

On approval of the Rules for determining the legal status of persons located on the territory of the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of their citizenship of another state

Unofficial translation

Order of the Minister of Internal Affairs of the Republic of Kazakhstan dated September 1, 2020, No. 607. Registered with the Ministry of Justice of the Republic of Kazakhstan on September 2, 2020, No. 21161.

Unofficial translation

Footnote. The title is in the wording of the order of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.04.2024 № 322 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

In accordance with subparagraph 25) of Article 11 of the Law of the Republic of Kazakhstan dated April 23, 2014 "On Internal Affairs Bodies of the Republic of Kazakhstan"

I HEREBY ORDER:

1. To approve the attached Rules for determining the legal status of persons located on the territory of the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of their citizenship of another state in accordance with the appendix to this order.

Footnote. Paragraph 1 is in the wording of the order of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.04.2024 № 322 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

2. The Committee of the Migration Service of the Ministry of Internal Affairs of the Republic of Kazakhstan 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 Internal Affairs of the Republic of Kazakhstan;

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 Legal Department of the Ministry of Internal Affairs 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 implementation of this Order shall be entrusted to the supervising Deputy Minister of Internal Affairs of the Republic of Kazakhstan and the Migration Service Committee (Kabdenov M.T.) of the Ministry of Internal Affairs 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 Internal Affairs of the
Republic of Kazakhstan*

E. Turgumbayev

Annex
to the Order of the
Minister of Internal Affairs of the
Republic of Kazakhstan
dated September 1, 2020, № 607

Rules for determining the legal status of persons located on the territory of the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of their citizenship of another state

Footnote. Rules - as amended by the order of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.04.2024 № 322 (shall come into force ten calendar days after the day of its first official publication).

Chapter 1. General provisions

1. These Rules for determining the legal status of persons located on the territory of the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of their citizenship of another state (hereinafter - the Rules) have been developed in accordance with subparagraph 25) of Article 11 of the Law of the Republic of Kazakhstan "On the Internal Affairs Bodies of the Republic of Kazakhstan" and shall determine the procedure for assigning the status of a stateless person to persons located on the territory of the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of their citizenship of another state.

2. Persons who are not citizens of the Republic of Kazakhstan and do not have proof of their citizenship of another state shall be recognized as stateless persons.

3. The following concepts are used in these Rules:

1) an applicant - a person who has filed an application with an administrative body, an official for the implementation of an administrative procedure, as well as a person in respect of whom an administrative act is adopted, an administrative action (inaction) is performed (addressee of the administrative act);

2) an administrative act - a decision taken by an administrative body, an official in public law relations, implementing the rights and obligations of a certain person or an individually defined circle of persons established by the laws of the Republic of Kazakhstan;

3) an administrative body - a state body, a local government body, a state legal entity, as well as another organization that, in accordance with the laws of the Republic of Kazakhstan, are authorized to adopt an administrative act, perform an administrative action (inaction);

4) an administrative procedure - the activity of an administrative body, an official to consider an administrative case, make and implement a decision on it, carried out on the basis of an appeal or on their own initiative, as well as activities carried out in accordance with a simplified administrative procedure.

Chapter 2. Procedure for determining the status of a stateless person

4. To obtain the status of a stateless person, an individual shall submit in person to the territorial police bodies at the place of permanent residence an application addressed to the first head of the Police Department of the cities of Astana, Almaty, Shymkent and regions (hereinafter - the PD) for assignment of the status of a stateless person (hereinafter - the application) indicating the reasons for applying for the status.

For persons under 18 years of age and citizens recognized by the court as incompetent, the application shall be submitted by their legal representatives with the provision of documents confirming the authority to represent.

The procedure for recognizing the status of a stateless person shall be initiated upon the application of the person.

The application shall be submitted in writing. In this case, the applicant is warned of liability in accordance with Article 495 of the Code of the Republic of Kazakhstan "On Administrative Offenses" for knowingly submitting false information to state bodies of the Republic of Kazakhstan when receiving identity documents.

