates of remuneration to performers and producers of phonograms for the use of performances and phonograms by public performance, display, release and availability to the public

6. If there are cafes, bars, restaurants, other catering facilities, shops, trade markets and other places intended for trade purposes, places for mass skating, rollerblading on the territory of a cultural and entertainment center, a sports and recreation center, a trading house, theaters, cinemas, other places intended for screening films, cultural and leisure organizations (parks of culture and recreation, houses and palaces of culture, water parks) that independently use performances and phonograms through public performance, display, release or communication to the general public, then the burden of paying remuneration falls on such users.

7. If a performance or phonogram is publicly performed, shown, released or communicated to general public throughout the territory of the cultural and entertainment center, sports and recreation center, trading house, where shops, trading markets and other places intended for trade, cafes are located, bars, restaurants, other public catering facilities, places for mass skating, rollerblading, theaters, cinemas, other places intended for demonstration of films, cultural and leisure organizations (

parks of culture and recreation, houses and palaces of culture, water parks) that do not independently use performances and phonograms by public performance, display, release or communication to the general public, then the payment of remuneration shall be made by the owner of the cultural and entertainment center, sports and recreation center, trading house.

8. The monthly paid amount of remuneration for the use of performances and phonograms through public performance, display in hotels, sanatoriums, rest houses and boarding houses shall be one twelfth of the remuneration received as a result of multiplying the number of technical means by the established remuneration rate.

Chapter 3. Application of rates of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the producer of phonograms, payable by persons importing equipment and material carriers used for such reproduction

9. The amount of funds for payment of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the phonogram producer, payable by persons importing equipment and material media used for such reproduction shall be established as a percentage of the customs value of a unit of relevant equipment and material media imported by the importer.

10. Payment of funds for the payment of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the phonogram producer, payable by persons importing equipment and material carriers used for such reproduction, shall be carried out on the basis of an agreement concluded by the importer with the organization administering property rights on a collective basis.

11. Payment of funds for payment of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the phonogram producer, payable by persons importing equipment and material carriers used for such reproduction, shall be carried out by importers of equipment and material carriers at the end of each reporting period. The reporting period shall be understood as a period from one month to one quarter, unless otherwise provided by an agreement on the payment of funds for the payment of remuneration concluded with importers of equipment and material carriers with the organization administering property rights on a collective basis.

12. The organization administering property rights on a collective basis keeps records of importers, equipment manufacturers and material carriers and the amount of funds collected for the payment of remuneration.

13. The calculation of the amount of funds for payment of remuneration is carried out by the importers of equipment and material carriers independently. The amount of funds for payment of remuneration payable for the reporting period is calculated by

multiplying the customs value of a unit of equipment and material carriers by the amount of funds for payment of remuneration for equipment and material carriers, as well as by the number of units of imported equipment and (or) material carriers.

Chapter 4. Application of rates of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the producer of phonograms, payable by the persons who manufacture the equipment and material carriers used for such reproduction

14. The amount of funds for payment of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the producer of the phonogram, payable by the persons who manufacture the equipment and material carriers used for such reproduction, shall be established as a percentage of the selling price by the manufacturers of equipment and material carriers.

15. Payment of funds for the payment of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the phonogram producer, payable by the persons manufacturing the equipment and material carriers used for such reproduction, shall be carried out on the basis of an agreement concluded by the manufacturer of equipment and material carriers with the organization administering property rights on a collective basis.

16. Payment of funds for the payment of remuneration for the reproduction of phonograms for personal purposes without the consent of the performer and the phonogram producer, payable by the persons manufacturing the equipment and material carriers used for such reproduction, shall be carried out by the manufacturers of equipment and material carriers at the end of each reporting period. The reporting period shall be understood as a period from one month to one quarter, unless otherwise provided by the agreement on the payment of funds for the payment of remuneration concluded by the manufacturer of equipment and material carriers with the organization administering property rights on a collective basis.

17. The calculation of the amount of funds for payment of remuneration shall be carried out by the manufacturer of equipment and material carriers independently. The amount of funds for payment of remuneration payable for the reporting period shall be calculated by multiplying the sale price of a unit of equipment and tangible media by the amount of funds for payment of remuneration established for equipment and tangible media, as well as by the number of units of equipment and tangible media sold during the reporting period.