

On Amnesty in Connection with the Celebration of Independence Day of the Republic of Kazakhstan

Unofficial translation

The Law of the Republic of Kazakhstan dated 9 January, 2006

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This Law is adopted in connection with celebration of Independent Day of the Republic of Kazakhstan, guided by the principles of humanism.

Article 1. Release from punishment of convicted for crimes of little and average gravity:

- 1) minors;
- 2) women with minor children and disabled children of I and II groups that are dependent, as well as pregnant women;
- 3) disabled persons of I and II groups;
- 4) men and women, attained the retirement age.

Article 2. Release the persons convicted for the crime of little and average gravity, who are not covered by Article 1 of this Law, from punishment in the form of imprisonment, if they have served at least one third of assigned term of punishment.

Article 3. Release the persons, listed in Article 1 of this Law, convicted for the grave crimes, from punishment in the form of one third of assigned term of punishment.

Article 4. Release the persons, who are not covered by Articles 1, 2, 3 of this Law, first convicted to imprisonment for the grave crimes, from punishment, if they have served at least half of assigned term of punishment.

Article 5. Release the persons, who are not covered by Article 1, 2, 3, 4 of this Law, convicted to imprisonment, from punishment, to whom remains to serve the sentence less than one year in the period of execution of an act of amnesty, established by Article 19 of this Law.

Article 6. Fall within the provisions of this Law:

1) convicted persons, to whom a punishment in the form of imprisonment is imposed by a court verdict with application of Article 63 of the Criminal Code of the Republic of Kazakhstan;

2) women and women with young children, convicted to imprisonment, to whom execution of the sentence is postponed in accordance with Article 72 of the Criminal Code of the Republic of Kazakhstan;

3) reservists, evading from military draft, and military servicemen, committed the crimes of little or average gravity before entering of this Law into legal force, if they turned themselves to the nearest local military authorities, military investigative agencies, bodies of

military prosecutors and military police not later than six months after entering of this Law into legal force ;

4) persons, convicted to the type of punishments, not related with imprisonment, if this punishment is applied in the form of basic.

Article 7. Reduce the unserved part of punishment for half, to the persons, convicted to imprisonment, who are not subject to release from punishment on the basis of Articles 1, 2, 3, 4 , 5 , 6 of this Law :

1) convicted for the crimes of little and average gravity;

2) convicted for the grave crimes, if they have served at least half of assigned term of punishment ;

3) convicted for especially grave crimes, if they have served at least two thirds of assigned term of punishment;

Article 8. Refuse to open a criminal case and terminate the production of all criminal cases and cases, not considered by the courts, on crimes committed before introduction of this Law into effect, for which the punishment of up to five years of imprisonment or a punishment not related with imprisonment is provided.

Article 9. Establish that :

1) persons who have not attained the age of eighteen years at the time of the crime, are referred to the persons, specified in subparagraph 1) of Article 1 of this Law;

2) women, who are not deprived of parental rights and with children, as well as adopted or taken under trusteeship, who have not reached the age of eighteen on the day of introduction of this Law into effect, or disabled children of I and II groups, depending on their age, women , having a pregnancy on the day of introduction of this Law into effect, are referred to the persons, specified in subparagraph 2) of Article 1 of this Law;

3) disabled persons of I and II groups, recognized as such in the manner established by the legislation before introduction of this Law into effect, are referred to the persons, specified in subparagraph 3) of Article 1 of this Law;

4) women and men who have reached retirement age in accordance with the legislation of the Republic of Kazakhstan before introduction of this Law into effect, are referred to the persons, specified in subparagraph 4) of Article 1 of this Law. In the absence of documents, approving the day and month of birth of these persons shall be considered as such the women born before 1 January, 1947 and men born before January 1, 1942;

Article 10. Effect of this Law shall not be apply to the persons:

1) recognized as special dangerous recidivists by a court verdict, as well as committed repetition of crimes, recognized as dangerous of specially dangerous;

2) convicted, to whom a death penalty is replaced by way of pardon by imprisonment, as well as to whom a life imprisonment is imposed;

