



## **On State Control and Supervision in the Republic of Kazakhstan**

### *Invalidated Unofficial translation*

The Law of the Republic of Kazakhstan dated 6 January 2011 No. 377-IV.

U n o f f i c i a l            t r a n s l a t i o n

Footnote. It became null and void by the Code of the Republic of Kazakhstan dated 10.29.2015 No. 375-V (shall be enforced from 01.01.2016).

N o t e                    o f                    R C L I !

The order of enforcement of this Law see Article 31

This Law regulates general legal basis of state control and supervision in the Republic of Kazakhstan and oriented to establish the single principles of carrying out the control and supervisory activity, as well as to protection of rights and legal interests of state bodies, individuals and legal entities, in relation of whom the state control and supervision is carried out.

## **Chapter 1. GENERAL PROVISIONS**

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

The following basic definitions shall be used in this Law:

1) bodies of control and supervision – state bodies and their territorial subdivisions, carrying out licensure and (or) issue of authorization documents, registration recording in accordance with the legislation, as well as oversight and inspection for the purpose of compliance of activity of inspected subjects with requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law;

2) measures of prompt responsivity – methods of influence on inspected subjects, provided by the Laws of the Republic of Kazakhstan for the purpose of prevention of ensuing of socially dangerous consequences, applied in the course of carrying out and following the results of inspection;

3) state control (hereinafter – control) – the activity of state body on inspection and oversight of inspected subjects for the purpose of compliance of their activity with requirements, established by the legislation of the Republic of Kazakhstan, in the course of carrying out and following the results of which, the measures of rights' restriction may be used without prompt responsivity;

4) state supervision (hereinafter – supervision) – the activity of state body on inspection and oversight of compliance of requirements of the legislation of the Republic of Kazakhstan with inspected subjects, in the course of carrying out and

following the results of which, the measures of rights' restriction may be used, as well as measures of prompt responsiveness;

5) risk – possibility of causing of harm to life or health of a person, environment, legal interests of individuals and legal entities, property interests of the state in the result of the activity of the inspected subject in recognition of degree of its consequences;

6) risk assessment system – the set of measures, conducted by a body of control and supervision, for the purpose of planning the inspections;

7) inspected subjects – individuals, legal entities, as well as state bodies, branches and representations of legal entities, the control and supervision of activity of which shall be carried out.

## **Article 2. Legislation of the Republic of Kazakhstan on control and supervision**

1. Legislation of the Republic of Kazakhstan on control and supervision shall be based on the Constitution of the Republic of Kazakhstan and consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

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

## **Article 3. Scope of application of this Law**

1. This Law regulates relations in the field of organizing the conduct of control and supervision of inspected subjects independently from legal status, form of ownership and types of activity, with the exception of cases, provided by paragraphs 3, 4 of this Article and paragraph 3 of Article 12 of this Law.

2. This Law shall establish:

1) the procedure for conduct of inspections, carried out by bodies of control and supervision;

2) the procedure for interaction of bodies of control and supervision upon conducting the inspections;

3) rights and obligations of inspected subjects upon conducting the control and supervision, measures on protection of their rights and legal interests;

4) rights and obligations of bodies of control and supervision and their civil servants upon conducting the inspections.

3. Force of this Law, with the exception of Articles 4 and 8 of this Law shall not apply to relations, linked with:

1) control of compliance with conditions of contracts on carrying out of investments, providing the investment preferences;

2) control of fulfilling the conditions of contracts by subsurface users on conduct of exploration, extraction, coincident exploration and extraction of minerals or construction and (or) operation of underground constructions, not linked with exploration and (or) extraction, or on state geological survey of subsurface resources;

3) state control in the field of customs.

4. Force of this Law, with the exception of Article 8 of this Law shall not apply to relations in the fields:

1) supreme supervision, carried out by the prosecutor's office;

2) control and supervision in the course of pre-trial procedure on the criminal case;

3) public justice;

4) operational investigations;

5) control of compliance with requirements of the legislation of the Republic of Kazakhstan on state secrecy.

5. Relations arising upon conduct of control and supervision, mentioned in paragraphs 3 and 4 of this Article, as well as linked with compliance with requirements of financial legislation of the Republic of Kazakhstan, control and supervision of financial market and financial organizations shall be established by the Laws of the Republic of Kazakhstan, regulating relations in the mentioned fields.

**Footnote. Article 3 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).**

#### **Article 4. Principles and objectives of control and supervision**

1. Control and supervision shall be based on the principles of:

1) legality;

2) equality of all before the Law and court;

3) presumption of good faith of an individual or legal entity;

4) publicity;

5) planning and consistency of control and supervision;

6) professionalism and competence of civil servants of state bodies;

7) responsibility for non-fulfillment or improper fulfillment of the obligations by civil servants of the bodies of control and supervision and excess of their powers;

8) priority of prevention of the infraction before punishment;

9) necessity and sufficiency;

10) delimitation of supervisory powers between state bodies;

11) incentive of inspected subjects in good faith, concentration of control and supervision on violators;

- 12) increase of ability of the inspected subjects and consumers to independent protection of their legal rights;
- 13) accountability and transparency of the system of state control and supervision;
- 14) independence;
- 15) neutrality and fairness;
- 16) credibility.

2. The objective of control and supervision shall be the security assurance of performed and implemented production by the inspected subject, technical process for life and health of people, protection of their property, security for environment, national security of the Republic of Kazakhstan, including the economic security, prevention of deceitful practices, saving of natural and energy resources, competitive growth of the national production and protection of the constitutional rights, freedoms and legal interests of individuals and legal entities.

3. State bodies shall be prohibited to pass the regulatory legal acts on the issues of procedure for conducting the inspections of the subjects of private enterprise, with the exception of regulatory legal acts, provided by paragraph 3 of Article 13, paragraph 1 of Article 14, paragraph 1 of Article 15 of this Law.

4. State bodies, drafting the projects of the regulatory legal acts, regulating the issues of control and supervision of the activity of subjects of private enterprise shall coordinate them with the authorized body on entrepreneurship.

5. Control and supervision of private enterprise shall be carried out in accordance with the legislation of the Republic of Kazakhstan in the field of activity, mentioned in the annex to this Law.

## **Article 5. Requirements, specified to the activity of the inspected subjects**

Requirements specified to the activity of inspected subjects shall be established by the regulatory legal acts.

**Footnote. Article 3 is in the wording of the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Article 6. Guarantees of the subjects of private enterprise upon carrying out of control and supervision by law enforcement bodies**

In relation to the subjects of private enterprise, the law enforcement bodies shall conduct measures of control and (or) supervision only within the operational investigations, criminal prosecution, administrative proceedings and (or) implementation of regulatory functions, carried out by the law enforcement bodies, as well as in other cases, provided by the Laws of the Republic of Kazakhstan.

## **Article 7. Control**

1. Control shall be divided into internal control and external control.

2. Internal control – the control, carried out by the state body of executing the decisions by its structural and territorial subdivisions, subordinate state bodies and organizations, adopted by the state body, as well as requirements of the legislation of the Republic of Kazakhstan.

The procedure for conducting the internal control shall be determined by Article 8 of this Law.

Force of this paragraph shall not apply to internal control, carried out by the body authorized by the Government of the Republic of Kazakhstan on internal control, conducted in accordance with the Budget Code of the Republic of Kazakhstan.

3. External control – the control, carried out by the body of control and supervision on inspection and oversight of the activity of the inspected subjects for compliance with requirements, mentioned in Article 5 of this Law.

The procedure for conducting the external control shall be determined by Article 10 and chapter 2 of this Law.

Following the results of external control in case of detection of violations of the legislation of the Republic of Kazakhstan, the state bodies shall initiate administrative, disciplinary proceedings within its competence or instigate the relevant statements of claim within its competence and (or) take other measures, provided by the Laws of the Republic of Kazakhstan.

