



## On approval of the Rules for the provision of water bodies for separate or joint use on a competitive basis

### *Unofficial translation*

Order of the Minister of Ecology, Geology and Natural Resources of the Republic of Kazakhstan dated July 30, 2020, No. 178. Registered with the Ministry of Justice of the Republic of Kazakhstan on August 5, 2020, No. 21055

#### Unofficial translation

In accordance with subparagraph 7-4) of paragraph 1 of Article 37 of the Water Code of the Republic of Kazakhstan dated July 9, 2003, **I HEREBY ORDER:**

1. To approve the attached Rules for the provision of water bodies for separate or joint use on a competitive basis.

2. The Committee on Water Resources of the Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan (hereinafter referred to as the Committee), in the manner prescribed by law, shall ensure:

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

2) posting this Order on the Internet resource of the Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan after its official publication;

3) within ten working days after the state registration of this Order with the Ministry of Justice of the Republic of Kazakhstan, submission to the Department of Legal Service of the Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan the information on the implementation of the measures provided for in subparagraphs 1) and 2) of this paragraph.

3. Control over the execution of this Order shall be entrusted to the Supervising Vice Minister of Ecology, Geology, and Natural Resources of the Republic of Kazakhstan.

4. This Order shall come into effect upon the expiration of ten calendar days after the day of its first official publication.

*Minister of Ecology, Geology and Natural Resources  
of the Republic of Kazakhstan*

*M. Mirzagaliyev*

" A G R E E D "

Ministry of the Republic of Kazakhstan

of National

Economy

Approved  
by Order of the  
Minister of Ecology, Geology

## **The Rules for the provision of water bodies for separate or joint use on a competitive basis**

### **Chapter 1. General Provisions**

1. These Rules for the provision of water bodies for separate or joint use on a competitive basis (hereinafter referred to as the Rules) have been developed in accordance with subparagraph 7-4) of paragraph 1 of Article 37 of the Water Code of the Republic of Kazakhstan dated July 9, 2003 (hereinafter referred to as the Code) and shall determine the procedure provision of water bodies for separate or joint use on a competitive basis.

2. Water bodies or their parts (hereinafter referred to as Water bodies) shall be provided for separate or joint use.

3. The provision of water bodies to individuals and legal entities for separate or joint use shall be carried out on a competitive basis in accordance with the procedure established by these Rules.

4. To provide a water body for separate or joint use, individuals and legal entities concerned in the use of a water body, shall send an application to the appropriate local executive body of the district, city of regional significance, region, city of republican significance on the territory of which the water body is located with a brief statement of purposes and terms of water use, appropriate justification, the indication of the location of the water body.

If a water body is located on the territory of 2 or more districts, cities of regional significance, regions, cities of republican significance for the provision of a water body for separate or joint use, individuals and legal entities concerned in using the water body shall send an application to the appropriate local executive body district, city of regional significance, region, city of republican significance.

5. The local executive body of a district, a city of regional significance, a region, a city of republican significance, within 3 (three) working days after the receipt of the application, shall send a request to the Basin Inspectorate for the Regulation of the Use and Protection of Water Resources (hereinafter referred to as the Inspection) for the territorial affiliation of the water body.

6. The Inspectorate, within 8 (eight) working days, shall consider the submitted materials and sends to the local executive body of the district, city of regional significance, region, city of republican significance an agreement on the advisability of providing this water body for separate or joint use.

7. Water bodies shall be provided for the competition, the provision of which for separate or joint use has been recognized as expedient by the conclusion of the Inspectorate.

## **Chapter 2. The procedure for the provision of water bodies for separate or joint use on a competitive basis**

8. Individuals and legal entities shall be provided with water bodies for separate or joint use by local executive bodies of districts, cities of regional significance, regions, and cities of republican significance. The competition shall be organized and conducted by local executive bodies of a district, a city of regional significance, a region, a city of republican significance ( hereinafter referred to as the Organizer of the competition).