Persons who have reached the age of sixteen shall be subject to mandatory fingerprinting.

5. The following documents shall be attached to the application:

- 1) an application form in accordance with Appendix 1 to these Rules;
- 2) six photographs measuring 3.5 x 4.5 cm;
- 3) a certificate of fingerprinting in accordance with Appendix 10 to these Rules;
- 4) in relation to persons under investigation, a petition from the Investigative Department of the DP shall be attached;
- 5) in relation to persons serving a sentence in places of deprivation of liberty, a petition from the institution of the penal system where the applicant is held and a court verdict shall be attached.

In addition to the listed documents, the following shall be submitted:

1) persons residing without identity documents, or with a passport of the former Union of Soviet Socialist Republics (hereinafter - the USSR) of 1974, copies and originals (for verification) of the following documents (if any):

a birth certificate, marriage registration or divorce certificate;

passport of the former USSR of 1974;

a certificate from an educational institution on the period of study, a certificate of basic secondary education, a diploma of completion of a secondary specialized or higher educational institution;

a certificate of registration with a conscription office (registration certificate), a military ID;

a work record book;

a document confirming residence on the territory of the Republic of Kazakhstan (house register, apartment card, citizen registration book, archival certificate-extract from the business register);

a certificate of release from places of imprisonment, or another document identifying the applicant.

Copies of documents shall be verified against the original and certified by the signature of an employee of the migration service and the official seal of the unit.

In the absence of one of the specified documents, employees of the migration service shall send requests for the necessary information from Kazakhstani and foreign authorized bodies.

2) persons with permanent registration in the territory of the Republic of Kazakhstan who have formalized renunciation of citizenship of the Republic of Kazakhstan or citizenship of a foreign state, as well as persons who have been in the territory of the Republic of Kazakhstan for at least five years and do not have permanent registration (except for cases when there are court decisions on deportation from the territory of the Republic of Kazakhstan):

a document confirming the absence or termination of citizenship of another state, issued by the competent authority in the field of citizenship of the relevant state, the validity of which must not exceed one calendar year from the date of issue;

a copy of an identity document confirming former affiliation with the citizenship of another state.

6. The accuracy of the translation from one language to another shall be certified by a notary in accordance with Article 80 of the Law of the Republic of Kazakhstan "On Notaries" . Documents and acts drawn up with the participation of the authorities of foreign states or emanating from these authorities shall be accepted for consideration if they are legalized, in accordance with paragraph 60 of the Decree of the President of the Republic of Kazakhstan dated April 25, 2016 № 240 "On Approval of the Consular Charter of the Republic of Kazakhstan", unless otherwise provided by the legislation of the Republic of Kazakhstan or an international treaty ratified by the Republic of Kazakhstan.

7. On the day of receipt of the application, an authorized employee accepts it and registers it in the registration Journal of applications for assigning the status of a stateless person in the form according to Appendix 2 to these Rules.

8. On the day of registration of the application, a certificate of the person applying for assignment of the status of a stateless person shall be issued in the form according to Appendix 3 to these Rules. After a decision is made to determine or refuse to determine the status, the certificate shall be cancelled.

The certificate shall be issued for the period of consideration of the application, signed by the head of the migration service department and certified with the official seal.

The certificate of a person applying for stateless status confirms the registration of the application for recognition as a stateless person within the territory of the Republic of Kazakhstan.

9. When submitting an application for determining stateless status and/or during its consideration, if discrepancies in the provided information are identified, the migration service conducts an interview with the applicant and prepares an interview record in a free format.

