



## **On Mutual Insurance**

### *Unofficial translation*

The Law of the Republic of Kazakhstan dated 5 July 2006 No. 163.

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This Law regulates public relations linked with carrying out of mutual insurance and establishes legal grounds of the activity of societies of mutual insurance.

## **Chapter 1. GENERAL PROVISIONS**

### **Article 1. Basic definitions used in this Law**

The following basic definitions shall be used in this Law:

- 1) additional contribution – a part of insurance premium contributed additionally by a member of society of mutual insurance in the manner and in cases provided by the rules of mutual insurance of society of mutual insurance;
- 2) mutual insurance – one of the forms of insurance wherein each insurant is a member of society of mutual insurance;
- 3) society of mutual insurance (hereinafter – society) – a legal entity created in legal organizational form of consumer’s cooperative for the purpose of carrying out of mutual insurance of property interests of own members;
- 4) an authorized body - a state body exercising state regulation, control and supervision of the financial market and financial organizations.

**Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

### **Article 2. Legislation of the Republic of Kazakhstan on mutual insurance**

1. The legislation of the Republic of Kazakhstan on mutual insurance is based on the Constitution of the Republic of Kazakhstan and 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 provided by this Law, the rules of international treaty shall be applied.

3. The Law of the Republic of Kazakhstan “On consumer’s cooperative” shall apply to activity of societies in a part not regulated by this Law.

Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.

### **Article 3. Principles of mutual insurance**

Principles of mutual insurance are:

- 1) equality of rights and obligations of members of societies;
- 2) mutual protection and mutual liability of members of society.

### **Article 4. Objects of mutual insurance**

1. Legal property interests of members of society joint by one and the same risks linked with their activity may be the object of mutual insurance.

2. Mutual insurance shall be carried out as a branch “life insurance” and branch “general insurance” in accordance with the legislation of the Republic of Kazakhstan on insurance and insurance activity.

3. Combination of branches and classes of insurance in mutual insurance shall be carried out in accordance with the legislation of the Republic of Kazakhstan on insurance and insurance activity.

4. Society shall have the right to develop the type of insurance having signs and content of two and more classes of insurance provided by a charter of society considering the restrictions on combination of classes of insurance established by the legislation of the Republic of Kazakhstan on insurance and insurance activity.

5. Is excluded by the Law of the Republic of Kazakhstan dated 28.10.2019 No. 268-VI ( shall be enforced from 06.01.2020).

Footnote. Article 4 as amended by the Laws of the Republic of Kazakhstan dated 07.05.2007 No. 244; dated 30.12.2009 No. 234-IV; dated 28.10.2019 No. 268-VI (shall be enforced from 06.01.2020).

### **Article 5. Competence of the authorized body in respect of society**

Authorized body shall:

- 1) keep a register of societies;
- 2) establish the list, forms, terms and procedure for provision of reporting by societies, with the exception of financial reporting;
- 3) consider the cases on administrative infractions and impose the measures of administrative sanctions in accordance with the legislation of the Republic of Kazakhstan on administrative infractions;
- 4) establish procedure and amount of investment of assets of a society;
- 5) establish the list, forms and terms of provision of financial reporting by societies;

- 6) determine the list, forms and terms of primary statistical data by societies;
- 7) exercise other functions provided by this Law, other Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

**Footnote. Article 5 is in the wording of the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 2. CREATION AND TERMINATION OF ACTIVITY OF A SOCIETY, RIGHTS AND OBLIGATIONS OF ITS MEMBERS**

### **Article 6. Name of a society**

1. Name of a society shall contain the words “society of mutual insurance”.
2. In case if the society carries out the only one type of mutual insurance, its name shall contain specification to this type of insurance.
3. Name of a society shall not contain the words “national”, “state”, “central”, “budget”, “republican” in full or in short in any language.
4. Upon change of location of own permanent body, separate subdivision, the society shall be obliged to notify the authorized body about this no later than fifteen business days.

**Footnote. Article 6 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

### **Article 7. State registration of a society**

Society shall be obliged to notify the authorized body on the state registration within thirty business days from the date of the state registration accompanied by:

- 1) notice of the state registration of a legal entity and notarized copy of a charter;
- 2) documents certifying about making decision on creation of a society.

