

On State Monitoring of Property in Branches of Economics Having Strategic Significance

Unofficial translation

The Law of the Republic of Kazakhstan dated 4 November 2003 No. 490.

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This Law regulates public relations arising in the process of carrying out the state monitoring of property in branches of economics having strategic significance, as well as determines the grounds and conditions of its conducting.

Chapter 1. General provisions Article 1. Basic definitions used in this Law

The following basic definitions shall be used in this Law:

- 1) management efficiency – indices characterizing correlation between the purposes and results of property management in the branches of economics having strategic significance;
- 2) property management – carrying out of powers to possess, use and dispose of property;
- 3) state monitoring of property – supervision, collection of information, analysis, assessment and forecast of the condition of property structure and management efficiency of the objects of property in the branches of economics having strategic significance;
- 4) objects of monitoring – legal entities and their affiliated persons with the exception of individuals, all the types of property of state or partial property in respect of which the state monitoring of property is conducted;
- 5) authorized body – state body carrying out the functions within the provided powers on conducting the state monitoring of property;
- 6) organization management – set of measures required for formation and reaching the purpose of activity of organization;
- 7) economic security – condition of protection of the national economics of the Republic of Kazakhstan from internal and external conditions, processes and factors threatening its stable development and economic independence;
- 8) branches of economics having strategic significance – extraction and processing of fuel and energy mineral resources (coal, oil, gas, uranium and metallic ores), machine industry, space activity, agroindustrial complex, water industry, chemical industry, transport and communication, production and electric energy distribution, as well as branches producing products of military-industrial purpose;
- 9) economic efficiency – estimated figures of economic activity characterized by correlation of received result to consumed resources.

Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 12.02.2009 No. 131-IV (the order of enforcement see Article 2).

Article 2. Legislation of the Republic of Kazakhstan in the field of state monitoring of property

1. Legislation of the Republic of Kazakhstan in the field of state monitoring of property is based on the Constitution of the Republic of Kazakhstan, consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If international treaty ratified by the Republic of Kazakhstan establishes other rules than those contained in this Law, the rules of international treaty shall be applied.

Article 3. Principles of state monitoring of property

Principles of state monitoring of property are:

- 1) legality upon carrying out of the activity on conducting the state monitoring of property ;
- 2) scientific character, complexity, sequence, consistency, objectivity, credibility and sufficiency upon conducting the state monitoring of property.

Article 4. Purposes and tasks of state monitoring of property

1. State monitoring of property is a component part of the uniform state policy of reforming the relations of property.

2. Purposes of state monitoring of property is ensuring of effective economic development and economic security of the Republic of Kazakhstan.

3. Tasks of state monitoring of property are:

- 1) increase of efficiency of managing the objects of monitoring;
- 2) creation of favorable conditions for ensuring of economic growth of the state, assistance to inflow of investments to the national economics;
- 3) preservation of resource energy ground of the country;
- 4) ensuring of credibility of economic forecasts, scientific rationale of economic policy on the basis of data of the state monitoring of property;
- 5) information support of macroeconomic, sector and regional planning oriented to reaching the tasks of social economic policy;
- 6) use of data of the state monitoring of property for ensuring of credibility of the economic forecasts, scientific rationale of social economic policy;
- 7) analysis of performing the obligations and conditions of contracts concluded with the state bodies;
- 8) prevention of situations inflicting the damage to economic security of the state.

Article 5. Participants of state monitoring of property

Participants of state monitoring of property are:

- 1) authorized body;
- 2) central and local executive bodies;

3) individuals or legal entities in the property or management of which there are objects of monitoring;

4) legal entities specialized in the scope of rendering of consulting services, independent experts and advisers involved by the authorized body in conduct of monitoring in the manner established by the legislation of the Republic of Kazakhstan.

Article 5-1. Criteria of including the objects into the list of objects of branches of economics having strategic significance in respect of which the state monitoring of property is carried out

Objects subjected to inclusion into the list of objects of the branches of economy having strategic significance in respect of which the state monitoring of property is carried out shall relate to the branches of economics having strategic significance and conform to one of the following criteria:

to be itemized in the list of objects the formation and approval of which is provided in accordance with the legislative acts of the Republic of Kazakhstan;

to belong to the national holdings and (or) national companies.

Footnote. Chapter 1 is supplemented by Article 5-1 in accordance with the Law of the Republic of Kazakhstan dated 12.02.2009 No. 131-IV (the order of enforcement see Article 2).