3) convicted for commission of especially grave crimes, except for the persons, listed in subparagraph 3) of Article 7 of this Law;

4) having conviction for commission of especially grave crimes, except for the persons, listed in subparagraphs 1), 2), 3), 4) of Article 1 of this Law;

5) newly committed an intentional crime, to whom the amnesty or pardon is previously applied, except for the persons, previous conviction of which was canceled or withdrawn in the manner established by the legislation;

6) recognized as malicious violators of established procedure of service of sentence or committed an intentional crime during service of sentence for the day of introduction of this Law into effect in accordance with the legislation of the Republic of Kazakhstan;

7) convicted for the following crimes, provided in the Criminal Code of the Kazakh SSR: betrayal of Motherland (Article 50); espionage (Article 51); act of terrorism (Article 52); act of terrorism against a representative of a foreign state (Article 53); diversion (Article 54); sabotage (Article 55); war propaganda (Article 57); violation of national and racial equality and equality of citizens depending on their attitude to religion (third part of Article 60); mercenary activities (second part of Article 62-2); banditism (Article 63); actions disorganizing the work of corrective labor institutions (Article 63-1); organization or management of a criminal group or a criminal association, participation in a criminal association (second part of Article 63-2); trafficking (second, third and fourth part of Article 64); mass disorders (Article 65); hijacking or seizure of railway vehicles, air, sea or river vessel (second and third part of Article 72-1); manufacture or sale of counterfeit money or securities (second part of Article 73); theft (third part of Article 76); robbery (third part of Article 76-1); robbery with violence (Article 76-2); fraud (third part of Article 76-3); theft of another's property by appropriation or by embezzlement, or by abuse of official position (third part of Article 76-4); extortion (third part of Article 76-7); intentional destruction or damage of another's property (Article 82); willful killing (Article 88); intentional grave bodily injury (second part of Article 93); knowingly putting another person in danger of infection with AIDS and infection with AIDS (second part of Article 100-1); violence (second, third and fourth parts of Article 101); pederasty (second part of Article 104); capture or keeping a person as a hostage (Article 115-1); kidnapping (Article 116); acceptance of bribe (second and third part of Article 146); infringement on life of employee of internal affairs bodies, people's guard, the persons, conducting the inquiry, investigator, procurator, judge or people's assessors (Article 173-1); bribing or forcing a witness, expert or interpreter to give false testimony (third part of Article 187-1); imposition of obviously illegal sentence, decision, determination or decree (second part of Article 191); the threat against the person conducting the inquiry, investigator, procurator, judge or people's assessors (Article 191-2); злостное disobedience to the requirements of administration of the corrective labor institution (second part of Article 199-2); hooliganism (second part of Article 200); theft of firearms, ammunition or explosives (second and third parts of Article 203); theft of narcotic drugs (second and third parts of Article 213-1); inducement to use drugs (second part of Article 213-2); illegal manufacturing, purchase, storage, transportation, transfer or selling of narcotics (

third, fourth and fifth parts of Article 214); maintenance of dens and procuration (fifth part of Article 215-1); hijacking of means of transport (second and third parts of Article 221); disobedience (paragraph “c” of Article 225); non-execution of order (paragraph “c” of Article 226); resistance to superior or forcing him (her) to violation of official duties (paragraphs “b” and “c” of Article 227); a threat to superior (paragraph “c” of Article 228); acts of violence in relation of superior (paragraph “b” of Article 229); infringement of charter rules of mutual relations between military servicemen in the absence of subordination relations between them (paragraph “c” of Article 231); absence without leave or place of service (paragraph “d” of Article 233); desertion (paragraphs “b” and “d” of Article 234); absence without leave in a combat situation (Article 235); evasion of military service by mutilation or otherwise (paragraph “b” of Article 236); intentional destruction or damage of military property (paragraph “c” of Article 238); violation of rules for handling of weapons, as well as substances and subjects representing increased danger to others (paragraph “c” of Article 238-1); violation of flight rules or preparations for them (Article 240); violation of the rules of navigation (Article 241); violation of charter rules of guard service (paragraph “f” of Article 242); violation of rules of combat duty (paragraphs “c” and “d” of Article 244); disclosure of military secret or loss of documents containing military secret (paragraph “c” of Article 246); abuse of authority, excess of power or failure to use authority (paragraphs “b” and “c” of Article 247); surrender or abandonment of weapons of war to enemy (Article 248); abandonment of a sinking warship (article 249); unwarranted abandonment of battle field or refusal to act weapons (Article 250); voluntary surrender into captivity (Article 251); marauding (Article 253); violence against the population in the area of military operations (Article 254); as well as robbery (third and fourth parts of Article 133), robbery with violence (Article 134), extortion (second and third parts of Article 135), intentional destruction or damage of property (second part of Article 141 of the Criminal Code of the Kazakh SSR is in the wording up to 12 May, 1995);