**Footnote. Article 7 is in the wording of the Law of the Republic of Kazakhstan dated 15.07.2011 No. 461-IV (shall be enforced from 30.01.2012); as amended by the Law of the Republic of Kazakhstan dated 24.12.2012 No. 60-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 8. Constitutive documents of a society**

1. Constitutive documents of a society are the articles of association and charter.
  - . Articles of association of a society shall contain:
    - 1) obligation of incorporators on signing insurance agreement and introduction of insurance premiums;

2) amount of money contributions made by incorporators for administrative expenses linked with creation and organization of the activity of a society.

3. Charter of a society, besides the details provided by the legislative acts of the Republic of Kazakhstan shall contain:

1) grounds for associating of members of society including specification to similarity of property interests subjected to mutual insurance, professional identity of members of society, similarity of the scopes of activity and interests;

2) liability of members of society, as well as subsidiary liability on insurance obligations, as well as on paying of additional contributions;

3) classes of insurance;

4) procedure for payment of insurance premiums and other contributions;

5) procedure for formation and use of insurance and other reserves created by society;

6) *is excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV;*

7) procedure for provision of information on activity of a society to members of society;

8) procedure for coming into members of society, as well as grounds and procedure for termination of membership in society.

Charter of society may include the other provisions not inconsistent with the legislation of the Republic of Kazakhstan.

4. Charter of society shall be accompanied by the list of members of society with specification of last name, first name and patronymic at will, as well as residence place and data of documents certifying identity, for individuals, as well as full name, location and data on the state registration (reregistration) for legal entities.

Society shall ensure maintenance and storage of the list of own members.

5. Charter of society shall be represented for familiarization of candidates for members of society.

6. Society shall be obliged to represent notarized copy of amendments or supplements in constitutive documents to the authorized body with a notice and stamp of the registered body of justice within ten calendar days after the state registration of amendments or supplements made in the constitutive documents, as well as requiring reregistration in the bodies of justice.

**Footnote. Article 8 as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV; dated 15.07.2011 No. 461-IV (shall be enforced from 30.01.2012).**

## **Article 9. Members of society**

1. Members of society are the individuals and (or) legal entities.

Quantity of members of society shall be no less than two hundred fifty.

2. Membership in society shall occur after payment of the first insurance premium according to concluded insurance agreement.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.

## **Article 10. Rights and obligations of members of society**

1. Members of society shall have the right to:
  - 1) use all the types of insurance services provided by society;
  - 2) participate in management of society and be elected in its bodies;
  - 3) insure own property interests in conditions determined in the rules of mutual insurance and other documents regulating the activity of society;
  - 4) receive any information from the bodies of society on their activity, activity of society, as well as familiarize with accounting data, reporting and other documentation in the manner determined by the charter of society;
  - 5) terminate membership in society in the manner and in conditions provided by the charter of society;
  - 6) receive loans in society within the cash surrender value provided by the relevant contract of endowment insurance;
  - 7) receive loans for payment of insurance premiums;
  - 8) file a petition for consideration of the executive body of society on provision of money for prevention of the risk of occurrence of insured accident;
  - 9) make another contributions for the purposes of society in the manner provided by the charter of society;
  - 10) refer to the general meeting of the members of society with claims on actions (omission) of an executive, control and other bodies of society;
  - 11) appeal decisions of the bodies of society in a judicial proceeding concerning the interests of members of society.
2. Members of society shall be obliged to:
  - 1) comply with the charter of society;
  - 2) perform decisions of the bodies of society made within their competence;
  - 3) make payment of insurance premiums in due time;
  - 4) pay additional contributions in amount determined by the general meeting of the members of society in accordance with this Law and the charter of society.
3. Charter of society may establish the other rights and obligations of members not inconsistent with the legislation of the Republic of Kazakhstan.
4. Release of a member of society from obligations on payment of insurance premiums and additional contributions, as well as by set-off of requirements to the society shall not be allowed, with the exception of cases provided by paragraph 3 of Article 22 of this Law.