Chapter 2. State monitoring of property Article 6. Content and subject of the state monitoring of property

1. Content of the state monitoring of property are:

1) supervision of condition and effectiveness of managing the objects of monitoring;

2) collection and system analysis of information by the subject of monitoring;

3) directly inspection of the objects of monitoring;

4) analysis of financial, economic, legal, technological, production and technical, ecological state of objects;

5) assessment of efficiency of managing the objects of monitoring and forecast of the influence of activity of the objects of monitoring to development of economic of the branch, region and republic generally;

6) development of measures oriented to increase of efficiency of the activity of separate objects of monitoring.

2. Subject of the state monitoring of property includes:

1) dynamics and structure of production;

2) financial and economic condition of the objects of monitoring;

3) condition of main means of objects of monitoring, introduction of advanced technology into production;

4) investment activity;

- 5) compliance with environmental requirements and rational use of natural resources;
- 6) use of labour forces;
- 7) legal issues related to the status and functioning of the objects of monitoring.

Article 7. Carrying out of the state monitoring of property

1. State monitoring of property shall be carried out by conducting:

basic integrated surveys of the objects of monitoring no more than once every three years, and in cases representing security threat of the state as required, but no more than once per year;

periodical operative collection of information on activity of the objects of monitoring as required, but no more than once per year.

2. Basic integrated surveys of the objects of monitoring shall be carried out by direct inspection and shall include:

1) collection and system analysis of information on production and technical, technological, investment, financial economic, environmental and legal parameters of activity of the objects of monitoring;

2) assessment of management efficiency of the objects of monitoring, forecast of changing the condition for the purpose of making recommendations and overcoming negative processes representing a threat of economic security of the state;

3) expert estimation of the prospects of developing the technology and applying achievements of scientific technical progress;

4) provision of state bodies by necessary information on condition of the objects of monitoring, tendencies and forecasts of their development.

3. Periodical operative collection of information is designated for current update of main data of monitoring on activity of the objects in periods between integrated systematical surveys.

4. Survey of objects of monitoring may be conducted regarding all or separate questions related to the subject of the state monitoring of property.

Article 8. Types of state monitoring of property

Types of state monitoring of property are:

1) monitoring of the forms of ownership in branches of economics having strategic significance.

Monitoring of the forms of ownership is oriented to determination of correlation of private, state property of the Republic of Kazakhstan and property of foreign citizens and (or) legal entities, legal organizational forms of legal entities in branches of economics, having strategic significance;

2) monitoring of management efficiency of the objects of state property in branches of economics having strategic significance.

Monitoring of management efficiency of the objects of state property is based on use of the state powers as a subject of the right of property and is oriented to increase the effectiveness of functioning of the state sector in branches of economics having strategic significance;

3) monitoring of management efficiency of the objects of private property in branches of economics having strategic significance.

Monitoring of management efficiency of objects of private property shall be carried out for the purpose of ensuring economic security of the state, preservation and strengthening of industrial potential, development of productive forces.

Article 9. Monitoring of management efficiency of objects of state and private property

1. Monitoring of management efficiency of objects of state property shall be carried out in respect of:

- 1) state enterprises and institutions;
- 2) all the types of property being the state property, as well as being in trust management, rent.

2. Monitoring of management efficiency of the objects of private property shall be carried out in respect of enterprises of branches of economics having strategic significance.

Article 10. Carrying out of the state monitoring of property in respect of foreign enterprises and enterprises with foreign participation

1. Carrying out of the state monitoring of property in respect of foreign enterprises and enterprises with foreign participation in branches of economics having strategic significance shall be performed in the same conditions and in the same procedure that in respect of the objects of property belonging to individuals and legal entities of the Republic of Kazakhstan.

2. Upon carrying out of state monitoring of property, the compliance of guarantees provided to foreign investors shall be ensured by the legislation of the Republic of Kazakhstan.

Article 11. Guarantees upon carrying out of the state monitoring of property

Upon carrying out of the state monitoring of property it shall be guaranteed:
inviolability of property;
non-interference in operative management and production and economic activity;
inadmissibility of violation of current activity of the objects of monitoring;
preservation of confidentiality of data related to the state secrets and (or) being the subject of the secret being protected by the Law and that became known in the course of the survey;

compliance of other guarantees and rights provided by the legislative acts of the Republic of Kazakhstan.

