

On state-guaranteed legal assistance

Invalidated Unofficial translation

Law of the Republic of Kazakhstan dated 3 July 2013 No. 122-V.

Unofficial translation

Footnote. Became invalid by the Law of the Republic of Kazakhstan dated 05.07.2018 No. 176-VI (to be put into effect after ten calendar days after the date of its first official publication).

This Law regulates social relations arising in field of state-guaranteed legal assistance, and shall define the legal mechanisms of realization of rights and obligations of individuals and legal entities upon rendering of the state guaranteed legal assistance.

Article 1. Basic definitions, used in this Law

The following basic definitions shall be used in this Law:

1) legal information – a type of state-guaranteed legal assistance provided to an indefinite circle of persons, by providing information on legislation of the Republic of Kazakhstan in the oral or written forms, in the form of electronic documents, certified by electronic signature, either in the form of visual orientation;

2) legal consulting – a type state-guaranteed legal assistance to individuals and legal entities that entitled to receive it in the form of oral and written consultations, including with regard to the drafting of claims, complaints, motions and other documents of legal nature;

3) state-guaranteed legal assistance – legal assistance rendering to individuals and legal entities, entitled to receive on the basis and in accordance with the procedure provided for by this Law and other laws of the Republic of Kazakhstan, on a free basis;

4) subjects of rendering a state-guaranteed legal assistance – individuals and (or) legal entities, providing a guaranteed by state legal assistance;

5) a system of rendering a state-guaranteed legal assistance – provided for by the legislation of the Republic of Kazakhstan legal basis and mechanisms of implementation of state-guaranteed right to legal assistance;

6) an authorized governmental body in the field of providing state-guaranteed legal assistance (hereinafter - authorized body) – a central executive body that carries out management in the field of legal assistance and legal services to the public.

Article 2. The legislation of the Republic of Kazakhstan on state-guaranteed legal assistance

1. The legislation of the Republic of Kazakhstan on state-guaranteed legal assistance shall be based on the Constitution of the Republic of Kazakhstan and shall consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

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

Article 3. The scope of this Law

This Law shall be applied to individuals and legal entities.

Article 4. Basic principles for rendering a state-guaranteed legal assistance

Rendering a state-guaranteed legal assistance shall be based on the principles:

- 1) legality;
- 2) priority of rights, freedoms and legal interests of individuals and legal entities that are in need for free state-guaranteed legal assistance;
- 3) equal accessibility and quality of the provided state-guaranteed legal assistance;
- 4) ensuring a confidentiality of an issue on that is rendered state-guaranteed legal assistance;
- 5) effective governmental regulation and control over the observance of persons providing guaranteed by the state legal assistance, the quality of provision of state-guaranteed legal assistance.

Article 5. State policy in the field of rendering of state-guaranteed legal assistance

1. State policy in the field of rendering state-guaranteed legal assistance shall be provided by a combination of legal, socio-economic, technical, information, accreditation, licensing, control and other measures undertaken to implement the guarantees of the rights of individuals and legal entities to obtain free state-guaranteed legal assistance.

2. Main directions of the state policy in the field of rendering state-guaranteed legal assistance shall be determined by the President of the Republic of Kazakhstan.

3. State advocacy may be introduced in the Republic of Kazakhstan, as well as bases, conditions and procedure of activity of which shall be established by law.

Article 6. Types of state-guaranteed legal assistance

State-guaranteed legal assistance shall be rendered in the form of:

- 1) legal information;
- 2) legal consultation;

3) protection and representation of interests of individuals in courts and criminal prosecution authorities, other authorities and non-governmental organizations in cases and in accordance with the procedure provided for by this Law and other legislative acts of the Republic of Kazakhstan.

