



On the Supreme Judicial Council of the Republic of Kazakhstan

Unofficial translation

The Law of the Republic of Kazakhstan dated 4 December 2015 № 436-IV LRK.

Unofficial translation

Chapter 1. GENERAL PROVISIONS

Article 1. Status and legal framework for the activity of the Supreme Judicial Council of the Republic of Kazakhstan

1. The Supreme Judicial Council of the Republic of Kazakhstan (hereinafter referred to as the Council) is an autonomous state institution established to ensure constitutional powers of the President of the Republic of Kazakhstan to form courts, guarantees of judges' independence and immunity.

2. The legal framework for the Council's activity is the Constitution of the Republic of Kazakhstan, the Constitutional Law defining the judicial system and the status of judges of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

3. The Council has an administrative office that is a legal entity.

4. The cost of running the Council and its administrative office is covered by the national budget.

5. The activity of the Council's administrative office is regulated by the legislation of the Republic of Kazakhstan and the rules of procedure of the Council.

The employees of the Council's administrative office are civil servants.

The limit on the staff number of the Council's administrative office is approved by the President of the Republic of Kazakhstan.

6. The President of the Republic of Kazakhstan appoints head of the Council's administrative office, whose position in the Council is that of secretary.

7. The regulation on the apparatus of the Council shall be approved by the President of the Republic of Kazakhstan.

Article 1 is to be supplemented with paragraph 7-1 in accordance with the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 15.07.2024).

8. It is prohibited to interfere with the activity of the Council during the performance of its powers.

9. The chairman and members of the Council are not entitled to interfere with the judicatory activity of courts and judges.

Footnote. Article 1 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure of entry into force see Article. 2).

Article 2. Basic principles of the Council's activity

The Council carries out its activity following the principles of independence, legality, collegiality, publicity and impartiality.

Article 3. Powers of the Council

1. The Council shall:

1) guarantee the independence and immunity of judges;

Note!

Parts one and two of subparagraph 2) are put into effect from 01.01.2024 by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (the text is deleted).

following the results of the competition, recommends to the President of the Republic of Kazakhstan a candidate for the vacant position of a judge of the Supreme Court for submission to the Senate of the Parliament on an alternative basis;

2-1) considers issues of appointment or election of candidates for vacant positions of judges without competition in cases provided for by the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan":

recommends to the President of the Republic of Kazakhstan a candidate for appointment to the vacant position of a judge of a local and other court;

recommends to the President of the Republic of Kazakhstan candidates for the vacant position of a judge of the Supreme Court for submission to the Senate of the Parliament;

3) consider, on the proposal of the Chairman of the Supreme Court, candidates for vacant posts of chairmen of regional courts, chairmen of judicial boards of the Supreme Court:

recommend to the President of the Republic of Kazakhstan candidates for vacant positions of chairmen of regional courts, chairmen of judicial boards of the Supreme Court for appointment to the post;

Note from ILLI!

Paragraph 1 is to be supplemented with subparagraphs 3-1) and 3-2) in accordance with the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

4) consider a candidate for the vacant position of the Chairman of the Supreme Court: recommend a candidate for the vacant position of the Chairman of the Supreme Court to the President of the Republic of Kazakhstan for submission to the Senate of the Parliament;

5) considers issues of termination of powers of chairmen, chairmen of judicial boards and judges in cases stipulated by the Constitutional Law of the Republic of Kazakhstan "On the judicial system and status of judges of the Republic of Kazakhstan":

recommends to the President of the Republic of Kazakhstan to dismiss the chairmen, chairmen of judicial boards and judges of local and other courts, chairmen of judicial boards of the Supreme Court;

makes recommendations to the President of the Republic of Kazakhstan on the dismissal of the Chairman and judges of the Supreme Court for submission to the Senate of the Parliament;

5-1) after the expiration of a one-year period, considers the results of the work of a person appointed to the position of judge for the first time, and with a positive assessment of the judge's professional activity by the Commission on the quality of justice at the Supreme Court (hereinafter referred to as the Commission on the quality of justice) decides at the recommendation of the Chairman of the Supreme Court on his approval;

5-2) considers the issue of extending the term of office of a judge upon reaching retirement age;

make recommendations on the dismissal of the Chairman and judges of the Supreme Court to the President of the Republic of Kazakhstan for submission to the Senate of the Parliament;

Note!