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 7 May 2007 No. 244.

## **Article 11. Termination of membership in society**

1. Membership in society shall be terminated in cases of:

- 1) voluntary cessation of membership;
- 2) exclusion on the basis and in the manner provided by the charter of society, as well as non-fulfillment of obligations on payment of insurance premium;
- 3) liquidation of a legal entity – member of society;
- 4) death of a member of society, declaring him (her) as deceased, recognition as missing in the manner established by the legislation of the Republic of Kazakhstan;
- 5) liquidation of society.

2. In case if a member of society made other contributions for the purpose of society, he (she) shall have the right to recover them upon termination of membership with the deduction of debts before the society in terms provided by the charter of society.

Insurance premiums paid by a member of society and additional contributions shall not be subject to return, with the exception of cases provided by the legislative acts of the Republic of Kazakhstan.

3. Consideration of an application on voluntary cessation of membership of society and return of contributions to an applicant mentioned in paragraph 2 of this Article shall be carried out by the society in term of no more than month from the date of filing the application.

4. In case of death of a member of society, his (her) successor shall have the right to come into society in the manner provided by the charter of society.

In case of refusal of a successor to come into society, it shall pay the other contributions provided by paragraph 2 of this Article contributed by an antecessor to the successor.

5. Incorporator that did not contribute insurance premium and did not sign insurance agreement in terms established by the articles of association shall be excluded from the composition of incorporators.

## **Article 12. Reorganization or liquidation of society**

Reorganization or liquidation of society shall be carried out in the manner established by the civil legislation of the Republic of Kazakhstan.

**Footnote. Article 12 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

## **Chapter 3. ACTIVITY OF SOCIETY**

### **Article 13. Conditions of carrying out the activity on mutual insurance**

1. Activity on mutual insurance shall not be subject to licensing.

2. Society shall not have the right to carry out the activity:

- 1) on insurance of civil liability;
- 2) by types of compulsory insurance.

**Footnote.** Article 13 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV; as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 No. 268-VI (shall be enforced from 06.01.2020).

## **Article 14. Procedure for carrying out the mutual insurance of society**

**Footnote.** Title as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.

1. Activity of society of mutual insurance shall be carried out in accordance with this Law

2. Society shall carry out mutual insurance of property interests of own members by conclusion of insurance agreement.

3. General conditions on which the mutual insurance is carried out, shall be determined in the rules of mutual insurance being relevant to requirements of Article 825-1 of the Civil Code of the Republic of Kazakhstan.

4. Rules of mutual insurance shall be presented for familiarization of persons willing to come into membership of society.

**Footnote.** Article 14 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.

## **Article 15. Activity of society**

1. Mutual insurance is a main type of activity that shall be carried out by society.

2. Besides the activity on mutual insurance, the society shall have the right the following types of activity:

1) investment activity in the manner provided by the regulatory legal act of the authorized body;

2) issuance of loans to own members within cash surrender value provided by the relevant agreement of endowment insurance;

3) issuance of loans to own members for payment of insurance premiums;

4) sale of special software used for automation of activity of societies;

5) sale of special literature on insurance and insurance activity at any types of data carriers

;

6) sale or lease of property previously acquired for the needs of society;

7) rendering of advisory services on the issues linked with insurance activity;

8) organization and conduct of study for the purposes of raising of qualification of specialists in the field of mutual insurance.

3. Society shall be prohibited to carry out transactions and conduct operations not provided by paragraphs 1 and 2 of this Article.

3-1. The Company shall be obliged to report on financial monitoring data and information in accordance with the Law of the Republic of Kazakhstan “On countering the legalization (laundering) of proceeds from crime and Terrorism Financing” to the authorized body

4. Participation of society in other legal entities shall not be allowed, with the exception of cases of uniting of societies on mutual insurance in associations (unions), as well as creation of consortium by them on the basis of the contract on joint economic activity.

5. Society shall have the right to create branches and representatives in accordance with the legislation of the Republic of Kazakhstan.