10. After receiving the documents, an authorized police officer, within seven calendar days shall:

1) create a separate file with a permanent retention period;

2) request information from authorized Kazakhstan and foreign bodies to verify the applicant's information:

on issuing a passport of the former USSR of the 1974 model - a request is sent to the internal affairs agency that issued the applicant a passport of the former USSR of the 1974 model, in accordance with the form in Appendix 4 to these Rules, to provide copies of the application form № 1 and the book of registration of issuance of passports of the 1974 model, form № 2, to confirm the fact of issuance of a passport of the former USSR of the 1974 model to the applicant and the identity of the photographs, as well as for the presence of special marks (on citizenship of a foreign state, exchange, loss of a passport, request from competent authorities);

on documentation with a passport or other identity document, to the authorized body of another state;

on a birth certificate - if the applicant presents a reissued birth certificate, a request shall be sent to the civil registration authorities;

on the applicant's residence in the territory of the republic - to the archive of the address and reference bureau of the DP, State archives, akimats of rural districts, education and defence authorities;

confirming the absence or termination of citizenship of another state.

3) check the person for all services of the information exchange System of law enforcement and special agencies of the Committee on legal statistics and special records of the Prosecutor General's Office of the Republic of Kazakhstan, the Integrated database of the Ministry of Internal Affairs of the Republic of Kazakhstan, check the person for records of withdrawal from citizenship of the Republic of Kazakhstan, or its loss, registration in the territory of the republic as a foreigner. To confirm the fact of the applicant's stay on the territory of the republic, the Border service of the National Security Committee of the Republic of Kazakhstan shall request information on his/her crossing the State border of the Republic of Kazakhstan.

Requests shall be sent based on the passport data of the person, as well as the previous surname, name, patronymic (if any) and date of birth if they have changed.

If no response is received from the competent authorities of the Republic of Kazakhstan or a foreign state within one month from the date of the initial request, the request shall be sent again.

During this time, the review period shall be suspended based on a substantiated report following the form in Appendix 9 of these Rules, with the applicant being simultaneously notified.

The review period resumes once the requested information is received.

The document submitted by the applicant, confirming the absence or termination of foreign citizenship, shall be verified for authenticity by the internal affairs bodies by sending a request to the competent authorities of the foreign state in accordance with migration agreements ratified by the Republic of Kazakhstan or through the Consular Service Department of the Ministry of Foreign Affairs of the Republic of Kazakhstan for further forwarding to the country of origin.

The results of the inquiries shall be attached to the case file.

In relation to persons residing on the territory of the Republic of Kazakhstan without identity documents, in order to establish identity or difference with the information they provide about themselves, identification of the person shall be carried out by photographs.

Identification of the person shall be carried out by close relatives of the applicant or by persons who have known the applicant for at least 10 years.

The identifiers shall be first questioned about the circumstances in which they observed the person to be identified, the signs and characteristics by which they can identify the person. If the identifier points to one of the presented photographs, he will be asked to explain by what signs or characteristics he recognized the person.

A protocol shall be drawn up on the presentation of photographs for identification of the person in accordance with the form in Appendix 5 to these Rules (hereinafter - identification protocol).

The identification protocol shall be drawn up by an employee of the migration service based on the photograph of the applicant with the simultaneous presentation of at least 3 photographs of other persons of the same sex who do not have sharp differences in appearance and age with the applicant. The photographs must be stitched and secured with the official seal of the migration service unit. The protocol specifies the conditions, process, and results of the identification and verbatim accounts of the identification person's explanations.

11. The application review period is thirty calendar days.

12. In order to obtain the information necessary for making a decision on determining the status, the migration service authority may use the assistance of diplomatic missions and consular offices of the Republic of Kazakhstan abroad, other government agencies and international or non-governmental organizations.

13. Within seven calendar days after receiving the application, a request shall be sent with a copy of the application form to the national security agencies about whether determining the status of the status seeker meets the interests of national security.

The national security agencies shall provide the requested information within ten calendar days.

14. After conducting verification activities, based on the documents submitted by the applicant and the documents received during the consideration, within three working days, a reasoned conclusion shall be issued on determining or refusing the status in the form according to Appendix 6 to these Rules, which sets out in detail the established facts characterizing the applicant, which is approved by the head of the DP or his deputy and attached to the registration file.

The applicant will be sent a written notification of the decision taken within three working days.