8) convicted and subject to criminal responsibility for the following crimes, provided in the Criminal Code of the Republic of Kazakhstan: murder (Article 96); intended infliction of grievous bodily harm (Article 103); torture (second part of Article 107); forced removal of organs or tissues for transplantation or other use (second and third parts of Article 113); human immunodeficiency virus (HIV-AIDS) (third part of Article 116); violence (second and third parts of Article 120); sexual assault (second and third parts of Article 121); kidnapping (Article 125); illegal deprivation of freedom (third part of Article 126); recruitment, as well as export and transit of people for exploitation (third part of Article 128); involving a minor in criminal activities (fourth part of Article 131); trafficking in minors (Article 133); planning, preparation or prosecution of aggressive war (Article 156); production or spread of weapons of mass destruction (Article 158); use of prohibited means and methods of prosecution of war (Article 159); genocide (Article 160); ecocide (Article 161); mercenary activities (Article 162); attack on persons or organizations enjoying international protection (Article 163);

incitement of social, national, generic, racial or religious enmity (third part of Article 164); treason (Article 165); espionage (Article 166); infringement on life if the President of the Republic of Kazakhstan (Article 167); forcible seizure of power or violent retention of power or execution of powers, including to the competence of authorized bodies and civil servants of the republic of Kazakhstan by the representatives of foreign state of foreign organization (Article 168); armed rebellion (Article 169); diversion (Article 171); evasion of mobilization (second part of Article 174); theft (third part of Article 175); misappropriation or embezzlement of entrusted property (third part of Article 176); fraud (third part of Article 177); robbery (third part of Article 178); robbery with violence (Article 179); theft of items of particular value (Article 180); extortion (second and third parts of Article 181); illegal occupation of automobile or other transport vehicle without a purpose of theft (third and fourth parts of Article 185); intentional destruction or damage of another's property (third part of Article 187); manufacture or sale of counterfeit money or securities (second and third parts of Article 206); economic smuggling (third part of Article 209); terrorism (Article 233); propaganda of terrorism or public incitement to commit an act of terrorism (Article 233-1); creation, management of terrorist group and participation in its activity (Article 233-2); financing of extremism or terrorist activity (Article 233-3); taking of hostages (Article 234); creation and management of organized criminal group or criminal association (criminal organization), participation in a criminal association (Article 235); organization of illegal military formation (first part of Article 236); banditism (Article 237); the seizure of buildings, constructions, means of communication and communication (second and third parts of Article 238); hijacking, as well as seizure of air or watercraft or railway vehicles (Article 239); piracy (Article 240); mass disorders (first and second parts of Article 241); violation of safety regulations at nuclear power facilities (second part of Article 244); theft or extortion of radioactive materials (third part of Article 248); smuggling of items withdrawn from circulation or items with restricted circulation (third part of Article 250); illegal purchase, transfer, sale, storage, transportation or carrying of weapons, ammunition, explosives and explosive devices (third part of Article 251); illegal manufacture of weapons (third and fourth parts of Article 252); theft or extortion of weapons, ammunition, explosives and explosive devices (second, third and fourth parts of Article 255); hooliganism (third part of Article 257); illegal manufacturing, purchase, storage, transportation, transfer or sale of narcotic drugs or psychotropic substances (second, third and fourth of Article 259); theft or extortion of narcotic drugs or psychotropic substances (second and third parts of Article 260); inducement to use of narcotic drugs or psychotropic substances (second and third parts of Article 261); illegal cultivation of plants, containing narcotic substances, prohibited to cultivation (second part of Article 262); illegal trafficking of toxic substances, as well as substances, tools or equipment used for the manufacture or processing of narcotic drugs, psychotropic or poisonous substances (second, third and fourth parts of Article 263); organization or maintenance of dens houses for consumption of narcotic drugs and psychotropic substances (