## **Article 8. Internal control**

1. Internal control shall be divided into:

1) control of fulfilling the legal acts (measures, the performance of which is provided by legal acts). In this case, all the legal acts that contain the measures, subject to fulfillment shall be taken over the control;

2) control of execution of instructions of the President of the Republic of Kazakhstan, Government of the Republic of Kazakhstan and managing civil servants of state body, appearing from other documents of official nature.

2. Internal control shall be performed by:

1) vindication of information required;

2) hearing and discussing of statements and reports on fulfillment;

3) revision and other forms of documentary inspection;

4) inspections with coming to place;

5) other methods, not inconsistent with the legislation.

3. Internal control shall be performed by the following characteristics:

- 1) compliance of the activity of structural, territorial subdivisions, subordinate state bodies and organizations and civil servants with the objectives assigned on them;
- 2) timeliness and completeness of fulfillment;
- 3) compliance with requirements of the legislation upon fulfillment.

4. The civil servant or the relevant structural subdivision of the state body, authorized to carry out the control of fulfillment of legal act that came into force shall develop the control measures in case of necessity.

By this, the civil servant or the relevant structural subdivision of the state body, authorized to carry out the control, shall analyze the receiving information on its fulfillment for determination of:

- 1) degree and quality of fulfilling the legal act;
- 2) existence of deviations in the fulfillment of legal act, establishment of their reasons and possible measures for elimination of deviations;
- 3) possibility to decontrol or extend the term for fulfillment;
- 4) responsibility of particular civil servants for non-fulfillment or improper fulfillment of the legal act.

Suggestions, elaborated following the results of information analysis shall be reported to the management personnel of the state body for adoption of the relevant decision. Performers of the state body, conducted information analysis shall be informed on adopted decision.

5. Decontrolling and extension of the terms for fulfillment of measures, provided by the legal act shall be carried out by the management personnel of the state body.

6. Control service of the superior state body or executing body shall direct the relevant written notification to a performer before expiration of the term for fulfillment, established in the legal act in the manner, determined by the regulation of the state body.

Additional issues of organizing and carrying out of internal control may be determined by the state body itself or the superior state body in relation to it.

## **Article 9. Supervision**

1. Supervision shall consist in application of the measures of rights' restriction of prompt responsivity without initiation of administrative proceedings by the authorized state body.

Measures of rights' restriction of prompt responsivity shall be provided by the Laws of the Republic of Kazakhstan and shall be applied by the state bodies in the case, if the activity, goods (work, service) of the inspected subject constitute a threat to the constitutional rights, freedoms and legal interests of individuals and legal entities, life and health of people, environment, national security of the Republic of Kazakhstan.

2. The supervision shall be divided into:

1) supreme supervision, carried out by the prosecutor's office on behalf of the state in accordance with the Constitution of the Republic of Kazakhstan, Law of the Republic of Kazakhstan "On Prosecutor's Office" and other legislation of the Republic of Kazakhstan;

2) supervision, carried out by the authorized state bodies in the manner and on conditions, established by this Law and other Laws of the Republic of Kazakhstan.

## **Article 10. The forms of control and supervision**

1. Control and supervision of the activity of the inspected subjects shall be carried out in the form of:

1) inspection, the procedure for organizing and conducting of which shall be determined by this Law;

2) other forms of control and supervision, carrying preventive and prophylactic nature, unless otherwise provided by the Tax Code of the Republic of Kazakhstan, the procedure of organizing and conducting of which shall be determined by this Article and other Laws of the Republic of Kazakhstan.

2. Upon conducting the other forms of control and supervision, the preliminary notification of the inspected subject, as well as the registration in the authorized body on legal statistics and special accounts shall not be required.

Following the results of the other forms of control and supervision of subjects of private enterprise depending on their type, the resulting documents (certificate, breve, opinion and other) may be settled without institution of proceedings on administrative infraction in case of detection of the violation, but with mandatory explanation of the procedure for its elimination for the inspected subject.

The part two of this paragraph shall not apply to other forms of control, carried out in accordance with the Tax Code of the Republic of Kazakhstan.

3. Other forms of control and supervision shall be conducted by the bodies of control and supervision in accordance with the principle of necessity and efficiency without visiting the objects (subjects) of control, with the exception of cases:

established by the tax legislation of the Republic of Kazakhstan;

established by the labor legislation of the Republic of Kazakhstan;

if the visit is linked with receipt (passing) of authorization documents (procedures) with mandatory notification of bodies on legal statistics and special accounts at the location of the object (subject) within one day before its visit;

conducting inspection of construction-assembly works for compliance with requirements, specified for building and change of load carrying and enclosing structures of buildings and constructions;

control of compliance with amount of maximum allowed retail prices of socially important goods.

carrying out of control by the internal affairs bodies on the issues of compliance with the rules of turnover of weapon and ammunition to it in the Republic of Kazakhstan;

carrying out of control on compliance with the standards of rendering special social services.

**Footnote. Article 10 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.06.2014 No. 212-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Article 11. Competence of bodies of control and supervision**

Bodies of control and supervision shall:

1) develop and implement state policy in the field of the state control and supervision in the relevant field;

2) contribute suggestions on improvement of conducting the control and supervision;

3) organize and conduct control and supervision in accordance with the Laws of the Republic of Kazakhstan;

4) develop and approve the regulatory legal acts in the field of control and supervision within their competence;

5) organize and conduct monitoring of effectiveness of control and supervision;

6) carry out mutual coordination of the activity of bodies of control and supervision in the Republic of Kazakhstan;

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

## **Chapter 2. THE PROCEDURE FOR THE ORGANIZING AND CONDUCTING THE INSPECTIONS**

### **Article 12. General questions of inspection**

1. The inspection of the inspected subject – the one of the forms of control and supervision conducted by the bodies of control and supervision, by commission of one of the following actions:

1) visiting the inspected subject by the civil servant of state body;



2) request of necessary information, concerning the subject of inspection with the exception of vindication of necessary information upon conducting the other forms of control and supervision;

3) calling the inspected subject for the purpose of receiving information on compliance with requirements by it, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law.

2. The subject of inspection shall be compliance with requirements by the inspected subjects, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law.

3. Force of this chapter, with the exception of paragraphs 2 and 3 of Article 26, Article 29 of this Law shall not apply to carrying out of control and supervision, linked with:

1) crossing of the State Boundary of the Republic of Kazakhstan;

2) conduct of control and supervision in the field of plant quarantine, veterinary checks upon crossing of customs border of custom union and (or) State Boundary of the Republic of Kazakhstan;

3) compliance with safety requirements of traffic;

4) passage of vehicles in the territory of the Republic of Kazakhstan on the posts of transport control for the purpose of compliance with safety requirements on the vehicle ;

5) control and supervision of fulfilling the requirements on the safety operation of water crafts in accordance with the Laws of the Republic of Kazakhstan on inland water transport and merchant shipping;

6) compliance with requirements of keeping of weapon, bearing and use of non-military weapon;

7) carrying out of state control and supervision on veterinary medicine and plant quarantine on the objects of internal trade, selling the production and materials of animal origin, in the organization, carrying out the production, procurement (slaughtering), storage, processing of products and materials of animals, vegetable origin in the unified technological cycle;

8) compliance with requirements in the field of specially protected natural areas, protection, security, use of forest fund, regeneration of forests and forest planting in the specially protected natural areas and the territory of state forest fund, as well as for the purpose of carrying out of the control of unauthorized removal of the objects of animal and vegetal life;

9) control and supervision of measures in stay indoors zones and disadvantaged areas on special dangerous diseases of animals;

10) compliance with safety requirements of air traffic and aviation security by individuals and legal entities;

11) control in the field of legal turnover of weapon, explosive and poisonous substances, psychotropic substances and precursors, non-military pyrotechnic substances and production with their use within conducted operational prophylactic measures of internal affairs bodies;

12) control in the territory of the subject, carrying out the production of separate types of sub-excise goods by excise posts, established in accordance with the tax legislation of the Republic of Kazakhstan, as well as conduct of the control account of ethyl alcohol and alcoholic production in the organizations, carrying out the production of ethyl alcohol and alcoholic production;