9. Organizer of the competition shall:

create a competition committee with the inclusion in its composition of representatives of concerned state and local representative bodies, basin inspectorates, by agreement of representatives of non - governmental organizations and associations (unions), private business entities, representatives of a branch of the regional chamber of entrepreneurs in a district, a city of regional significance, a region, a city of republican significance.

In the absence of a branch of the regional chamber of entrepreneurs in a region, a city of regional significance, a representative of the branch of the regional chamber of entrepreneurs of the region shall be included in the committee;

place an announcement of the upcoming competition in a periodical of republican or regional significance and on its Internet resource no later than one month before the competition.

10. The chairman of the committee shall be appointed one of the deputy heads of the organizer of the competition. The total number of members of the tender committee shall be odd, but not less than five people. The secretary of the tender committee shall be a representative of the competition organizer without the right to vote.

The secretary of the tender committee maintains all the documentation on the organization and conduct of the tender.

11. The announcement of a tender for the provision of water bodies for separate or joint use shall contain the following information:

1) the name and location of the organizer of the competition;

2) a list of documents submitted by the tender participant in confirmation of its compliance with the qualification requirements, in accordance with paragraph 29 of these Rules;

3) the method, place, and deadline for the submission of bids;

4) on the place, date, and time of opening envelopes with tender applications;

5) on the water body put up for the competition, containing a map - location scheme, area, general condition of the water body;

6) information on the established water easements.

If water easements have not been established, the requirement shall be indicated on the need to determine their boundaries with concerned individuals and legal entities to:

- 1) water intake without the use of structures, technical means, and devices;
- 2) watering and driving cattle;
- 3) fish farming;
- 4) use of water bodies as waterways for ferries, boats, and other small vessels.

12. Individuals and legal entities who have expressed a desire to participate in the competition (hereinafter referred to as the Participant of the competition) shall send an application for participation in the competition to the organizer of the competition.

13. The acceptance of applications for participation in the competition shall be carried out by the secretary of the committee by entering in the register of applications (stitched, numbered, initialled by the secretary of the committee, and sealed) and end one calendar day before the date of opening the competitive applications.

14. The organizer of the tender, no later than 7 (seven) calendar days before the expiration of the deadline for submitting tender applications, on its initiative, shall make amendments to the information specified in the announcement of the tender by drawing up a protocol.

The amendments made within 2 (two) working days shall be reported to the bidders, while the deadline for submitting bids is extended by 7 (seven) working days.

15. After the announcement of the competition is published, the participants of the competition shall submit to the organizer of the competition a competition application in accordance with the requirements of paragraph 16 of these Rules in one copy.

16. The competition application shall be submitted by the participants of the competition in a stitched form, with numbered pages, the last page is certified by their signatures and seals (except for persons who are subjects of private entrepreneurship) and shall include:

- 1) an application for participation in the competition in any form;
- 2) documents confirming compliance with the qualification requirements for the tender participant in accordance with paragraph 29 of these Rules;
- 3) a copy of the charter, certificate, or statement of state registration (re-registration) of a legal entity - for legal entities;
- 4) copies of the notice of starting activities as an individual entrepreneur, identity card, or passport - for individuals;
- 5) obligations for:
  - compliance with the rules of general water use on the conditions established by the local representative bodies of the relevant region in accordance with subparagraph 1) of Article 38 of the Code;
  - implementation of water protection measures;
  - ensuring the safety of individuals on water bodies provided for separate or joint water use, compliance with the established regime of economic and other activities on the territory of water protection zones of water bodies;
  - establishment of a water easement.

6) in a sealed envelope the intention of the bidder concerning the use of the water body with a brief justification of the planned investment.

17. Bids for participation in the competition, submitted after the expiration of the established period, shall not be registered in the register of applications for participation in the competition, shall not be opened, and stored with the rest of the competition bids when applied, they shall be returned to the participant of the competition who submitted the competition application.

18. The participant of the competition shall get acquainted with the materials about the water body before the start of the competition.