6. Society shall be obliged to provide equal rights provided by this Law for all the members of society.

**Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV; dated 26.07.2016 № 12-VI (shall be enforced from 01.07.2017).**

## **Article 16. Prohibition to carry out activity on reinsurance**

Society shall be prohibited to transfer all or part of insurance risks accepted by the society, for reinsurance of insurance (reinsurance) organization having the relevant license of the authorized body, or reinsurance organization – non-resident of the Republic of Kazakhstan, and carry out intermediary activity or activity on acceptance of risks for reinsurance.

**Footnote. Article 16 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

## **Chapter 4. BODIES OF SOCIETY**

### **Article 17. Bodies of society**

1. Bodies of society are:

- 1) supreme body – general meeting of members of society;
- 2) executive body – collegial body (board of directors) or a person carrying out the functions of the executive body (chairman) on an individual basis;
- 3) control body – internal audit service.

2. Charter of societ may provide creation of other bodies of society.

### **Article 18. General meeting of members of society**

1. Exclusive competence of the general meeting of members of society shall include:

- 1) determination of conditions of insurance agreements concluded by a society with own members;



- 2) confirmation of a budget of a society;
- 3) making decision on conduct of audit of a society and selection of an audit organization;
- 4) determination of procedure for consideration of disputes between a society and its members;
- 5) approval of the rules of internal insurance;
- 6) determination of procedure for calculation of insurance rates;
- 7) determination of procedure for formation and replenishment of insurance and other reserves of a society required for ensuring of activity of the society, their use;
- 8) approval of investment policy of a society;
- 9) approval of a policy of transferring insurance risks for their reinsurance and establishment of limits of own deduction on each type of insurance;
- 10) making decision on issuance of loans to members of society within the cash surrender value provided by the relevant agreement of endowment insurance;
- 11) making decision on issuance of loans to members of society for payment of insurance premiums;
- 12) making decision on allocation of money for conduct of measures for prevention of the risks of occurrence of an insured accident on the basis of conclusion represented by the executive body of society;
- 13) determination of procedure for work of the internal audit service, amount and conditions of payment for labour of workers of the internal audit service;
- 14) making decision on coming of new members into society;
- 15) another issues provided by the other legislative acts of the Republic of Kazakhstan, as well as charter of the society.

2. General meeting of members of society shall have the right to accept any issue for consideration linked with activity of the society.

3. Procedure for calling, conduct, making decision of the general meeting of members of society (as well as extraordinary) shall be determined by the legislation of the Republic of Kazakhstan on consumer's cooperative.

4. Upon making decision of the general meeting, each member of society shall have one vote independently from a size of his (her) share in a property of society.

**Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 7 May 2007 No. 244.**

## **Article 19. Executive body**

1. Competence of the executive body of society shall include:

- 1) formation of suggestions on priority directions of activity of society;
- 2) development of investment policy of society;

- 3) policy development of transferring insurance risks for their reinsurance and limits of own deduction on each type of insurance;
- 4) preparation of annual financial reporting and draft budget of society for the next year;
- 5) approval of reports of society, with the exception of reports, the approval of which is related to exclusive competence of the general meeting of members of society;
- 6) other issues determined by the other legislative acts of the Republic of Kazakhstan, as well as charter of society.

2. Chairman of society shall be elected and released from the position by general meeting of members of society.

Chairman of society may not be a member of the society.

3. Executive body of society (board of directors) including its head shall be elected by the general meeting of members of society in number and for the term provided by its charter.

Under decision of the general meeting of members of society, the powers of any member of the board of directors of society may be terminated in advance.

4. Head of the executive body of society shall ensure functioning of this body and governs its sessions.

5. Board of directors shall have the right to make decisions if there are more than a half of its members attended in a session. Decisions shall be made by a simple majority votes. In case of equality of votes, the casting vote belongs to the chairman of the board of directors.

6. Procedure for activity of the executive body of society and making decisions by it shall be determined by the charter of society and other documents accepted by the general meeting of members of society.

## **Article 20. Internal audit service of society**

1. Internal audit service shall be created for carrying out of control of financial and economic activity of society, and consists of number of members of society, unless otherwise provided by the charter of society.

2. Procedure for work of internal audit service of society shall be determined by the charter and internal documents of society.