13) compliance with requirements of financial legislation of the Republic of Kazakhstan, as well as control and supervision of the financial market and financial organizations;

14) compliance with requirements of anti-monopoly legislation of the Republic of Kazakhstan, carried out by the anti-monopoly body;

15) compliance with requirements of budget legislation of the Republic of Kazakhstan and other regulatory legal acts, regulating the issues of state budget execution;

16) *is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);*

17) compliance with requirements of the legislation of the Republic of Kazakhstan, regulating the sale of alcoholic and tobacco production to minors, as well as the procedure for staying of minors in entertainment facilities;

18) compliance with requirements on operation and technical condition of power equipment of electric power stations of the unified electric power system of the Republic of Kazakhstan, electric networks more than 0,4 kilovolts, main heating system and boiler plants with established capacity of more than 100 Gcal/hour;

19) control of compliance with the rules of transportation of passengers, luggage and shipped baggage in passenger trains in the route;

20) trade out of the places, established by the local executive body;

21) compliance with requirements on state registration of the regulatory legal acts by the central state bodies, maslikhats and akimats, as well as on official publication of the regulatory legal acts;

22) carrying out of control of the state of antiterrorist protection of the objects, assailable in terroristic relation, with the exception of objects of the Republic of Kazakhstan, protected by the Armed Forces, other forces and military formations of the Republic of Kazakhstan, as well as special state bodies, and compliance with requirements by their heads, provided by the legislation of the Republic of Kazakhstan on counter-terrorism;

23) compliance with requirements of the legislation in the field of population movement;

24) visit of the object by authorized state body for architecture, urban construction and construction for the purpose of establishing the relevant performance of functions by local executive bodies assigned on them by the legislation of the Republic of Kazakhstan.

4. Relations, arising upon conducting of inspections, mentioned in paragraph 3 of this Article shall be regulated in accordance with the Laws of the Republic of Kazakhstan.

5. Special aspects, terms of conducting, extension, suspension of inspections, drawing up of the act on assignment, results and completion of inspections, carried out by the bodies of tax administration shall be determined by the Tax Code of the Republic of Kazakhstan.

**Footnote.** Article 12 as amended by the Laws of the Republic of Kazakhstan dated 26.01.2011 No. 400-IV (shall be enforced upon expiry of thirty calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 25.01.2012 No. 548-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 No. 34-V (shall be enforced from the date of its first official publication); dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 No. 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.12.2013 No. 153-V (shall be enforced upon expiry of ten calendar days from the date of its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

### **Article 13. Risk assessment system**

1. Depending on the degree of risk, the state bodies shall refer the inspected subjects to the groups of high, average or low risk and determine the periodicity of conducting planned inspections for them, but not more frequently than:

- 1) once a year – upon high degree of risk;
- 2) twice a year – upon average degree of risk;
- 3) once every five years – upon low degree of risk.

2. For inspection of compliance with requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law in the field of sanitary and epidemiological supervision, veterinary medicine, quarantine and plant protection, seed production, grain and cotton market, architecture, urban construction

and construction, the periodicity of conducting the planned inspections shall not be more frequently than:

1) in the field of veterinary medicine, quarantine and protection of plants, seed production, grain and cotton market:

once each half-year – upon high degree of risk;

once a year - upon average degree of risk;

once every three years – upon low degree of risk;

2) in the field of sanitary and epidemiological control:

once each quarter – upon high degree of risk;

once each half-year - upon average degree of risk;

once a year – upon low degree of risk;

3) in the field of architecture, urban construction and construction:

once each half-year – upon high degree of risk;

once a year - upon average degree of risk;

once every three years – upon low degree of risk.

Distribution of the inspected subjects throughout the degrees of risk shall be carried out in recognition of significance of the subject as regards the gravity of consequences, branch statistics of the violation of requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law, as well as the results of unscheduled inspection.

3. State bodies shall develop and approve the acts, concerning the forms of compulsory departmental accounting, prompt sheets, risk assessment criteria, semiannual plan of conducting the inspections.

4. Risk assessment criteria in the field of private enterprise shall be approved by the joint order of bodies of control and supervision and authorized body on entrepreneurship and shall be published on official web-sites of the state bodies, with the exception of cases, provided by the Tax Code of the Republic of Kazakhstan.

Risk assessment criteria – set of quantitative and qualitative indices, linked with immediate activity of the inspected subject, special aspects of the branch development and factors, influencing on this development, allowing allocate the inspected subjects to the various degrees of the risk.

**Footnote. Article 13 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.12.2013 No. 152-V (shall be enforced from 01.01.2014).**

## **Article 14. Departmental accounting**

1. State bodies shall draw up and approve the acts, concerning the forms of compulsory departmental accounting.

The forms of compulsory departmental accounting on the issues of inspections of the inspected subjects shall be approved by the joint order of the head of the state body, authorized body on the legal statistics and special accounts.

The forms of compulsory departmental accounting on the issues of inspections of the inspected subjects in the field of private enterprise shall be also approved by the authorized body on entrepreneurship.

2. Bodies of control and supervision shall be obliged to maintain departmental accounting of the quantity of inspections of the inspected subjects, as well as detected violations in accordance with the prompt sheets and measures of administrative pressure, assumed against them on the permanent and uninterrupted basis.

Summary data of departmental accounting on inspections of the inspected subjects shall be published on official web-sites of state bodies.

## **Article 15. Prompt sheets**

1. The prompt sheets shall be approved by the bodies of control and supervision within their competence for the uniform groups of the inspected subjects.

The forms of prompt sheets shall be determined and approved by the body of control and supervision and shall be subject to publication in mass media and on official web-sites of the state bodies.

The forms of prompt sheets in the field of private enterprise shall be approved by the joint order of the body of control and supervision and authorized body on entrepreneurship and shall be published on official web-sites of the state bodies.

2. The prompt sheet shall include comprehensive list of requirements for the activity of the inspected subjects, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law, non-compliance of which shall entail to threat to life and health of a person, environment, legal interests if individuals and legal entities, state.

**Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication).**

**Note of RCLII!**

**Article 16 is provided to be amended by the Law of the Republic of Kazakhstan dated 16.05.2014 No. 203-V (shall be enforced upon expiry of six months after the date of its first official publication).**

## **Article 16. Types of inspections**

1. Inspections of the inspected subjects shall divide into the following types:

- 1) planned;
- 2) unscheduled.

Planned inspection – the inspection, assigned by the body of control and supervision in relation to a separate inspected subject, on the basis of the plan of inspections, approved by the authorized body, in accordance with the risk assessment system and in recognition of established temporary intervals in respect of previous inspections for the purpose of prevention of the threat to life and health of a person, environment, legal interests of individuals and legal entities, state.

Unscheduled inspection – the inspection, assigned by the body of control and supervision in relation to particular inspected subject, for the purpose of elimination of immediate threat to life and health of a person, environment, legal interests of individuals and legal interests, state.

2. Planned and inspection inspections shall be carried out in labour hours of the inspected subject, established by the rules of internal labour policy, unless otherwise established by the part two of this paragraph.

Unscheduled inspection may be conducted after working hours (night time, days of rest or public holidays) in cases of necessity of suppressing the violations immediately in the moment of their commitment.

3. Planned and unscheduled inspections shall be divided into:

- 1) complex inspections;
- 2) thematic inspections.

In case of necessity of simultaneously conduct of inspection of the inspected subject by several bodies of control and supervision, each of these bodies shall be obliged to draw up the act on assignment of inspection and register it in the authorized body on legal statistics and special accounts, with the exception of cases of involvement to participate in inspections, assigned by the prosecution bodies.