second part of Article 264); intentional disablement of transport vehicles or means of communication (third part of Article 299); abuse of official powers (third and fourth parts of Article 307); abuse of power or official powers (third and fourth parts of Article 308); acceptance of bribe (second, third, fourth parts of Article 311); use of violence against a representative of authority (second part of Article 321); infringement on life of person, administering justice or preliminary investigation (Article 340); threat or acts of violence in connection with the administration of justice or preliminary investigation (fourth part of Article 341); bringing of obviously innocent to a criminal responsibility (second part of Article 344); knowingly illegal detention, taking into custody or detention (third part of Article 346); imposition of obviously illegal sentence, decision or other judicial act (second part of Article 350); misleading information (third part of Article 351); bribery or coercion to give false testimony or to evade giving testimony, or false conclusion or to an incorrect translation (fourth part of Article 354); escape from prison, arrest or custody (second part of Article 358); malicious disobedience to requirements of administration of penal institution (Article 360); disorganization of the normal activity of institutions, providing isolation from society (Article 361); disobedience or other non-performance of order (third and fifth parts of Article 367); resistance to superior or forcing him (her) to violation of official duties (second and third parts of Article 368); violent acts against superior (second and third parts of Article 369); infringement of charter rules of mutual relations between military servicemen in the absence of subordination relations between them (third part of Article 370); absence without leave or place of service (fifth and sixth parts of Article 372); desertion (second and third parts of Article 373); violation of rules of combat duty (second and third parts of Article 375); violation of charter rules of guard (watchkeeping) service (second part of Article 377); abuse of authority, excess of power or failure to use authority (second and third parts of Article 380); abandonment of a sinking warship (second part of Article 382); surrender or abandonment of weapons of war to enemy (Article 383); voluntary surrender into captivity (Article 384); marauding (Article 385); disclosure of secret information of a military nature or loss of documents containing secret information of a military nature (third part of Article 386); violation of flight rules or preparations for them (Article 392); violation of the rules of navigation (Article 393).

Subparagraphs 7) and 8) of this Article shall not be applied to the persons, listed in Article 5 of this Law.

Article 11. Existence of documents, approving the status of persons, listed in subparagraphs 1), 2), 3), 4) of Article 1 of this Law is mandatory for application of amnesty in relation of them.

Article 12. Establish that serving of part of the term of punishment, provided by Articles 2, 3, 4, 7 of this Law is calculated for the date of introduction of this Law into effect.

Article 13. Amnesty shall not be applied upon aggregate of crimes, if one of the crimes does not fall within the provisions of this Law.

Article 14. Persons who are included in the amnesty shall be released both from basic and additional punishment, if the last one is not executed for the date of introduction of this Law into effect.

Article 15. This Law shall be applied to the persons, having unexpunged or outstanding conviction to imprisonment for the crime, a criminal responsibility of which is removed by the new criminal law (decriminalization of components of crime).

A conviction shall be released from the persons, listed in Articles 1,2,3 of this Law, simultaneously with release them from punishment upon application of amnesty to them. Previous conviction for the crime of little and average gravity shall be released from persons of specified category, served a sentence or released from its further serving before introduction of this Law into effect.