Paragraph 1 is to be supplemented with subparagraph 5-3) in accordance with the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 15.07.2024).

6) in accordance with the procedure established by the legislation of the Republic of Kazakhstan, considers, upon the proposal of the Chairman of the Supreme Court, the issue of giving consent to the appointment of a candidate for the position of the head of the authorized body in the field of judicial administration and his dismissal;

6-1) generate an annual National report on the state of judicial personnel in the judicial system and shall submit it to the President of the Republic of Kazakhstan, ensure its subsequent publication;

7) consider the appeals of judges to appeal the decisions of the Judicial Jury and the Justice quality commission;

8) administer qualifying exams of citizens willing to work as judges;

9) submit to the President of the Republic of Kazakhstan an opinion on giving consent to the detention, taking into custody or the house arrest of a judge, his/her bringing to court, application of legally imposed administrative penalties to him/her, bringing a judge to criminal liability;

10) develop and submit to the President of the Republic of Kazakhstan recommendations and proposals for improving the judicial system and legislation of the Republic of Kazakhstan ;

11) take measures to improve the quality of the judiciary, the training of personnel, the qualification of judges;

11-1) pre-approve the methodology for assessing the professional activities of the judge;

12) approve the rules of procedure of the Council;

Note!

Subparagraph 13) is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 15.07.2024).

13) organize the record keeping of persons who have passed qualification exams for the position of judge, who have completed an internship in the courts and received the conclusions of plenary sessions of regional courts, as well as who graduated from the Academy of Justice at the Supreme Court;

14) consider giving consent to fix the total number of judges, the number of judges of each local and other court;

15) organize the maintenance of electronic personal record of judges;

16) form a personnel reserve for the posts of chairman of the district court, chairman, chairmen of judicial boards and judge of the regional court, chairmen of judicial boards and judge of the Supreme Court (hereinafter referred to as the personnel reserve);

17) approve the procedure for the formation and organization of work with the personnel reserve;

18) approve the composition of the Personnel Reserve Commission under the Council;

18-1) approves the composition of the Judicial Jury under the Council;

19) establish the procedure for taking a psychological test by judicial candidates;

19-1) establish the procedure for issuing a certificate to a judge;

20) approve the Regulations on the Council for cooperation with the courts;

21) exercise other powers arising from this Law and other legislative acts of the Republic of Kazakhstan.

2. To exercise its powers, the Council has the right:

1) to request and receive necessary information, documents and other materials from state bodies, officials, organizations, citizens;

2) to hear oral explanations and request written ones from relevant officials;

3) to set up commissions, working groups from among members of the Council, representatives of state bodies, public associations, organizations and institutions, to involve specialists in its work.

Footnote. Article 3 as amended by the Laws of the Republic of Kazakhstan dated 13.03.2017 № 53-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); or 03.07.2017 № 86-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 20.12.2021 № 83-VII (shall enter into force upon the expiry of ten calendar days after the day of its first official publication); dated December 30, 2022 No. 177-VII (shall be enforced ten calendar days after the day of its first official publication); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication)

Chapter 2. COMPOSITION OF THE COUNCIL AND POWERS OF THE MEMBERS OF THE COUNCIL

Article 4. Composition of the Council

1. The Council shall consist of the Chairman and other persons appointed by the President of the Republic of Kazakhstan. The Chairman shall be appointed by the President of the Republic of Kazakhstan with the consent of the Senate of the Parliament.

The Chairman of the Supreme Court, the Prosecutor General, the chairmen of the relevant standing committees of the Senate and the Mazhilis of the Parliament shall be ex officio members of the Council.

Other persons may be appointed to the Council by the President of the Republic of Kazakhstan, including legal scholars, lawyers, foreign experts, and representatives of the legal community.

2. The expanded plenary session of the Supreme Court shall elect candidates from among the judges and recommend them for appointment by the President of the Republic of Kazakhstan as members of the Council.