19. The tender committee within 10 (ten) working days having considered the submitted documents of the tender participants shall draw up a preliminary admission protocol with a description of comments on applications that do not meet the qualification requirements.

In the course of consideration of tender applications, the tender committee, if necessary, shall send written requests to the relevant state bodies to confirm the accuracy of the submitted documents.

20. The secretary of the competition, within 2 (two) working days, shall publish a copy of the preliminary admission protocol on the official Internet resource of the organizer of the competition and send it to the participants of the competition.

21. From the date of publication of a copy of the protocol on the official Internet resource of the organizer of the competition, the participants of the competition shall be given 3 (three) working days to eliminate comments. If the comments are not eliminated, the participant shall be excluded.

22. The tender committee shall open the envelopes with the intentions of the tender participants concerning the use of the water body with a brief justification of the planned investments in the place and time specified by the organizer of the tender. The envelope opening procedure shall be carried out with video recording without interrupting the recording. The participant of the tender shall be present at the opening of the envelopes.

23. The results of the opening of envelopes shall be reflected in the protocol of opening the envelopes, signed by all members of the tender committee present at the meeting and the secretary. The opening protocol within 2 (two) working days shall be posted on the Internet resource of the organizer of the competition by the secretary of the competition committee.

In the course of consideration of bids, the tender committee may request clarifications from the bidders on their bids.

24. The winner of the tender shall be determined by the tender committee based on the results of the evaluation and comparison of tender applications, which have proposed the best conditions for maintaining a separate or joint use of a water body.

The decision of the committee shall be taken by an open vote of a majority of votes from the total number of members of the tender committee present, in the presence of at least two-thirds of its members at the meeting of the tender committee.

The absence of members of the tender committee is allowed only for valid reasons if there is a supporting document.

25. In the absence of a competitive environment (there is one applicant); the only participant in the competition shall be recognized as the winner of the competition if they have met all the requirements for the participants in the competition.

26. The results of the competition shall be summed up by the protocol of the tender committee within 10 (ten) calendar days from the day of opening the envelopes, signed by the members of the tender committee present at the meeting, a copy of which shall be sent to the participants of the competition no later than 1 (one) working day.

The results of the competition shall be posted on the Internet resource of the competition organizer.

27. The protocol of the tender committee is the basis for deciding by the local executive bodies of the district, city of regional significance, region, and city of republican significance.

Within 30 (thirty) working days from the date of signing the protocol on the results of the competition, the local executive body of the district, city of regional significance, region, city of republican significance shall decide on the provision of a water body for separate or joint use.

28. based on the decision on the provision of a water body for separate or joint use within 10 (ten) working days, an agreement shall be concluded on the provision of a water body for separate or joint use (hereinafter referred to as the agreement) between the local executive body of the district, city of regional significance, region, cities of republican significance and the winner of the tender based on a standard form of an agreement on the provision of a water body for separate or joint use, in accordance with Annex 1 to these Rules.

If the winner of the tender, after the local executive body of the district, city of regional significance, region, city of republican significance, a decision to provide a water body for separate or joint water use, does not sign an agreement within 10 (ten) working days, then the local executive body of the district, city of regional significance, region, city of republican significance shall decide on the provision of a water body for separate or joint water use to the participant of the tender, whose tender application is recognized as preferable after the winner of the tender in accordance with the protocol on the results of the tender.

29. Qualification requirements for the participants of the competition:

1) the availability of a material and technical base corresponding to the declared purposes of using the water body;

2) a development plan for years for three or more years indicating the sources and amounts of funding (including water protection measures, measures for the rational use of a water body, protection of water resources, improvement of water bodies);