Article 7. Subjects of rendering a state-guaranteed legal assistance

State-guaranteed legal assistance shall be rendered by:

- 1) governmental bodies within their competence;
- 2) attorneys in cases and procedure provided for by this Law, the Law of the Republic of Kazakhstan "On advocacy" and other legislative acts of the Republic of Kazakhstan;
- 3) notaries in the cases and procedure provided for by the Law of the Republic of Kazakhstan "On notarial system";
- 4) private bailiffs in cases and procedure provided for by the Law of the Republic of Kazakhstan "On enforcement proceedings and status of bailiffs".

Article 8. Persons, entitled to receive state-guaranteed legal assistance

1. The right to receive state-guaranteed legal assistance shall be free of charge in the form of legal information to all individuals and legal entities.

2. State-guaranteed legal assistance, provided by subparagraphs 2) and 3) of Article 6 of this Law, shall be rendered to persons, entitled to receive free state-guaranteed legal assistance in cases and in accordance with the procedure provided for by the legislation of the Republic of Kazakhstan on administrative violations, criminal procedural, civil procedural legislation of the Republic of Kazakhstan and Law of the Republic of Kazakhstan "On advocacy".

3. Persons, specified in paragraphs 1 and 2 of this Article shall be entitled to receive a state-guaranteed legal assistance on the territory of the Republic of Kazakhstan regardless from the place of residence and domicile.

4. On behalf of a person being in need of state-guaranteed legal assistance, his representative may appeal with a petition, in accordance with the procedure provided by the Law.

Article 9. Rights and obligations of a person, being in need for state-guaranteed legal assistance

1. A person, being in need for state-guaranteed legal assistance shall be entitled to:
 - 1) equal access to state-guaranteed legal assistance;
 - 2) receive information on their rights, responsibilities and conditions of provision of state guaranteed legal assistance;

3) apply for free legal assistance to subjects of provision of state-guaranteed legal assistance;

4) receive a guaranteed by state legal assistance or refuse from receiving it in accordance with the procedure provided for the legislation of the Republic of Kazakhstan;

5) appeal against the actions or inactions of the subjects of rendering state-guaranteed legal assistance, in accordance with the procedure provided for by the legislation of the Republic of Kazakhstan;

6) confidentiality of issues over that is provided state-guaranteed legal assistance.

2. A person making the request on rendering a state-guaranteed legal assistance provided for in subparagraphs 2) and 3) of Article 6 of this Law shall be obliged:

1) to submit documents confirming his right to receive state-guaranteed legal assistance, the list of that is approved by the Government of the Republic of Kazakhstan;

2) to timely inform on change of circumstances affecting the conditions of rendering state guaranteed legal assistance;

3) to ensure the accuracy of the information on that is based the necessity of providing state-guaranteed legal assistance.

Article 10. Competence of the Government of the Republic of Kazakhstan in the field of rendering a state-guaranteed legal assistance

The Government of the Republic of Kazakhstan shall:

1) develop the main directions of the state policy in the field of providing state-guaranteed legal assistance;

2) ensure the functioning and development of the system of state-guaranteed legal assistance;

3) approve criteria of quality of rendered legal assistance;

4) perform other functions assigned to him by the Constitution, this Law, other laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Article 11. Competence of an authorized body

An authorized body shall:

1) provide implementation of state policy in the field of provision of state-guaranteed legal assistance;

2) carry out international cooperation in the field of provision of state-guaranteed legal assistance;

3) an administrator of budgetary programs for all types of state-guaranteed legal assistance;

4) elaborate projects of regulatory legal acts on the issues of provision of state-guaranteed legal assistance;

5) coordinate the activities of subjects of providing state-guaranteed legal assistance, as well as exercise control over the quality of provided legal assistance;

6) conduct the monitoring of the legislation of the Republic of Kazakhstan on state-guaranteed legal assistance, completeness of volume and quality of its provision;

7) provide legal education and legal awareness of the population on the provision of state-guaranteed legal assistance;

8) ensure publication at least once in six months in periodicals, distributed throughout the territory of the Republic of Kazakhstan, and on the Internet-resource of information on condition of a system of providing state-guaranteed legal assistance;

9) exercise other powers provided for by this Law, other laws of the Republic of Kazakhstan, acts of the President and the Government of the Republic of Kazakhstan.