In case of necessity of simultaneous conduct of the inspection of several inspected subjects on one and the same range of issues by the one body of control and supervision, this body shall be obliged to draw up the act on assignment of inspection for each inspected subject and register it in the authorized body on legal statistics and special accounts, with the exception of tax inspection, conducted on the issues of:

- 1) registration recording in taxing bodies;
- 2) existence of cash register machines;
- 3) existence and authenticity of excise and accounting and control stamps;
- 3-1) existence and authenticity of accompanying notes for alcoholic production, oil products and biofuel;
- 4) *is excluded by the Law of the Republic of Kazakhstan dated 26.12.2012 No. 61-V (shall be enforced from 01.01.2013);*

- 5) existence of licence;
- 6) permit to release the ethyl alcohol;
- 7) patent;
- 8) registration card, specified in Article 574 of the Tax Code of the Republic of Kazakhstan;
- 9) existence of equipment (device), intended for making payments with the use of payment cards.

Complex inspection – the inspection of activity of the inspected subject on the set of issues of compliance with requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law.

Thematic inspection – the inspection of activity of the inspected subject on particular issues of compliance with requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law.

4. Till 10 December of the year, preceding the year of conducting the planned inspections, and till 10 May of the current calendar year, the bodies of control and supervision shall direct semiannual plans of conducting inspections to the authorized body on legal statistics and special accounts for establishment of the semiannual composite plan of conducting the planned inspections by the General Prosecutor's Office of the Republic of Kazakhstan.

5. Amendments to semiannual plans of conducting the inspections shall not be allowed.

The General Prosecutor's Office shall publish the semiannual composite plan of conducting the planned inspections on official web-site of the General Prosecutor's Office of the Republic of Kazakhstan till 25 December of current calendar year and till 25 May of current calendar year.

6. The ground for assignment of the inspection of the inspected subjects shall be the plan, approved by the body of control and supervision, on the basis of results of measures of the risk assessment system.

6-1. Conduct of the planned inspections in relation to the subjects of small enterprise within three years from the date of state registration (except for established legal entities in the manner of reorganization and legal successors of reorganized legal entities) shall be prohibited.

Force of this paragraph shall not apply to carrying out of control and supervision, linked with:

- 1) compliance with established rules of handling and functioning of explosive substances;
- 2) activity of individuals and legal entities engaged in the field of turnover of non-military and official weapon and ammunition to it, non-military pyrotechnic substances and production with their use;

- 3) atomic power, radioactive substances;
- 4) activity of individuals and legal entities, engaged in the field of turnover of poisons, weaponization, military technology and particular types of weapon, explosive and pyrotechnic substances and production with their use.

7. The grounds for unscheduled inspection of the inspected subjects shall be:

- 1) control of fulfillment of breves (resolutions, representations, notifications) on elimination of detected violations in the result of inspection and following the results of other forms of control and supervision;

- 2) receipt of information and applications from individuals and legal entities, state bodies, deputies of the Parliament of the Republic of Kazakhstan and local representative bodies on infliction or threat of inflicting essential harm to life, health of a person, environment and legal interests of individuals and legal entities, state;

- 3) counter inspection in relation to third parties with whom the inspected subject had civil relations, for the purpose of receiving information, required for carrying out of inspection;

- 4) initiative application of the inspected subject on conduct of inspection of its activity;

- 5) reorganization and change of the name of the inspected subject, if in its relation the planned inspection was assigned;

- 6) repeated inspection, linked with application of the inspected subject on disagreement with initial inspection;

**Note of RCLI!**

**Subparagraph 7) is provided to be in the wording of the Law of the Republic of Kazakhstan dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015).**

- 7) the grounds, provided by the Criminal Procedure Code of the Republic of Kazakhstan;

- 8) applications of a taxpayer, information and issues, determined by Article 627 of the Tax Code of the Republic of Kazakhstan;

- 9) filing of notification by the inspected subject on beginning of carrying out of the activity or particular actions in the manner, established by the Law of the Republic of Kazakhstan "On administrative procedures".

8. Unscheduled inspections shall not be conducted in cases of anonymous applications.

9. The facts and circumstances, detected in relation of particular subjects of private enterprise and that being as the ground for assignment of this unscheduled inspection shall be subject to unscheduled inspection.

10. In case of contraction or threat of contraction of spreading the epidemic, center of quarantine objects and special dangerous organisms, infectious, parasitic diseases, intoxications, radiation accidents, the unscheduled inspection of the objects shall be



conducted without preliminary notification and registration of the act on assignment of inspection with its following representative within the following business day to the authorized body on legal statistics and special accounts.

10-1. Unscheduled inspections on the issues of production (formulization) of transportation, storage, sale and use of falsified pesticide (toxic chemicals), as well as production, purchase, transportation, storage, sale of falsified medicinal products, medical accessories and medical devices shall be conducted without preliminary notification of the inspected subject.

11. In case of detection of the grounds for conduct of unscheduled inspection of the objects and subjects, being at essential distance from location of bodies of control and supervision and authorized body on legal statistics and special accounts, the unscheduled inspection shall be carried out without preliminary notification and registration of the act on assignment of the inspection with its following representation within the following five business days in the authorized body on the legal statistics and special accounts.

Essential distance from the location of controlling and registering bodies shall be the distance, exceeding one hundred kilometres from the place of registration of the act on assignment of the inspection to the place of its conduct.

12. The listed grounds for conduct of planned and unscheduled inspection shall be applied in respect of structural subdivisions of the state bodies, legal entities, structural subdivisions of non-resident legal entities, non-resident legal entities carrying out the activity without registration in judicial bodies.

13. Conduct of other types of inspections, not established by this Law shall be prohibited, with the exception of inspections, provided by the Tax Code of the Republic of Kazakhstan.

**Footnote. Article 16 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 21.06.2012 No. 19-V (shall be enforced from 01.01.2013); dated 10.07.2012 No. 36 (the order of enforcement see Article 2); dated 26.12.2012 No. 61-V (shall be enforced from 01.01.2013); by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Article 17. Act on assignment of inspection**

1. Inspection shall be conducted on the basis of the act on assignment of the inspection by the state body.

2. Act on assignment of the inspection shall include:

- 1) number and date of act;
- 2) name of the state body;
- 3) last name, first name, patronymic (in its existence) and office of a person (persons), authorized for conducting the inspection;
- 4) information on specialists, advisers and experts, engaged for conduct of inspection;

**Note of RCLII!**

The words “identification number” shall be considered as the words “taxpayer identification number” in subparagraph 5) until 1 January (see Article 31).

5) name of the inspected subject or the last name, first name, patronymic (in its existence) of an individual, in relation of whom the conduct of inspection, his (her) location, identification number, slice of territory is assigned.

In case of verifying the branch and (or) representative office of a legal entity, its name and location shall be specified in the act on assignment of inspection;

- 6) subject of assigned inspection;
- 7) term for conduct of inspection;
- 8) legal grounds for conduct of inspection, as well as the regulatory legal acts, compulsory requirements of which shall be subject to inspection;
- 9) the inspected period;
- 10) rights and obligations of the inspected subject, provided by Article 27 of this Law;
- 11) sign of a person, authorized to sign the acts, and seal of the state body.

## **Article 18. Registration of the act on assignment of inspection**

1. Act on assignment of inspection, with the exception of unscheduled inspections on compliance with requirements in the field of security and protection of labor of state labor inspection in case of occurrence of a threat to life and health of employees, counter inspections carried out by bodies of government revenues in accordance with the Tax Code of the Republic of Kazakhstan shall be registered compulsorily in authorized body on legal statistics and special accounts.

Registration of the act on assignment of inspections shall carry accountable nature and shall be used for formation and development of departmental systems of risk management.

Existence of the registration of the act on assignment of inspection shall not be a proof of legality of such inspection.

General details about the acts on assignment of unscheduled inspections on compliance with requirements in the field of security and protection of labor of state labor inspection in case of occurrence of a threat to life and health of employees,

counter inspections carried out by bodies of government revenues in section of subjects of private enterprise shall be sent to the authorized body on legal statistics and special accounts on a quarterly basis.

2. The act on assignment of the inspection by the body of control and supervision shall be registered in the authorized body on legal statistics and special account before beginning of inspection by its representation to territorial subdivision of the authorized body on legal statistics and special accounts at location of the inspected subject, as well as in non-legible form.