3) documents confirming solvency:

original certificate of a bank or a bank branch with a signature and a seal, in which the bidder is served on the absence of overdue debts for all types of obligations to the bank or

bank branch (if the bidder is a client of several second-tier banks or branches, as well as a foreign bank, this certificate is submitted from each of these banks). The certificate shall be issued not earlier than one month preceding the date of opening of envelopes with tender bids ;

original balance sheet for the last financial year, signed by the chief executive or a person replacing him. If the opening of envelopes occurs before April 30 of the current year, then the original or a notarized copy of the balance sheet for the financial year preceding the last financial year shall be submitted;

a certificate of the state revenue authority on the absence of tax arrears and arrears on compulsory pension contributions, compulsory professional pension contributions, and social contributions for more than three months (except for cases when the payment deadline is deferred in accordance with the legislation of the Republic of Kazakhstan), or on the presence of tax arrears, and arrears on compulsory pension contributions, compulsory professional pension contributions and social contributions of less than one tenge, issued not earlier than one month preceding the date of opening the envelopes with competitive applications.

30. The tender participant, after receiving water bodies for separate or joint use, shall ensure compliance with the rules for general water use established by local representative bodies of the relevant region in accordance with subparagraph 1) of Article 38 of the Code in agreement with the basin inspectorates.

31. Local executive bodies of a district, a city of regional significance, a region, a city of republican significance shall keep records by compiling a list of water bodies provided for separate or joint use in the form in accordance with Annex 2 to these Rules and annually no later than January 20 of the year following the reporting year, provide this information (with a copy of agreements on the provision of a water body for separate or joint use) to the Inspectorate.

Annex 1  
to the Rules for the  
provision of water bodies for  
separate or joint use on a  
competitive basis

### **The standard form of an agreement on the provision of a water body for separate or joint use**

\_\_\_\_\_ " \_\_\_\_ " \_\_\_\_\_  
(Location)  
\_\_\_\_\_, referred to as  
the (full name of the organizer of the competition) hereinafter referred to as the Local  
executive body, represented by \_\_\_\_\_, (position, surname,  
name, patronymic (if any) of an authorized person) acting on the basis of \_\_\_\_\_  
\_\_\_\_\_, on the one hand and \_\_\_\_\_  
\_\_\_\_\_, (full name of the water user - the winner of the tender)

hereinafter referred to as the Water user, represented by \_\_\_\_\_, (position, surname, name, patronymic (if any) of the authorized person) acting on the basis of \_\_\_\_\_, (Charter, Regulations and others) on the other hand, based on \_\_\_\_\_

(number and date of the decision on granting the right to isolated or joint use of a water body) have entered into this agreement on the provision of a water body for separate or joint use (hereinafter referred to as the Agreement) and have agreed on the following:

## **1. The Subject of the Agreement**

1. The Local executive body provides, and the Water user accepts for use \_\_\_\_\_

(name of the water body or its part)

for \_\_\_\_\_

(the purpose of using a water body or its part in accordance with the declared in the tender application)

## **2. Rights and Obligations of the parties**

2. In the absence of established water easements, the contract establishes the requirements for the Water User:

1) to determine the boundaries of water easements for:

water intake without the use of structures, technical means, and devices;

watering and driving cattle;

fishery management;

the use of water bodies as waterways for ferries, boats, and other small vessels;

2) on the deadline for the implementation of this work and the submission of their results to the Executive Body.

3. The plan for the implementation of the activities declared by the water user in the tender documentation is reflected in the annex to the contract. The plan should contain the timing of the implementation of activities and the form of their completion.

4. Water user:

1) has the right to:

use a water body for the purposes for which it is provided, in compliance with the conditions and requirements provided for by the water legislation of the Republic of Kazakhstan;

exercise at his discretion the right to use the water body belonging to him, while preventing violation of the rights and legitimate interests of other persons, causing harm to the water body and the environment;



receive information on the state of water bodies for the implementation of water management activities;

check the quality and quantity of water provided;

defend their rights to water use;

to compensate for the harm caused by violations of rights, including the rights to receive water in accordance with the established limit and supply regime;

to exercise other rights provided for by the legislative acts of the Republic of Kazakhstan in the field of use and protection of water resources, water supply, and wastewater disposal;