Article 12. The procedure of rendering state-guaranteed legal assistance by governmental bodies

Governmental bodies shall provide a state-guaranteed legal assistance in the form of legislative information within their competence, in accordance with the procedure provided by the Law of Republic Kazakhstan "On procedure of consideration of appeals of individuals and legal entities".

Article 13. Procedure for rendering a state-guaranteed legal assistance by attorneys

1. Lawyers, as subjects of rendering state-guaranteed legal assistance shall render free guaranteed state legal assistance to individuals, in cases and in accordance with the procedure provided by this Law, the Law of the Republic of Kazakhstan "On advocacy" and other regulatory legal acts of the Republic of Kazakhstan.

2. Participation of lawyers in the provision of state-guaranteed legal assistance shall be provided by the bar association of oblast, city of republican significance and the capital.

The provision of state-guaranteed legal assistance by lawyers in rural settlements shall be provided by the bar association.

Criteria of selection of lawyers, participating in the system of providing state-guaranteed legal assistance shall be approved by the national bar association.

3. Bar association of an oblast, city of republican significance, capital shall send a list of lawyers participating in the system of providing state-guaranteed legal assistance annually to the territorial body of justice not later than 1 December.. The list shall

contain the number and date of issuance of licenses to practice advocacy, forms of organization of advocacy practice, the name and location of carrying out advocacy activity.

Territorial bodies of justice shall publish in the periodic printed edition, distributed on the territory of the corresponding oblast, city of republican significance, capital, and shall publish on its Internet site a list of lawyers participating in the system of providing state-guaranteed legal assistance annually not later than 25 December.

4. Territorial bodies of justice shall conclude an agreement on the provision of state-guaranteed legal assistance annually not later than 15 December with lawyers.

Form of agreement, developed and approved by an authorized body taking into account the recommendations of the Republican college of advocates, shall contain the obligation of lawyers and conditions for complete insurance of legal services to the population, residing on the territory of an oblast, city of republican significance and the capital.

5. Lawyers shall submit a report provided state-guaranteed legal assistance to the bar of advocates monthly not later than the 5th day of the month following the reporting period. Form of a report shall be approved by an authorized body taking into account the recommendations of the Republican bar association.

6. Bar association of an oblast, city of republican significance, capital shall submit a summary report on the support provided by the lawyers of state-guaranteed legal assistance in a form approved by an authorized body taking into account the recommendations of the Republican collegium of advocates to territorial bodies of justice annually not later than 20 July and 20 January.

Summary report of the bar association of an oblast shall contain information on provision of state-guaranteed legal assistance to rural settlements.

Article 14. Refusal to provide state-guaranteed legal assistance

1. In providing a state-guaranteed legal assistance in the form of legislative information shall be refused if the applicant has no legal character.

2. In providing a state-guaranteed legal assistance in the form of legal consultation and representation shall be refused upon presence of one of the following conditions:

1) an applicant does not refer to the category of persons entitled to receive a state-guaranteed legal assistance provided by paragraph 2 of Article 8 of this Law;

2) an applicant has no legal character.

3) The refusal to provide a state-guaranteed legal assistance shall be motivated and may be appealed to a superior body, a prosecutor or a court.

Article 15. Financing of state-guaranteed legal assistance

Financing of a state-guaranteed legal assistance shall be carried out at the expense of budgetary funds in accordance with the procedure, provided by the legislation of the Republic of Kazakhstan.

An amount, procedure of payment of labour, providing state-guaranteed legal assistance shall be established by the Government of the Republic of Kazakhstan.

Article 16. Control over observance of the legislation of the Republic of Kazakhstan on a state-guaranteed legal assistance

Control over observance of the legislation of the Republic of Kazakhstan on a state-guaranteed legal assistance shall be carried out by an authorized body.

Article 17. The order of the entry into force of this Law

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

The President
of the Republic of Kazakhstan

N. NAZARBAYEV