The procedure for registration of acts on assignment of the inspection, notification on suspension, resumption, extension of the terms of inspection, on the change of composition of participants and representation of information accounting documents on inspection and its results shall be determined by the General Prosecutor's Office of the Republic of Kazakhstan.

3. In case, when necessity of inspection is occasioned by existing situation, requiring immediate elimination of the threat of public order, health of population and national interests of the Republic of Kazakhstan, as well as upon conduct of inspection after working hours (night time, days of rest or public holidays) in virtue of necessity of restraint of violations immediately in the moment of their commitment and conduct of urgent pressures for preservation of evidences, the registration of acts on assignment of inspections shall be conducted in the authorized bodies on legal statistics and special accounts within the following business day after beginning of inspection.

**Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.06.2014 No. 212-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after the date of its official publication).**

## **Article 19. The procedure for conduct of inspection**

1. The body of control and supervision shall be obliged to notify the inspected subject in written on beginning of conducting the planned inspection no less than thirty calendar days before beginning of the inspection itself, specifying the terms and subject of conducting the inspection.

Upon conduct of unscheduled inspection, the state body shall be obliged to notify the inspected subject on beginning of conducting the unscheduled inspection no less than one day before beginning of the inspection itself, specifying the subject of conducting inspection, with the exception of cases, provided by subparagraphs 2), 3), 4), 7) and 8) of paragraph 7, paragraph 10 of Article 16 of this Law.

2. Civil servants of the state bodies, arrived for conduct to the object shall be obliged to present:

- 1) the act on assignment of inspection stamped on registration in the authorized body on legal statistics and special accounts;
- 2) service certificate;
- 3) permit of the competent body for visiting the sensitive objects if required;
- 4) medical access, existence of which is required for visiting the objects, issued in the manner, established by the authorized body in the field of health care service;
- 6) a prompt sheet upon the planned inspection.

The date of issue of the act on assignment of inspection to the inspected subject shall be considered as beginning of the conduct of inspection.

3. In case of refuse from acceptance of the act on assignment of the inspection or non-admission of the civil servant of the body of control and supervision, carrying out inspection to materials, required for conduct of inspection, the minutes shall be formalized. The minutes shall be signed by the civil servant of the body of control and supervision, carrying out inspection and authorized person of the inspected subject.

The authorized person of the inspected subject shall have the right to refuse from signing the minutes, giving a written explanation on reason from refuse. Refuse from receiving the act on assignment of the inspection shall not be the ground for cancellation of inspection.

4. Inspection may be conducted only by the civil servant (persons) that mentioned in the act on assignment of inspection. By this, the composition of civil servants, conducting the inspection may be changed on decision of the body of control and supervision about which the inspected subject and body on legal statistics and special accounts shall be notified before beginning of participation of persons in inspection, not mentioned in the act on assignment of inspection, specifying the reasons of change.

**Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 20. The term of conducting inspection**

1. The term of conducting inspection shall be established in recognition of scope of future works, as well as set objectives and shall not exceed thirty business days, with the exception of particular cases upon conducting tax inspection, provided by the tax legislation of the Republic of Kazakhstan, as well as inspections, conducted in the field of sanitary and epidemiological control, veterinary medicine, quarantine and plant protection, seed production, grain and cotton market for which the following terms of conducting inspections are established in recognition of branch special aspect:

1) inspections in the field of sanitary and epidemiological control – within fifteen business days and with extension of fifteen business days;

2) in the field of veterinary medicine, quarantine and plant protection, seed production, grain and cotton market – no more than five business days and with extension of five business days.

In case of necessity of conducting special researches, examinations, expert advices, as well as in connection with significant volume of inspection, the term of conducting the inspection may be extended only once by the head of body of control and supervision (or by the person, substituting him (her) for the term of no more than thirty business days, with the exception of particular cases upon conduct of tax inspection, provided by the tax legislation of the Republic of Kazakhstan and cases, provided by this paragraph.

In case of extension of the terms of inspection, the state body shall draw up additional act on extension of inspection with the registration in the authorized body on legal statistics and special account in a mandatory manner, in which the number and date of registration of the previous act on assignment of inspection and reason of extension is specified.

Inspection may be suspended once for the term of no more than one month.

In cases of necessity of receiving information and documents from foreign states, having essential significance within conducted inspection, the conduct of special researches, examinations, expert advices for the term of more than thirty business days, the term of conducting the inspection shall be suspended before their receiving or fulfillment.

Notification of the inspected subject on suspension or resumption of inspection shall be carried out within the day before suspension or resumption of inspection with notifying the authorized body on legal statistics and special accounts.

Upon suspension or resumption of inspection, the act on suspension or resumption of inspection shall be rendered.

Computation of the term of conducting suspended inspection shall continue from the date of its resumption.

Repeated conduct of inspection of the inspected subject on which the inspection was suspended and not resumed within the terms established in this Article shall not be allowed.

Special aspects of the procedure and terms of conduct, extension and suspension of inspections, carried out by bodies of tax administration shall be determined by the Tax Code of the Republic of Kazakhstan.

**Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Article 21. Procedure for selection of samples of products for expert advice (analysis, examination)**

1. Selection of samples of products for conduct of control and supervision, as well as the quantity of selected samples shall be determined in accordance with requirements of the regulatory legal acts and regulatory documents of the Republic of Kazakhstan for products and methods of product testing.

2. Selection of samples of products shall be performed by the civil servant of the body of control and supervision in the presence of the head or representative of the inspected subject and authorized person of the inspected subject and shall be approved by the act of selection of products.

Selected samples of products shall be collected, packed and stamped (sealed).

3. Act of selecting the samples of products shall be drawn in three copies. All the copies of the act shall be signed by the civil servant selected the samples of products, and head or representative of the inspected subject.

One copy of the act of selecting together with commitment and samples of products, selected in a proper manner shall be directed to organization, authorized by the legislation of the Republic of Kazakhstan for conduct of expert advice (analysis, examination).

The second copy of the act of selection of samples of products shall remain with the inspected subject.

The third copy of the act of selection of samples of products shall remain with the civil servant of the body of control and supervision, carrying out selection of samples of the products.

4. Conditions of storage and transportation of selected samples of products shall not change the parameters, on which the expert advice (analysis, examination) of these samples shall be conducted.

Civil servant of the body of control and supervision, selecting the samples of products for expert advice (analysis, examination) shall ensure their preservation and timeliness of delivery to the place of carrying out of expert advice (analysis, examination).

5. Expenses, linked with selection of samples of products shall be financed at the expense of budgetary funds.

6. In case of confirmation of the fact of violation of compulsory requirements by the inspected subject, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law following the results of expert advice, he (she) shall be obliged to compensate the expenses on conduct of expert advice in the manner, established by the legislation of the Republic of Kazakhstan.

7. Inspected subject may carry out the expert advice (analysis, examination) of the sample, remained with him (her) on his (her) initiative in organization, authorized for carrying out of expert advice (analysis, examination) in accordance with the legislation of the Republic of Kazakhstan.

Dispute on divergence of results of expert advice (analysis, examination), carried out by the body of control and supervision and inspected subject shall be resolved in a judicial proceeding.

## **Article 22. Act of selection of the samples of products**

Act of selection of the samples of products shall include:

- 1) place and date of drawing up;
- 2) number and date of permit of the head of body of control and supervision, on the basis of which the selection of samples of products shall be carried out;
- 3) office, last name, first name and patronymic of the civil servants, carrying out the selection of the samples of products;
- 4) name and location of the inspected subject, where selection of the samples of products shall be performed;
- 5) office and last name, first name, patronymic of the authorized body of the inspected subject;
- 6) the list and quantity of selected samples of products specifying a producer, date of production, line (number) of lots, total value of samples;
- 7) type of packing and number of seal (stamp).