3. Member of internal audit service may not be a member of the executive body of society

4. Internal audit service shall conduct inspections of financial economic activity of society , give a conclusion on annual financial report and bookkeeping balance sheet of society to the general meeting of members of society. General meeting of members of society shall not have the right to approve annual financial reports and bookkeeping balance sheets of society in the absence of conclusion of the internal audit service of society.

5. Members of internal audit service, as well as its chairman shall be elected by the general meeting of members of society for the term determined by the charter of society.

Members of internal audit service shall not have the right to transfer own powers to other persons.

Under decision of the general meeting of members of society, the powers of any member of internal audit service may be terminated in advance.

6. Members of internal audit service shall have the right to receive any information on activity of society.

Members of internal audit service shall attend in sessions of the board of directors of society.

7. Internal audit service shall call the general meeting of members of society on an independent basis:

1) in case if the activity of the executive body does not ensure reaching the purposes and performance of the tasks of society;

2) if the executive body of society did not fulfill the requirements of one tenth part of common number of members of society on calling the general meeting within fourteen calendar days from the date of asserting such requirement.

## **Chapter 5. PROPERTY OF SOCIETY**

### **Article 21. Sources of formation of property of society**

1. Sources of formation of property of society are:

1) contributions of incorporators;

2) *is excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV;*

3) *is excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV;*

4) voluntary money and other contributions;

5) incomes received from placing insurance reserves and other funds;

6) incomes from another activity provided by this Law.

2. Procedure for possession of a property being in ownership of society shall be established by the general meeting of members of society.

**Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

### **Article 22. Insurance premiums and insurance payments**

1. Insurance premiums paid by members of society shall be paid to a gain acquirer by the society in the form of insurance payments in amount determined by the insurance agreement.

2. Amount and procedure for calculation of insurance premiums shall be established by the rules of mutual insurance of society approved by the general meeting of members of society, unless otherwise provided by the legislative acts of the Republic of Kazakhstan.

3. If upon completion of accounting period, there are no debts of a society on insurance payments, as well as debts on tax payment and other compulsory payments in budget, the general meeting of members of society may make decision on decreasing regular insurance premiums or on suspension of their payment.

4. Procedure and conditions of making insurance payments shall be established by the rules of mutual insurance of society approved by the general meeting of members of society.

### **Article 23. Additional contributions**

1. Procedure for calculation and entering of additional contributions shall be established by the rules of mutual insurance of society approved by the general meeting of members of society.

2. Additional contributions of members of society shall be directed only for making insurance payments.

3. *Is excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.*

**Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

### **Article 24. Insurance and other reserves of society**

**Footnote. Title as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

1. For ensuring of fulfillment of own obligations, the society shall form insurance reserves from received insurance premiums. The received sum of insurance premiums shall be directed for formation of the insurance reserves in full measure.

Requirements to formation, method of calculating insurance reserves and their structure shall be established by the regulatory legal acts of the authorized body.

If the charter of society does not provide creation of other reserves, the investment income and own funds of the society shall be also directed for formation of the insurance reserves.

2. If upon completion of financial year, the society did not have debts on insurance payments, as well as debts on tax payment and other compulsory payments in budget, the general meeting of members of society may make decision on direction of a part or all the sum of insurance reserves to other reserves of society provided by the charter of society for ensuring of financial stability and solvency of the society. Necessary sum of insurance reserves for a coming financial year shall be formed compulsorily on account of regular insurance premiums.

3. Funds of insurance reserves shall be used for investment and (or) making insurance payment.

4. Society shall be obliged to have an actuarial valuation of obligations of the society before the members, calculations of insurance premiums and insurance reserves of the society carried out by an actuary in accordance with the rules of mutual insurance of society.

**Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.**

## **Chapter 6. FINAL CONCLUSIONS**

### **Article 25. Liability for breach of the legislation of the Republic of Kazakhstan on mutual insurance**

Breach of the legislation of the Republic of Kazakhstan on mutual insurance shall entail liability in accordance with the Laws of the Republic of Kazakhstan.

### **Article 26. Order of entering this Law into force**

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

T h e  
of the Republic of Kazakhstan

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