2) is obliged to:

rational use of water resources, take measures to reduce water losses;

to treat water bodies and water facilities with care, to prevent harm to them;

comply with the established limits, permitted volumes, and water use regime;

not to allow violation of the rights and interests of other water users and users of natural resources;

maintain in good working order water facilities and technical devices affecting the state of waters, improve their performance, keep records of the use of water resources, equip water intakes, outlets of water facilities, and waste and collector waters with measuring instruments and water measuring devices;

to carry out water protection measures;

comply with the instructions of the regulatory authorities in full within the prescribed time frame;

not to allow the discharge of harmful substances over the established standards;

to prevent contamination of the catchment area of surface and ground waters;

comply with the requirements established by the legislation of the Republic of Kazakhstan on civil protection at water bodies and water facilities;

ensure the safety of individuals at water bodies and water facilities;

immediately inform the territorial divisions of the authorized body in the field of civil protection and local executive bodies of the district, city of regional significance, region, city of republican significance about all emergencies and violations of the technological regime of water use, as well as take measures to prevent harm to water bodies;

make payments for water use on time.

5. The water user neither fully nor partially transfers his obligations to anyone under this agreement.

6. Local executive body shall:

1) issue to the water user a certified copy of the decision on the provision of a water body for separate or joint use;

2) monitor the fulfillment of the terms of this agreement.

### **3. Force majeure circumstances**

7. Force majeure circumstances shall be determined in accordance with the Civil Legislation of the Republic of Kazakhstan.

8. In the event of a force majeure circumstance, the Water User shall immediately send a written notice of such circumstances and their reasons to the Local Executive Body. If no other written instructions are received from the Local Executive Body, the Water User continues to fulfill his obligations under the contract.

9. After the termination of the force majeure circumstances, the parties immediately resume the performance of their obligations under this Agreement.

## 4. Final provisions

10. This agreement shall come into force from the moment it is signed by both parties and shall be valid to "        "        20        .

11. This agreement may be terminated in the following cases:

1) termination of the activities of the Water User;

2) systematic violation of the requirements of the legislation in the field of use and protection of water resources;

3) restrictions on the right to use water to ensure the security and defense of the state, protect the health of the population, the environment, historical and cultural heritage, the rights and legitimate interests of others, also in case of low water, natural and man-made emergencies.

12. Any amendments and additions to the agreement are valid only if they are made in writing and signed by authorized representatives of the Parties and sealed by their seals (for legal entities).

13. The local executive body and the Water User shall make every effort to resolve, in the process of direct negotiations, disagreements or disputes arising between them under the contract or related to it.

14. All disputes and disagreements arising from this agreement shall be resolved in the manner prescribed by the legislation of the Republic of Kazakhstan.

15. This agreement is made in two copies in the state and Russian languages, having the same legal force.

## 5. Details of the parties

	" W a t e r u s e r "
"Local executive body"	(Surname, name, patronymic. (if any) of individual or name of legal entity)
(name)	
(postal, telegraphic address)	(address of an individual or legal entity)
(bank details, Individual identification code, the full name of the bank,	(Individual identification number for individuals, bank details ,

address of the bank or its branch) _____	Individual identification code, the full name of the bank, address of the bank or its branch) _____
(position, surname, name, patronymic (with his available)) _____	(position, surname, name, patronymic (if any)) _____
(signature, stamp)	(signature, stamp (except for persons who are subjects of private entrepreneurship))

Annex 2  
to the Rules for the provision of  
water bodies for separate  
or joint use on a competition basis

### List of water bodies provided for separate or joint use

No	Surname, name, patronymic (if any) of an individual, or the name of a legal entity that has been granted the right to use a water body separately or jointly	Name of the water body	Purpose of isolated or joint use of a water body	The number and date of the decision of the local executive body of the district, city of regional significance, regions, cities of republican significance on granting the right to separate or joint use of a water body	Number and duration of the agreement on the provision of a water body for separate or joint use
1	2	3	4	5	6