15. If the application is reviewed positively, the applicant shall be issued a certificate of assignment of a stateless person status in the form according to Appendix 7 to these Rules, while the residence permit of a foreigner in the Republic of Kazakhstan (if any) shall be withdrawn from persons who previously held citizenship of a foreign state.

16. If there are grounds for refusing to determine the status of a stateless person by the internal affairs agency of the Republic of Kazakhstan that accepted the application, the applicant shall be sent a notification of a hearing in advance, but no later than three working days before the adoption of the administrative act, to express a position on the preliminary decision on the administrative case. The hearing shall be held no later than 2 working days from the date of notification.

Based on the results of the hearing, a decision shall be made on further consideration of the petition (application).

If a decision is made to refuse to determine the status, the applicant shall be sent a notification on refusal to determine the status of a stateless person in the form according to Appendix 8 to these Rules, indicating the reason for the refusal. The second copy of the notification shall be attached to the applicant's personal file.

17. In relation to persons located on the territory of the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of their affiliation with the citizenship of another state, the procedure for issuing a permit for permanent residence in the Republic of Kazakhstan shall not be carried out.

18. Status determination is refused on one of the following grounds:

1) it is established that the applicant has citizenship of the Republic of Kazakhstan or of a foreign state;

2) if it is established that the documents are unreliable, or the materials submitted are inconsistent, or the applicant knowingly provides false information about himself that affects the determination of his/her status;

3) if the applicant submits an incomplete set of documents in accordance with these rules or the completeness of the questionnaire information;

4) if the national security agencies have information about the inexpediency of the applicant's residence in the Republic of Kazakhstan due to the interests of national security.

19. If false information or documents are discovered during the determination of stateless status, the migration service at the applicant's place of permanent residence shall issue a decision to annul the status, withdraw the stateless person's certificate, and remove them from the residential registration.

20. Stateless status shall be terminated upon the individual's acquisition of citizenship of the Republic of Kazakhstan or another state, or upon the individual's death.

When acquiring citizenship of any state, the applicant shall notify the migration service authority within thirty days. The decision to terminate the status shall enter into force one month after approval in order to provide the person with sufficient time to regulate their new legal status in the territory of the Republic of Kazakhstan.

21. The complaint shall be considered in an administrative (pre-trial) manner by the superior administrative authority (official) considering the complaint.

22. The complaint shall be filed with the administrative authority (official) whose administrative act, administrative action (inaction) is being appealed.

The administrative authority (official) whose decision, action (inaction) is being appealed shall, no later than three working days from the date of receipt of the complaint, forward it and the administrative case to the authority considering the complaint.

In this case, the administrative body (official) whose decision, action (inaction) is being appealed has the right not to send the complaint to the body considering the complaint if it makes a decision or other administrative action within three working days that fully satisfies the requirements specified in the complaint.

23. The complaint shall be considered within the timeframes established by the Administrative Procedure and Procedural Code of the Republic of Kazakhstan.

24. An appeal to the court shall be allowed after an appeal in a pre-trial manner, unless otherwise provided by law.

Appendix 1
to the Rules for determining
the legal status of stateless persons

Photo
(35 x 45 mm)

APPLICATION - QUESTIONNAIRE ON GRANTING THE STATUS OF A STATELESS PERSON _____ **name of**
the police authority

Applicant details:

1. Surname, name, patronymic (if any)

Previous surname, name, patronymic (if any)

reason for change

2. Date, month, year and place of birth

3. Citizenship

Previous citizenship

where, when and on what grounds it was lost

4. Gender male, female

5. Nationality optional

6. Marital status

married, single

divorced, marriage (divorce) certificate number, date and place of issue)

7. Family members, including minor children (including adopted, warded, under guardianship):

Relationship to the applicant	Surname, name, patronymic (if any)	Year and place of birth	Citizenship (nationality)	Address of residence, study	Individual identification number (if any)	Place of work
-------------------------------	------------------------------------	-------------------------	---------------------------	-----------------------------	---	---------------

