

On approval of the Rules for the recall of products that do not meet the requirements of technical regulations

Unofficial translation

Order of the Minister of Trade and Integration of the Republic of Kazakhstan dated May 29, 2021 No. 373-MP. Registered with the Ministry of Justice of the Republic of Kazakhstan on June 1, 2021 No. 22884

Unofficial translation

This order shall be enforced on July 1, 2021.

In accordance with subparagraph 21) paragraph a 1 of article 7 of the Law of the Republic of Kazakhstan “On technical regulation”, **DECREE:**

1. Approve the attached Rules for the recall of products that do not meet the requirements of technical regulations.

2. Recognize as invalid:

1) Order of the Acting Minister for Investments and Development of the Republic of Kazakhstan dated December 4, 2015 No. 1155 “On approval of the Rules for the implementation of the withdrawal and recall of products that do not meet the requirements of technical regulations” (registered in the Register of State Registration of Regulatory Legal Acts under No. 12668);

2) Order of the Minister of Trade and Integration of the Republic of Kazakhstan dated April 28, 2020 No. 102-MP “On amending the order of the Acting Minister for Investment and Development of the Republic of Kazakhstan dated December 4, 2015 No. 1155 “On approval of the Rules for the implementation of the withdrawal and recall of products, not complying with the requirements of technical regulations” (registered in the Register of State Registration of Regulatory Legal Acts No. 20511).

3. The Committee for Technical Regulation and Metrology of the Ministry of Trade and Integration of the Republic of Kazakhstan in the manner prescribed by law to ensure:

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

2) placement of this order on the Internet resource of the Ministry of Trade and Integration of the Republic of Kazakhstan.

4. To impose control over the execution of this order on the supervising vice minister of trade and integration of the Republic of Kazakhstan.

5. This order shall be enforced on July 1, 2021 and is subject to official publication.

*Minister of Trade and Integration
of the Republic of Kazakhstan*

B. Sultanov

Approved by order

Rules for the recall of products that do not meet the requirements of technical regulations

Chapter 1. General Provisions

1. These Rules for the recall of products that do not meet the requirements of technical regulations (hereinafter referred to as the Rules) are developed in accordance with subparagraph 21) of paragraph 1 of Article 7 of the Law of the Republic of Kazakhstan “On Technical Regulation” (hereinafter referred to as the Law) and determine the procedure for recalling products that do not comply requirements of technical regulations , return by the manufacturer, a person authorized by the manufacturer, importer or seller of such products put into circulation by him (hereinafter referred to as product recall).

2. These Rules apply to products subject to recall or recalled from a person who has acquired and (or) uses products exclusively for personal, family, home or other use related to entrepreneurial activity (hereinafter referred to as the acquirer).

Chapter 2. The procedure for recalling products that do not meet the requirements of technical regulations for products

3. The basis for the withdrawal of products is the establishment by the manufacturer, the person authorized by the manufacturer, the importer or the seller of the release into circulation of products that do not meet the requirements of technical regulations.

4. If the grounds specified in paragraph 3 of these Rules arise, the manufacturer or a person authorized by the manufacturer, the importer or the seller recalls the products in order to prevent their further circulation.

5. The manufacturer or a person authorized by the manufacturer, importer or seller, in order to avoid risks, independently recalls products from the purchaser and identifies a specific batch, volume, unit of products subject to recall.

A product recall is subject to a certain number of products from a lot or from a series.

6. The products recalled on the basis of paragraph 3 of these Rules, the cost of which is reimbursed to the purchaser, the manufacturer or a person authorized by the manufacturer, the importer or the seller disposes of independently.

7. If the discrepancy is unrecoverable, the withdrawn products from the date of detection of such discrepancy within 30 (thirty) calendar days are subject to processing, disposal, destruction or re-export from the territory of the Republic of Kazakhstan in compliance with the requirements established by standardization documents and (or) technical regulations, as well as environmental legislation of the Republic of Kazakhstan , the legislation of the Republic of Kazakhstan in the field of veterinary medicine, on civil protection , and

regulatory requirements legal acts in the field of sanitary and epidemiological welfare of the population, or was exported back outside the Republic of Kazakhstan.