## **Article 23. Restrictions upon conduct of inspection**

Upon conduct of inspection, the civil servants of the body of control and supervision shall not have the right to:

- 1) check the fulfillment of requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law, if such requirements don't refer to the competence of the state body, on behalf of which these civil servants operate;
- 2) require representation of documents, information, samples of products, examples of investigation of objects of ecological interest and objects of manufacturing environment, if they are not the objects of inspection or don't relate to the subject of inspection;
- 3) select the samples of products, examples of investigation of objects of ecological interest and objects of manufacturing environment for conduct of their investigations, examinations, measurements without drawing up the minutes on selection of mentioned samples, examples on established form and (or) in amount, exceeding



standards, established by the national standards, rules of turnover of samples, examples and methods of their investigations, examinations, measurements by technical regulations or other regulatory technical documents, rules and methods of investigations, examinations, measurements till the date of their enforcement;

4) disclose and (or) spread information, received in the result of conduct of inspection and that is commercial, tax or another secrecy protected by the Law, with the exception of cases, provided by the Laws of the Republic of Kazakhstan;

5) exceed the terms established for conduct of inspection;

6) conduct designedly repeated inspection of the inspected subject, in relation of which the inspection was conducted previously, on one and the same subject for one and the same period, with the exception of cases, provided by subparagraphs 2), 4), 6), 7) and 8) of paragraph 7 of Article 16 of this Law;

7) conduct measures, having cost-based nature, for the purpose of state control at the expense of the inspected subjects.

**Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 31-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 24. procedure for drawing up of inspection**

1. Following the results of inspection by the civil servant of the body of control and supervision, the act on results of inspection shall be drawn up in two copies.

Act on results of inspection shall include:

1) date, time and place of drawing up of the act;

2) name of the body of control and supervision;

3) date and number of the act on assignment of inspection, on the basis of which the inspection is conducted;

4) last name, first name, patronymic (in its existence) and office of a person ( persons), conducted inspection;

5) name or last name, first name, patronymic (in its existence) of the inspected subject, the office of a representative of individual or legal entity, presented upon conduct of inspection;

6) date, place and period of conduct of inspection;

7) information on results of inspection, as well as on detected violations, on their nature;

8) information on familiarization or on refuse from familiarization with the act of a representative of the inspected subject, as well as the persons, presented upon conduct of inspection, their signs or refuse from signing;

9) sign of a civil servant (servants), conducted inspection.



Act on results of inspection shall be enclosed by the acts on selection of samples (examples) of products, investigation of the objects of ecological interest, minutes (opinions) of pursued investigations (examinations) and expert advices and other documents or their copies, linked with results of inspection in their existence.

2. In case of existence of remarks and (or) objections based on results of inspection, the head of a legal entity or individual or their representatives shall pose them in written form.

Remarks and (or) objections shall be enclosed to the act on results of conduct of inspection, about which the relevant note shall be made.

3. One copy of the act on results of inspection with the copies of annexes, with the exception of copies of documents the original of which is possessed by the inspected subject, shall be issued to the head of a legal entity or individual or their representatives for familiarization and taking measures on elimination of detected violations and other actions.

4. According to detected violations in the result of inspection, the inspected subject shall be obliged to provide information on measures that shall be taken on elimination of detected violations, specifying the terms that shall be coordinated with the head of the state body, conducted inspection not later than three business days in the absence of objections.

5. The inspected subjects shall have the right to keep registration book of the visits and inspections. Civil servants of the bodies of control and supervision shall be obliged to make a record on conducted actions, specifying the last names, offices and data, stated in the act in the registration book of visits and inspections of the inspected subjects.

6. Suppression and seizure of genuine accounting and other documents shall be prohibited.

Suppression and seizure of genuine documents shall be performed in accordance with the regulations of the Civil Procedural Code of the Republic of Kazakhstan, as well as in cases, provided by the Code of the Republic of Kazakhstan on administrative infractions.

7. In case of absence of violations of requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law, upon conduct of inspection in the act on results of inspection, the relevant record shall be made.

8. Completion of the term of inspection shall be the date of handing the act on results of inspection to the inspected subject no later than the term of completion of inspection, specified in the act on assignment of inspection.

**Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).**

## **Article 25. Measures, taken by the civil servants of the bodies of control and supervision on the facts of violations, detected upon conduct of inspection**

If in the result of conducting the inspection, the fact of violations of requirements, established by the legislation of the Republic of Kazakhstan is elicited by the inspected subject in accordance with Article 5 of this Law, the civil servant (servants) of the bodies of control and supervision within the powers, provided by the legislation of the Republic of Kazakhstan shall be obliged to take the measures, provided by the Laws of the Republic of Kazakhstan on elimination of detected violations, their prevention, suppression of possible causing the harm to life, health of people and environment, legal interests of individuals and legal entities, as well as measures on bringing to responsibility of the persons, committed violations, established by the Laws of the Republic of Kazakhstan.

Upon taking the measures of prohibitive and restrictive nature in relation of the inspected subject, the body of control and supervision shall notify a prosecutor in cases and in the manner, determined by the Laws of the Republic of Kazakhstan.

## **Article 26. Rights and obligations of civil servants of state bodies upon carrying out of control and supervision**

1. Upon conduct of control and supervision of the inspected subjects, the civil servants of state bodies shall have the right to:

1) unimpeded access to the territory and in the premises of the inspected object upon presentation of documents, mentioned in paragraph 2 of Article 19 of this Law;

2) receive the documents (information) in hard copy and electronic format or their copies for attachment to the act on results of inspection, as well as access to automated data bases (information systems) in accordance with objectives and subject of inspection;

3) engage specialists, advisors and experts of the state bodies and subordinate organizations.

2. Civil servants of the bodies of control and supervision, carrying out inspection shall be prohibited to impose requirements and make requests that are not related to the subject of inspection.

3. Upon conduct of the control and supervision, the civil servants of the bodies of control and supervision shall be obliged to:

1) comply with the legislation of the Republic of Kazakhstan, the rights and legal interests of the inspected subjects;

2) conduct inspections on the basis and in the strict accordance with the manner, established by this Law and (or) other Laws of the Republic of Kazakhstan;

3) not to prevent to established regime of work of the inspected subjects during conduct of inspection;

4) fulfill the powers, granted in accordance with the Laws of the Republic of Kazakhstan without undue delay and to the full extent on prevention, detection and suppression of the violations of requirements, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law;

5) not to prevent to the inspected subject to present upon conduct of inspection, give explanations on the issues, related to the subject of inspection;

6) provide required information to the inspected subject, related to the subject of inspection upon its conduct;

7) deliver the act on results of conducted inspection to the inspected subject on the date of its completion or in the manner and terms, established by the Law of the Republic of Kazakhstan “On National Bank of the Republic of Kazakhstan”;

8) ensure safety of received documents and information, received in the result of conduct of inspection.

**Footnote. Article 26 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).**

## **Article 27. Rights and obligations of the inspected subject upon carrying out of control and supervision**

1. The inspected subjects upon carrying out of control and supervision shall have the right to:

1) not to permit the civil servants of the bodies of control and supervision, arrived to the object for conduct of inspection to the inspection, in cases of:

non-observance of time durations in respect of the previous inspection upon assignment of the planned inspection;

excess or expiration of the terms, mentioned in the act on assignment of the inspection that is not in conformance with the terms, established by this Law;

assignment of designedly repeated inspection by the state body of the inspected subject, in respect of which the inspection was conducted previously, on one and the same subject for one and the same period, with the exception of cases, provided by subparagraphs 2), 4), 6), 7) and 8) of paragraph 7 of Article 16 of this Law;

assignment of the unscheduled inspection in accordance with subparagraph 1) of paragraph 7 of Article 16 of this Law, if the previous inspection didn't detect violations ;

absence of information and documents, provided by Articles 13, 14, 15 and paragraph 1 of Article 18 of this Law;

**Note of RCLI!**

**Item seven of subparagraph 1) is provided to be amended by the Law of the**

Republic of Kazakhstan dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015).

assignment of inspection for the period that exceeds the time interval, mentioned in the application or statement on committed or imminent crimes, in other applications on violations of rights and legal interests of individuals, legal entities and the state, unless otherwise provided by the Tax Code of the Republic of Kazakhstan;

instruction of conducting the inspection to the persons that don't have the relevant powers;

specification of several inspected subjects, subject to inspection in one act on assignment of the inspection, with the exception of cases, mentioned in paragraph 3 of Article 16 of this Law;

extension of the terms of inspection in excess of the term, established by this Law;

gross violations of requirements of this Law in accordance with paragraph 2 of Article 28 of this Law;

2) not to prove information, if it doesn't relate to the subject of conducted inspection or doesn't relate to the period, mentioned in the act;

3) appeal the act on assignment of inspection, the act on results of inspection and actions (omission) of civil servants of the state bodies in the manner, established by the legislation of the Republic of Kazakhstan;

4) not to fulfill prohibitions of the state bodies or civil servants not based on the Law, restricting the activity of the inspected subjects;

3) record the process of carrying out inspection, as well as particular actions of the civil servant, conducted by him (her) within the inspection, using audio- and video technology, not creating preventions of activity of the civil servant;

6) engage the third parties to participate in the inspection for the purpose of representing own interests and rights, as well as carrying out of actions by the third parties, provided by subparagraph 5) of paragraph 1 of this Article.