8. Information on work experience, including studies (indicated in chronological order):

Start and end date of education or employment	Name of educational institution, organization	Address of educational institution, organization
---	---	--

9. Individual identification number (if any)

10. Do you have an outstanding or unexpunged conviction for committing a criminal offence in the territory of the Republic of Kazakhstan or abroad, if yes, how many times and when

11. Passport details:

document number, place and date of issue, expiration date, name of the authority that issued the document (if any)

12. I live in the Republic of Kazakhstan at the address:

Address of permanent or temporary residence in the country of usual residence:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

_____ (signature of the applicant)

The application was accepted for consideration on " ____ " _____ 20____.

(rank, if any), position, surname,

initials of the authorized official who received the documents

(signature of the official)

Appendix 2
to the Rules for determining
the legal status of stateless persons

Registration journal of applications for granting the status of stateless person

Nos/n	Date of receipt a n d registration of the application	Surname, n a m e, patronymic (if any) of the person	Date and place of birth	Citizenship, previous citizenship	Address of residence in the Republic of Kazakhstan	Surname of the employee who conducted the reception
1	2	3	4	5	6	7

Appendix 3
to the Rules for determining
the legal status of stateless persons

Certificate of a person applying for the status of a stateless person

Migration service unit _____

name of police agency

This certificate has been issued:

Place for photo 3x4	Surname _____
	Name _____
	Patronymic (if any) _____
	Seal _____

that the application for granting the status of a stateless person has been registered by the
migration service unit

(name of the police agency)

Residential address of the certificate holder _____

Registration № _____ from " _____ " _____ 20____

Certificate is valid: from _____ to _____

Authority that issued the certificate _____

Date of issue of the certificate " _____ " _____ 20____

Head of the migration service unit of the police agency

(surname, name, patronymic (if any))

Seal

Appendix 4
to the Rules for determining
the legal status of stateless persons

Form

Request for a copy of application form № 1

Police stamp

Ex. № _____ " ____ " _____ 20__ year

To _____

From _____

(Surname, name, patronymic (if any), year of birth, native)

_____ an application was received regarding the loss of a passport of the former USSR of the 1974 model

series _____ № _____, issued by _____

" ____ " _____ year; issuing authority of the identity document

№ _____, issued by _____ issuing authority " ____ " _____ year.

I hereby request you to confirm the issuance of a passport of the former USSR of the 1974 model,

identity document (indicate the type of document)

_____ (Surname, name, patronymic (if any)) a copy of the application form № 1, certified in the prescribed manner, and an entry from the book of form № 2 for recording applications for issuance passports of the former USSR of 1974 model.

_____ (name of police agency)

_____ (Surname, name, patronymic (if any), signature of police official)

" ____ " _____ 20__

Appendix 5
to the Rules for determining
the legal status of stateless persons

PROTOCOL of identification of the person

" ____ " _____ 20__ г.

PHOTO

PHOTO

PHOTO

PHOTO

(all photographs are stitched and certified with the official seal of the migration service unit, the seal imprint is clear and easily legible, the seal number is located on the protocol form (not on the photograph).

1. Identifier _____

(Surname, name, patronymic (if any))

(registration address) № and type of identity document, authority and date of issue

2. Identifier _____

(Surname, first name, patronymic (if any))

(registration address) № and type of identity document, authority and date of issue

3. Identifier _____

(Surname, name, patronymic (if any))

(registration address) № and type of identity document, authority and date of issue with the participation of a translator

we hereby recognize that in photograph № _____ is presented _____

(surname, name, patronymic (if any), date of birth)

Identification result: identified _____

Before the start, the identifying persons were warned about administrative liability for providing knowingly false information to state bodies of the Republic of Kazakhstan under Article 495 of the Code of the Republic of Kazakhstan on administrative offences.

No statements were received during or after the identification.

After the identification, the protocol was presented to its participants for reading.

The protocol was read aloud. There were no comments on the protocol.