8. If the non-conformity of the recalled products is remedied, the manufacturer, a person authorized by the manufacturer, the importer or the seller eliminates this non-conformity within the agreed timeframe with the purchaser of the products.

9. Violations are considered to be correctable if:

1) by means of corrective actions agreed with the purchaser of the products, except for the case provided for in paragraph 6 of these Rules, the manufacturer, the person authorized by the manufacturer, the importer or the seller can eliminate the discrepancies found without additional and (or) re-testing the compliance of the products with the requirements of technical regulations;

2) making changes to the design (composition) of products or the technology of its production do not affect the safety indicators, confirmed during conformity assessment;

3) changes (non-compliance) with the requirements of the production technology, the technological process do not cause non-compliance of products with the requirements verified during conformity assessment ;

4) by means of corrective actions agreed with the purchaser, with the exception of the case provided for in paragraph 6 of these Rules, the manufacturer, the person authorized by the manufacturer, the importer or the seller may eliminate the discrepancies found by conducting additional and (or) repeated tests and assessing the conformity of products with the requirements of technical regulations.

10. The manufacturer, the person authorized by the manufacturer, the importer or the seller, based on the results of the measures taken to recall the products, informs in electronic form the authorized body in the field of technical regulation through the information system of technical regulation, providing information about the products (name, code of the commodity nomenclature of foreign economic activity, quantity (unit (in pieces), weight (in kilograms), volume (in liters), cost, batch number, date of manufacture, information about the conformity assessment document) and an indication of the identified inconsistencies (points, articles) of the requirements of the technical regulation.

The authorized body in the field of technical regulation, in order to stimulate conscientious entrepreneurship, provides for mitigating measures in relation to such business entities in accordance with the legislation of the Republic of Kazakhstan.

11. Notification of purchasers is carried out in Kazakh and (or) Russian languages by means of information and communication technologies, indicating their contact details for obtaining detailed information about the conditions of recall (by exchange, return, reimbursement), the location of the points of receipt of such products and responsible persons with a mandatory warning about the possibility of violating the rights and legitimate interests of the purchaser, causing harm to human life and health and the environment as a result of the use of such products.

12. The manufacturer, the person authorized by the manufacturer, the importer and the seller interact with each other to ensure the effective acceptance of recalled products from the purchasers. If the contact details of the purchaser are available, the manufacturer, a person authorized by the manufacturer, the importer or the seller, within 3 (three) calendar days from the moment the grounds specified in paragraph 3 of these Rules arise, directly notifies him of the recall of products that do not meet the requirements of technical regulations.

13. The possibility of further use of processed products or their circulation on the market is carried out by passing the procedure mandatory confirmation of compliance with the requirements established by technical regulations in accordance with the Law .

14. In case of revealing non-compliance of products with the requirements of technical regulations, the purchaser shall apply in writing in the form of registered mail with a return receipt or by e-mail or by other means of communication to the manufacturer, the person authorized by the manufacturer, the importer and the seller to ensure its voluntary withdrawal in accordance with paragraph 1 of Article 42-4 of the Law of the Republic of Kazakhstan "On Protection of Consumer Rights".

The manufacturer, the person authorized by the manufacturer, the importer and the seller, within 10 (ten) calendar days, provide a response to the purchaser on the measures taken and the results of consideration of his application in accordance with paragraph 2 of Article 42-4 of the Law of the Republic of Kazakhstan "On Protection of Consumer Rights".

15. If the manufacturer, the person authorized by the manufacturer, the importer and the seller do not take measures to voluntarily recall non-conforming products from the purchaser, the purchaser shall apply to the authorized body in the field of technical regulation to take measures in accordance with the law Republic of Kazakhstan .