2. Upon carrying out of control and supervision by the state bodies, the inspected subjects shall be obliged to:

1) ensure unimpeded access of the civil servants of the bodies of control and supervision to the territory and in the premises of the inspected subject upon compliance with requirements of paragraph 1 of Article 18 of this Law;

2) present the documents (information) in hard copy and electronic format or their copies for attachment to the act on results of inspection in compliance with requirements on protection of commercial, tax or another secrecy, as well as access to the automated data bases (informational systems) in accordance with the objectives and subject of inspection;

3) make a note on receipt of the act on assignment of the inspection in the second copy;

4) make a note on receipt of the act on results of conducted inspection on the date of its completion in the second copy;

5) not to permit making amendments and additions to the inspected documents during carrying out of inspection, unless otherwise provided by this Law or other Laws of the Republic of Kazakhstan;

6) ensure safety of persons, arrived to the object for conduct of inspection from harmful and dangerous production influencing factors in accordance with the regulations, established for this object.

**Footnote. Article 27 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 28. Invalidity of inspection, conducted with gross violation of requirements of this Law**

1. Inspection shall be recognized invalid, if the inspection conducted by the body of control and supervision was carried out with gross violation of requirements to organizing and conducting inspections, established by this Law.

Act of the inspection, recognized invalid may not be as proof of the violation of requirements by the inspected subjects, established by the legislation of the Republic of Kazakhstan in accordance with Article 5 of this Law.

Recognition of the inspection as invalid shall be the ground for cancellation of the act of this inspection by the superior state body or court.

Consideration of the application of the inspected subject on cancellation of the act due to invalidation of inspection by the superior state body shall be carried out within ten business days from the date of filing of application.

Violation of the established term of considering such application shall be decided in favor of the inspected subject.

2. Gross violations of requirements of this Law shall include:

1) absence of the grounds for conducting the inspection;

2) absence of the act on assignment of inspection;

3) non-observance of the terms of notification on conducting the inspection;

4) violation of requirements of Article 23 of this Law;

5) violation of time duration in respect of the previous inspection upon assignment of the planned inspection;

6) non presentation of the act on assignment of the inspection to the inspected subject;

7) assignment of inspections by the state bodies on the issues, not included to their competence;

8) conduct of inspection without registration of the act on assignment of the inspection in the bodies of legal statistics and special accounts, when such registration is deemed compulsory.

Footnote. Article 28 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Article 29. Procedure for appeal decisions, actions (omission) of bodies of control and supervision and their civil servants**

1. In case of violation of rights and legal interests of the inspected subjects upon carrying out of control and supervision, the inspected subject shall have the right to appeal the actions (omission) of the relevant body of control and supervision and (or) civil servant to the superior state body or to a court in the manner, established by the legislation of the Republic of Kazakhstan.

Note of RCLI!

Paragraph 2 is provided to be in the wording of the Law of the Republic of Kazakhstan dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015).

2. Appeal the actions (omission) of state bodies, linked with initiation and investigation of the criminal case shall be carried out by the inspected subject in the manner, established by the criminal procedural legislation of the Republic of Kazakhstan.

## **Chapter 3. FINAL PROVISIONS**

### **Article 30. Responsibility for violation of the legislation of the Republic of Kazakhstan in the field of control and supervision**

Violation of the legislation of the Republic of Kazakhstan in the field of control and supervision shall entail responsibility, established by the Laws of the Republic of Kazakhstan.

### **Article 31. The order of enforcement of this Law**

1. This Law enters into force upon expiry of ten calendar days after its first official publication.

2. The words “identification number” shall be considered as the words “taxpayer identification number” until 1 January 2013 in subparagraph 5) of paragraph 2 of Article 17 of this Law.

Footnote. Article 31 as amended by the Law of the Republic of Kazakhstan dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2012).

The President

of the Republic of Kazakhstan

N. Nazarbayev

Annex

to the Law of the Republic of Kazakhstan

“On state control and supervision

in the Republic of Kazakhstan”

dated 6 January 2011 No. 377-IV

### **Scopes of activity of the subjects of private enterprise in which the state control and supervision is carried out**

Footnote. Annex as amended by the Laws of the Republic of Kazakhstan dated 26.01.2011 No. 400-IV (shall be enforced upon expiry of thirty calendar days after its first official publication); dated 21.07.2011 No. 470-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 06.01.2012 No. 529-IV (shall be enforced upon expiry of 21 calendar days after its first official publication); dated 09.01.2012 No. 533-IV (shall be enforced upon expiry of 10 calendar days after its first official publication); dated 13.01.2012 No. 542-IV (shall be enforced upon expiry of six months after its first official publication); dated 25.01.2012 No. 548-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 18.01.2012 No. 546-IV (shall be enforced upon expiry of thirty calendar days after its first official publication); dated 22.06.2012 No. 21-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 26.11.2012 No. 57-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.01.2013 No. 72-V (shall be enforced upon expiry of three months after its first official publication); dated 21.06.2013 No. 106-V (shall be enforced from 01.01.2014); by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 No. 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.03.2014 No. 177-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 11.04.2014 No. 189-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 23.04.2014 No. 200-V (shall be enforced upon expiry of ten calendar days after the date of its first official



publication); dated 10.06.2014 No. 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

## N o t e o f R C L I !

Paragraph 1 is provided to be amended by the Law of the Republic of Kazakhstan dated 16.05.2014 No. 203-V (shall be enforced upon expiry of six months after the date of its first official publication).

1. State control shall be carried out:
  - 1) in the field of electric power industry;
    - 1-1) in the field of energy saving and increase of energy efficiency;
    - 2) for compliance with fulfillment of conditions of the contracts in the field of subsurface use;
  - 3) in the field of study and use of subsoil;
  - 4) *is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication);*
    - 4-1) in the scope of gas and gas supply;
  - 5) in the field of nuclear safety of population;
  - 6) in the field of conduct of petroleum operations;
  - 7) for production and turnover of particular types of oil products;
  - 8) in the field of nuclear power;
  - 9) in the field of automobile transport;
  - 10) in the field of railway transport;
  - 11) in the field of compulsory insurance of legal responsibility of vehicle owners and a carrier before passengers in the points of passage across the State Boundary;
  - 12) in the scope of transportation;
    - 12-1) in the field of merchant shipping;
    - 12-2) in the field of inland water transport;
  - 13) in the field of export control at the preshipment stage and (or) final use of production;
  - 14) in the field of technical regulation;
  - 15) for compliance with the legislation of the Republic of Kazakhstan on accreditation in the field of conformity assessment;
  - 16) in the field of metrology;
  - 17) in the scope of housing relations;
  - 18) in the field of livestock breeding and bee-farming;
  - 19) in the field of protection, reproduction and use of the animal world;
  - 20) in the field of seed production;
  - 21) in the field of regulation of the grain market;
  - 22) in the field of protection, security, use forest fund, regeneration of forests and forest planting;



Note of RCLI!