Signatures of persons identifying the person:

1. _____

(Surname, name, patronymic (if any) (signature))

2. _____

(Surname, name, patronymic (if any) (signature))

3. _____

(Surname, name, patronymic (if any) (signature))

The protocol was compiled by:

(Surname, name, patronymic (if any), position of the authorized employee)

(signature) _____
(name of the police agency)

Appendix 6
to the Rules for determining
the legal status of stateless persons

Conclusion on the determination or denial the status of a stateless person

position, special rank, surname, name, patronymic (if any)
of the employee having reviewed the application

list the surname, name, patronymic (if any) of the applicant and the grounds
for filing the application

Established:

The following shall be indicated: full personal data, place of registration of the applicant,
reasons

that prompted him to file the application;
education, profession, occupation, period of residence in the territory
of the Republic of Kazakhstan previously, place of residence;
personal characteristics of the applicant, source of livelihood,
marital status, brief information about close relatives;
information about children and their full personal data;
results of identity checks according to the records of internal affairs agencies and other
government agencies, information on administrative and criminal liability;
grounds for granting the status of a stateless person;

Resolved:

1. A reasoned justification for the adoption of a positive
or negative decision on determining the status of a stateless person is set out.
2. The name of the internal affairs agency to which the
message of the decision taken is sent to ensure that the applicant is documented
as a stateless person and registered at the place of residence.

position, special rank, (signature) surname, name, patronymic
(if any) of the employee

AGREED

Head of the migration service unit or deputy

special rank, surname, name, patronymic (if any) (signature)

"__" _____ 20__

Appendix 7
to the Rules for determining
the legal status of stateless persons

Photograph

Certificate № _____ issued to obtain a certificate of a stateless person in the Republic of Kazakhstan

Surname _____

Name _____

Patronymic (if any) _____

Date of birth _____

in accordance with the Law of the Republic of Kazakhstan "On the legal status of foreigners" is a stateless person.

Basis:

Conclusion of the DP of the region № _____ dated "__" _____ 20__

Head of the Migration service department of the DP _____ (signature)

Seal

Stin of certificate № _____

Surname _____

Name _____

Patronymic (if any) _____

Date of birth _____

in accordance with the Law of the Republic of Kazakhstan "On the legal status of foreigners" is a stateless person.

Basis:

Conclusion of the DP of the region № _____ dated "__" _____ 20__

Inspector _____ (signature)

Certificate received _____ "____" _____ 20__

(signature)

Appendix 8
to the Rules for determining
the legal status of stateless persons

Notification of refusal to determine the status of a stateless person

It is reported that by decision _____
indicate the body that made the decision, date and decision number

You have been denied determination of the status of a stateless person on the basis of

indicate the clause of the Rules, Head of the migration service unit
(department, office) of the police body

(special rank, surname, initials) (signature)

"__" _____ 20__ year

Seal

Appendix 9
to the Rules for determining
the legal status of stateless persons

Conclusion on suspension of determination of the status of a stateless person

position, special rank, surname, name, patronymic (if any)
of the employee having reviewed the materials

list the surname, name, patronymic (if any) of the applicant
and the grounds for filing the application

Established:

The following are indicated: full personal data, place of registration of the applicant, justification for the suspension (where and when the request was sent, content and outgoing number);

Decided:

1. To suspend the period for reviewing the material until the requested information is received.

position, special rank, (signature) Surname, name, patronymic (if any) of the employee
AGREED

Head of the department of the internal affairs agency or deputy

special rank, surname, name, patronymic (if any) (signature)

Appendix 10
to the Rules for determining
the legal status of stateless persons

CERTIFICATE of fingerprinting of a foreigner or stateless person

Given _____

—
(Full name (if indicated in the identity document), date of birth)

IIN _____

Registration ID: KZ _____

Name of the internal affairs agency _____

Fingerprinting performed by _____ (position, rank, full name (if indicated in the identity document) of the employee)

(date of fingerprinting) (signature of the employee)

Seal (if any)

The certificate is valid upon presentation of a national passport