Article 16. Entrust execution of this Law on:

1) bodies and institutions, exercising punishment in relation of convicted persons, who are in the prisons;

2) criminally-executive inspections, performing punishment in relation of serving a sentence in the form of deprivation of the right to occupy certain positions or engage in certain activity in accordance with Article 41 of the Criminal Code of the Republic of Kazakhstan, involvement in public works in accordance with Article 42 of the Criminal Code of the Republic of Kazakhstan, correctional works in accordance with Article 43 of the Criminal Code of the Republic of Kazakhstan, restriction of liberty in accordance with Article 45 of the Criminal Code of the Republic of Kazakhstan, probationers in accordance with Article 63 of the Criminal Code of the Republic of Kazakhstan, as well as in relation of persons, execution of a sentence of which is postponed in accordance with Article 72 of the Criminal Code of the Republic of Kazakhstan;

3) agencies of inquiry and preliminary investigation against persons, the cases and materials on crimes of which are in the production of these agencies;

4) commanders of the military units in relation of military servicemen convicted to limitation in military service or detention in a disciplinary military units;

5) courts in relation of:

persons, the cases and materials on crimes of which are in the production of courts and are not considered before introduction of this Law into effect, as well as in relation of persons, the cases on crimes of which are considered, but sentences have not entered into legal force;

servicing a sentence in the form of involvement in public works in accordance with Article 42 of the Criminal Code of the Republic of Kazakhstan, correctional works in accordance with Article 43 of the Criminal Code of the Republic of Kazakhstan, deprivation of the right to occupy certain positions or engage in certain activity in accordance with Article 41 of the Criminal Code of the Republic of Kazakhstan, restriction of liberty in accordance with Article 45 of the Criminal Code of the Republic of Kazakhstan, probationers in accordance with Article 63 of the Criminal Code of the Republic of Kazakhstan, as well as in relation of

persons, execution of a sentence of which is postponed in accordance with Article 72 of the Criminal Code of the Republic of Kazakhstan. The courts shall consider materials at the place of serving the sentence of convicted person without isolation from society; persons, to whom a fine is imposed as the basic punishment, if the fine is not levied before introduction of this Law into effect (the amnesty is applied by the court, that passed a s e n t e n c e) ;

persons convicted on parole from punishment, and persons, to whom an unserved part of punishment is replaced by more lenient punishment before introduction of this Law into effect (the amnesty is applied by the court, in the territory of which a person is registered).

Article 17. Application of this Law shall be carried out on the basis of decree of the authorized body (civil servant), sanctioned by prosecutor, as well as on the basis of decree of c o u r t .

Participation of prosecutor is mandatory upon application of this Law by courts.

To the decree of the head of correctional institution, criminal executive inspection or commander of disciplinary military unit and detention room shall be attached:

- 1) certificate of incentives and penalties;
- 2) convict's personal file;
- 3) other documents, necessary for solution of issue on application of amnesty.

Service of sentence shall be terminated from the date of sanctioning of decree of authorized body (civil servant) by prosecutor or from the date of entering of decree of court on application of an act of amnesty into legal force.

Article 18. Amnesty shall not be applied in the case, if a person, in relation of whom the amnesty may be applied, against this.

Article 19. Bodies, listed in Article 16 shall ensure execution of this Law during six months from the date of its introduction into effect.

Article 20. The issue on application of amnesty to the persons, convicted by courts of the Republic of Kazakhstan, but served a sentence outside shall be solved by courts of the Republic of Kazakhstan on the basis of international treaties, a participant of which is the Republic of Kazakhstan, on presentation of the competent body of the state, in the territory of which the execution of court verdict is carried out.

Amnesty shall be applied to the persons, transferred for further service of sentence in the form of imprisonment in the Republic of Kazakhstan from the foreign states, with which the Republic of Kazakhstan has not concluded the relevant international treaties.

Article 21. The Government of the Republic of Kazakhstan, akims of regions, Astana and Almaty cities shall take measures to:

- 1) placement of disabled persons and persons of advanced age, released from punishment on the amnesty and without relatives and friends in the special boarding schools;
- 2) transfer of released minors under the supervision of parents, bodies of guardianship and trusteeship, or their direction them, in the necessary cases, in orphanages, boarding schools or

other educational institutions;

3) ensuring control of continuation of treatment of consumptives, released from prison.

Article 22. This Law shall be enforced from the date of its official publication.

T h e P r e s i d e n t

of the Republic of Kazakhstan

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