Subparagraph 23) is provided in the wording of the Law of the Republic of Kazakhstan dated 11.04.2014 No. 189-V (shall be enforced from 01.01.2015).

23) in the field of use and protection of inventory of water resources of the Republic of Kazakhstan;

24) in the field of compulsory mandatory in plant production;

25) in the field of specially protected natural areas;

26) in the field of safety and quality of cotton;

27) for use and protection of lands;

28) for geodesic and cartographic activities;

29) in the field of environmental protection, reproduction and use of natural resources;

30) for ecologically destructive types of economic activity;

31) for waste management;

32) for compulsory environmental insurance;

33) *is excluded by the Law of the Republic of Kazakhstan dated 11.04.2014 No. 189-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication);*

34) in the field of civil defence;

35) *is excluded by the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21 -V (shall be enforced upon expiry of ten calendar days after its first official publication );*

36) in the field of fire security;

37) in the field of compulsory insurance of legal responsibility of the owners of the objects, the activity of which is linked with a risk of inflicting the harm to the third parties;

38) in the scope of circulation of the medicinal products, medical accessories and medical devices;

39) for the quality of rendered medical and special social services;

40) for organization and conduct of prophylactic immunization for population against infectious diseases;

41) for organization and conduct of measures on preventative measures of infectious diseases;

42) for the educational system;

43) for compliance of the legislation of the Republic of Kazakhstan on the National archives fund and archives;

44) control of compliance with the legislation of the Republic of Kazakhstan on labour and security and labour protection;

- 45) in the field of compulsory insurance of a worker from accidents upon fulfillment of employment (official) duties by them;
- 46) in the scope of employment of population;
- 47) in the field of social protection of disabled persons;
- 48) in the scope of provision of special social services;
- 49) for compliance with the legislation of the Republic of Kazakhstan on mass media;
- 49-1) in the field of television and radio broadcasting;
- 50) in the field of communication;
- 51) in the field of informatization;
- 52) for compliance with the legislation of the Republic of Kazakhstan on electronic document and electronic digital signature;
- 53) for return of duties and other compulsory payments to the budget, as well as for completeness and well-timed transfer of compulsory pension contributions, compulsory professional pension contributions to the unified pension savings fund and social expenditures to the Public Fund of social insurance;
- 54) for receipt of non-tax payments within the competence, established by the Laws of the Republic of Kazakhstan;
- 55) upon application of transfer prices;
- 56) for compliance with the legislation of the Republic of Kazakhstan on crossing the legitimization (laundering) of incomes, received illegally, and the terrorist financing;
- 57) for carrying out of the procedure of bankruptcy and rehabilitative procedure;
- 58) for carrying out of currency operations and activity, linked with the use of currency valuables;
- 59) for the activity of financial organizations within the competence;
- 59-1) for the activity of microfinance organizations;
- 60) for compliance with the legislation of the Republic of Kazakhstan on the issues of payments and money transfers, circulation of notes and currency legislation of the Republic of Kazakhstan;
- 61) *is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication);*
- 62) for economic concentration;
- 63) for compliance with the anti-monopoly legislation of the Republic of Kazakhstan;
- 64) for the use of objects of copyrights and allied rights, industrial property, selection achievements, integrated circuit topographies;
- 65) in the field of the following publication of official texts of the regulatory legal acts;

- 66) in the field of valuation activities;
- 67) in the scope of natural monopolies;
- 68) for compliance with the obligations by the subjects of regulated markets, established by the legislation of the Republic of Kazakhstan on natural monopolies and regulated markets, and established prices on range of production, goods and services, established by the Government of the Republic of Kazakhstan on which the prices, regulated by the state shall be introduced;
- 69) for compliance with the legislation of the Republic of Kazakhstan on public procurement;
- 70) for ensuring of the road traffic safety;
- 71) for the activity of individuals and legal entities, engaged in the scope of turnover of non-military and service weapon and ammunition to it, non-military pyrotechnical substances and production with their use;
- 72) *is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36 (shall be enforced upon expiry of ten calendar days after its first official publication);*
- 73) for compliance with established rules of circularization and functioning of explosive and poisonous substances, radioactive materials and substances;
- 74) for compliance with the rules of engagement of foreign labour;
- 75) for safeguarding activity;
- 75-1) for the activity on assembling, setting up and technical maintenance of security alarms;
- 75-2) for the state of antiterrorist protection of the objects, assailable in terroristic relation, with the exception of objects of the Republic of Kazakhstan, protected by the Armed Forces, other forces and military formations of the Republic of Kazakhstan, as well as special state bodies, and fulfillment of the requirements by their heads, provided by the legislation of the Republic of Kazakhstan on counter-terrorism;
- 75-3) for the activity of the specialized training centre on preparation and raising of qualification of workers, occupied in the office of the head and guard in Private Security Company;
- 76) for the turnover of narcotic drugs, psychotropic substances and precursors;
- 77) in the field of compulsory insurance of legal responsibility of the vehicle owners and carrier before the passengers;
- 78) for compliance with the legislation of the Republic of Kazakhstan on touristic activity;
- 79) in the field of auditing activity and activity of professional audit organizations;
- 80) for compliance with the legislation of the Republic of Kazakhstan on gambling industry;
- 81) for compliance with the legislation of the Republic of Kazakhstan on goods exchange;

- 82) for fulfillment of the legislation of the Republic of Kazakhstan in the field of physical training and sport;
- 83) for the purpose of compliance with the standards, rules and regulations on operation, technical maintenance of sports objects;
- 84) for conduct of anti-dote measures in sport;
- 85) in the field of business accounting and financial accountability;
- 86) for the activity of participants of the regional financial centre in the field of labour legislation of the Republic of Kazakhstan;
- 87) for protection and use of the objects of historical and cultural heritage;
- 88) in the field of state statistics;
- 89) in the field of support and protection of the subjects of private enterprise;
- 90) in the field of turnover of biofuels;
- 91) in the field of production of biofuels;
- 92) for compliance with the legislation of the Republic of Kazakhstan on regulation of commercial activity;
- 92-1) in the field of space activity;
- 93) for compliance with the legislation of the Republic of Kazakhstan on special economic zones;
- 93-1) for compliance with the legislation of the Republic of Kazakhstan on advertising;
- 94) in the field of architecture, urban construction and construction;
- 95) in the field of veterinary medicine;
- 96) in the field of protection and quarantine of plants;
- 97) for compliance with the legislation of the Republic of Kazakhstan on main pipelines;
- 98) in the scope of automobile roads;
- 99) in the field of protection of the child's rights;
- 100) in the field of production and turnover of ethyl alcohol and alcoholic production;
- 101) in the field of production and turnover of tobacco products;
- 102) in the field of licensing supervision;
- 103) in the field of turnover of poisons, weaponization, military technology and particular types of weapon, explosive and pyrotechnic substances and production with their use;
- 104) in the field of production sector;
- 105) for compliance with the rules of military registration of persons liable for military service and conscript personnel by organizations, persons liable for military service and conscript personnel;

106) for compliance with the legislation of the Republic of Kazakhstan on languages insofar as placement of requisites and visual information;

107) for compliance with the rules of improving the territories of cities and inhabited localities.

2. State supervision shall be carried out:

- 1) in the field of exploitation of the air space of the Republic of Kazakhstan;
- 2) for the activity of civil aviation;
- 3) for the international air traffic;
- 4) for ensuring the aviation security;
- 5) in the field of merchant shipping;
- 6) in the field of inland water transport;
- 7) in the field of architecture, urban construction and construction;
- 8) in the field of veterinary medicine;
- 9) in the field of plant quarantine;
- 10) in the field of sanitary and epidemiological welfare;
- 11) for financial market and financial organizations;
- 11-1) for the activity of microfinance organizations;
- 12) for the activity of credit bureaus;
- 13) for the activity of investment funds;
- 14) in the field of protection of reproduction and use of the animal world;
- 15) in the field of protection, security of the use of forest fund, regeneration of forests and forest planting;
- 16) in the field of specially protected natural areas;
- 17) in the field of industrial safety.