Chapter 3. Competence of state bodies of the Republic of Kazakhstan in the field of state monitoring of property
Article 12. Competence of the Government of the Republic of Kazakhstan in the field of state monitoring of property

The Government of the Republic of Kazakhstan shall:

- 1) determine state body authorized to conduct the state monitoring of property;
- 2) approve the list of the objects of branches of economics under presentation of the authorized body, having strategic significance in respect of which the state monitoring of property is carried out, introduce amendments and (or) supplements in it;
- 3) use data of the state monitoring of property upon formulation and correction of the state social economic policy;
- 4) use economic, financial and other measures provided by the legislation of the Republic of Kazakhstan following the results of the survey of the objects of monitoring, oriented to preservation and increase of economic efficiency of enterprises in the branches of economics having strategic significance;
- 5) use data of the state monitoring for optimization of the structure of state property in the branches of economics having strategic significance;
- 6) perform other functions imposed on it by the Constitution, the Laws of the Republic of Kazakhstan and acts of the president of the Republic of Kazakhstan.

Footnote. Article 12 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 131-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).

Article 13. Competence of the authorized body in the field of the state monitoring of property

Authorized body shall:

- 1) form and introduce for approval of the Government of the Republic of Kazakhstan the list of the objects of branches of economics having strategic significance in respect of which the state monitoring of property is carried out;
 - 1-1) no less than once every three years, introduce suggestions on amending and (or) supplementing the list of the objects of branches of economics having strategic significance to the Government of the Republic of Kazakhstan in respect of which the state monitoring of property is carried out, upon recommendations of interested central and local executive bodies ;
- 2) request and receive information on the subject of state monitoring of property required for trustworthy and objective analysis;

3) monitor the objects of monitoring on basic production technical, technological, financial economic, legal and other parameters for the purpose of analysis of occurring changes and forecast of development of production forces in branches of economics having strategic significance;

4) detect needs in optimization of the structure of the form of ownership in branches of economics having strategic significance;

5) carry out methodological support and work coordination on conducting the state monitoring of property;

6) pass the regulatory legal acts of the Republic of Kazakhstan within the competence in the scope of carrying out the state monitoring;

7) approve the plan and program of conducting the state monitoring of property;

8) organize conduct of systematic surveys of objects of monitoring carrying out the collection and analysis of information on the subject of state monitoring of property;

9) carry out analysis of information on the subject of state monitoring of property for the purpose of detecting the facts having adverse effect on social economic development of regions and republic generally;

10) develop and represent suggestions to the Government of the Republic of Kazakhstan on prevention and elimination of negative processes in the scope of economics;

11) substantiate the volume of state budget appropriations for conduct of works on the state monitoring of property;

12) have the right to involve the representatives of central and local executive bodies of the Republic of Kazakhstan for participation in indirect surveys of the objects of monitoring, collection and analysis of information related to the subject of the state monitoring of property;

12-1) render electronic services with applying identification systems in accordance with the legislation of the Republic of Kazakhstan on informatization;

13) request and receive the documents and details required for carrying out the state monitoring of property from central and local executive bodies of the Republic of Kazakhstan , as well as the objects of monitoring;

14) involve independent experts and advisers for conduct of works on surveys of the objects of monitoring, collection and analysis of information, formulation of suggestions and recommendations in accordance with the legislation of the Republic of Kazakhstan;

15) notify the heads of the object of monitoring on conduct of the survey with specification of persons instructed to conduct it, and the list of information that shall be presented for familiarization;

16) represent generalized analytical notes, forecasts of development, suggestions and recommendations to the Government of the Republic of Kazakhstan, as well as to interested

central and local executive bodies, including on legality and practicability of exercising the rights of possession and (or) use and (or) disposal of strategic objects following the results of the state monitoring of property;

17) familiarize with the results of surveying the objects of monitoring of the persons in ownership or management of which these objects are;

18) develop the measures oriented to increase of economic efficiency of enterprises in case of necessity jointly with central executive bodies and persons in ownership or management of which the objects of monitoring are;

19) keep unified republican data base of the state monitoring of property;

20) carry out the other powers provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 13 as amended by the Laws of the Republic of Kazakhstan dated 11 January 2007 No. 218 (shall be enforced from the date of official publication); dated 7 August 2007 No. 321 (shall be enforced from the date of its official publication); dated 12.02.2009 No. 131-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).

Article 14. Compensation of local representative bodies in the field of state monitoring of property

Local representative bodies shall:

1) participate in development of suggestions and recommendations oriented to development of the relevant administrative territorial entity on the basis of data of the state monitoring of property jointly with the authorized body;

2) have the right to use data of the state monitoring of property upon approval of economic and social programs of the territory's development.

Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 15. Competence of central and local executive bodies in the field of state monitoring of property

Central and local executive bodies within the competence shall:

1) represent information to the authorized body required for carrying out of the state monitoring of property;

2) direct representatives for participation in indirect survey of the objects of monitoring, collection and analysis of information related to the subject of the state monitoring of property at the initiative of the authorized body;

3) use data of the state monitoring of property upon carrying out of own functions;

4) participate in formation, amending and (or) supplementing the lists of objects of branches of economics having strategic significance in respect of which the state monitoring of property is carried out;

5) submit proposal on development and correction of the state social economic policy, on optimization of the structure of forms of ownership in branches of economics having strategic significance to the Government of the Republic of Kazakhstan following the results of the state monitoring of property.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 131-IV (the order of enforcement see Article 2).

Chapter 4. Organization of conducting the state monitoring of property Article 16. Rights and obligations of independent experts and advisers

1. Independent experts and advisers involved for performance of separate types of works on conducting the state monitoring of property are individuals and legal entities carrying out professional activity on research, counseling, development of conclusions and recommendations in the scope of legal, financial economic, social economic, environmental, production and technical and technological analysis having the relevant knowledge and experience.

2. Upon conduct of the state monitoring of property, the independent experts and advisers shall have the right to:

- 1) receive necessary information on the object of monitoring;
- 2) survey directly the object of monitoring in accordance with the plan and program of monitoring;
- 3) access to documentation required for carrying out the state monitoring of property.

3. Upon conducting the state monitoring of property, the independent experts and advisers shall be obliged to:

- 1) comply with requirements of the legislation of the Republic of Kazakhstan on state monitoring of property;
- 2) conduct complex, objective and qualified analysis, prepare substantiated report and conclusion;
- 3) not to divulge the details that are the secret protected by the Law, became known upon carrying out of the state monitoring of property;
- 4) ensure preservation of documents and materials transferred to them.

4. Conditions of contract may provide the other rights and obligations of independent experts and advisers.

Article 17. Rights and obligations of economic entities upon carrying out of the state monitoring of property

1. Economic entities that are objects of monitoring or which own or manage the property that is the object of monitoring shall have the right to:

- 1) familiarize with preliminary and final summaries of reports and conclusions;
- 2) represent written or verbal explanations, notes and suggestions in respect of the objects of monitoring;
- 3) appeal the actions of the authorized body, independent experts and advisers upon carrying out of the state monitoring of property in the manner established by the legislation of the Republic of Kazakhstan.

2. Economic entities that are objects of monitoring or which own or manage the property that is the object of monitoring shall have the right to:

- 1) represent necessary information to the authorized body;
- 2) provide access to the objects of monitoring to persons carrying out the state monitoring of property and not to impede the actions of these persons carrying.

Footnote. Article 17 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 18. Electronic data base of the state monitoring of property

1. Electronic data base of the state monitoring of property shall contain brief legal, technical and economic information on the objects of monitoring. Its maintenance shall be carried out by the authorized body.

2. State bodies and organizations that create and maintain registers and informational data base on individuals and legal entities shall provide information to the authorized body on a gratuitous basis required for formation and updating of the electronic data base of the state monitoring of property.

3. Access to the information of the state monitoring of property shall be provided in accordance with the procedure, established by the authorized body.

Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 19. Use of data of the state monitoring of property

1. Data of the state monitoring of property shall be used by the state bodies upon development and carrying out of:

- direct management of the state sector of economics;
- state regulation of relations of property;
- state economic forecast and programming;
- industrial policy;

investment, structure, institutional, tax, money and credit, pricing policy and other elements of the state economic policy;
state regulation of protection and rational use of natural resources;
regulation of foreign economic activity;
measures on ensuring of economic environmental safety of the state.

2. Results of the state monitoring of property may be the ground for formulation of joint programs and measures oriented to increase of efficiency of the activity of separate objects of monitoring and (or) branches of economics by the authorized body, central and local executive bodies, as well as persons in ownership or management of which the objects of monitoring are.

Article 20. Financing of works on conducting the state monitoring of property

Carrying out of works on conducting the state monitoring of property shall be financed in accordance with the Law on republican budget for the relevant financial year.

Chapter 5. Final conclusions Article 21. Responsibility for breach of the legislation of the Republic of Kazakhstan in the field of state monitoring of property

Persons being guilty in breach of the legislation of the Republic of Kazakhstan on state monitoring of property shall bear responsibility established by the Laws of the Republic of Kazakhstan.

Article 22. Order of enforcement of this Law

This Law enters into force from the date of its official publication.

The President
of the Republic of Kazakhstan