Judicial candidates for the Council shall be considered at an expanded plenary session of the Supreme Court from among the candidates recommended by expanded plenary sessions of regional courts, taking into account the provision of equal representation in the Council of judges of district and regional courts, as well as the Supreme Court.

Judges shall make up at least half of the members of the Council.

3. The members of the Council, with the exception of the President of the Council and the members of the Council, shall exercise their powers for three years.

At the same time, half of the members of the Council, with the exception of the Chairman of the Council and members of the Council by position, shall be reassigned every year and a half.

4. If a member of the Council quits, a new member of the Council shall be appointed within three months.

5. The position of the Chairman, secretary and member of the Council is incompatible with being a member of the governing body and supervisory board of a commercial organization, with holding a leadership position in a political party.

6. Members of the Council, with the exception of ex officio members of the Council, foreign experts and representatives of the legal community, shall be relieved of their duties at their main place of work for the period of exercising their powers.

7. Remuneration of members of the Council from among judges, civil servants, legal scholars and lawyers shall be made at the expense of funds allocated to the Council from the budget, in accordance with the unified system of financing and remuneration of employees for all bodies held at the expense of the state budget, approved by the Government of the Republic of Kazakhstan in agreement with the President of the Republic of Kazakhstan.

Members of the Council from among judges, legal scholars and lawyers are equal in terms of salary to judges of the Supreme Court.

Members of the Council from among judges, legal scholars and lawyers are provided with paid annual leave of thirty calendar days with the payment of a health improvement allowance in the amount of two official salaries.

8. The members of the Council are independent and obey only the Constitution of the Republic of Kazakhstan, laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

9. The members of the Council shall have equal rights in resolving issues within the powers of the Council.

10. The powers of a member of the Council shall be terminated in accordance with the legislation of the Republic of Kazakhstan on the following grounds:

- 1) free will;
- 2) termination of citizenship of the Republic of Kazakhstan, with the exception of foreign experts;
- 3) state of health preventing further performance of professional duties;
- 4) entry into force of the court decision on recognition as incapacitated or limited capable or on the application of compulsory measures of a medical nature;
- 5) entry into force of the conviction, termination of the criminal case at the pre-trial stage on the basis of paragraphs 3), 4), 9), 10) and 12) of the first part of Article 35 or Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan;
- 6) death or entry into force of a court decision declaring deceased;
- 7) termination of the judge's powers;
- 8) termination and deprivation of the license to engage in advocacy;
- 9) termination of the circumstances that served as the basis for inclusion in the Council;
- 10) occurrence of other grounds stipulated by the legislation of the Republic of Kazakhstan.

11. The Secretary of the Council is not a member of the Council and has no voting right.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 484-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 03.07.2020 № 357-VI (shall enter into force upon the expiry of ten calendar days after the day of its first official publication); dated 20.12.2021 № 83-VII (shall enter into force on 01.07.2022); dated 05.11.2022 No. 157-VII (refer to Article 3 for the order of entry into force); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 5. The Chairman of the Council

1. The Chairman of the Council:

1) heads and provides general guidance for the Council, and also represents the Council in its relations with state bodies and other organizations;

2) approves action plans of the Council upon the recommendation of the secretary of the Council;

2-1) approve the structure of the Council apparatus;

3) convenes meetings of the Council and presides at them;

4) signs recommendations, conclusions, decisions and minutes of meetings of the Council ;

5) decides what issues are to be considered at meetings of the Council at the suggestion of the Secretary of the Council;

6) have the right to participate in plenary and expanded plenary sessions of the Supreme Court, meetings of judges, plenary and expanded plenary sessions of regional courts, meetings of the Union of Judges, the Judicial Ethics Commission, the Judicial Jury, the Justice Quality Commission;

7) ensure compliance with the rules of the Council;

8) conducts a personal reception of citizens;

9) distributes duties among the members of the Council relieved from primary employment;

10) issues the orders on the issues of its competence;

11) exercises other powers provided for by this Law.

2. In the event of a temporary absence of the Chairman of the Council, his/her duties shall be assigned to one of the members of the Council relieved from primary employment by the Chairman's decree.

Footnote. Article 5 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 6. Powers of the members of the Council

1. A member of the Council has the right to:

1) familiarize himself/herself with materials submitted for consideration by the Council;

2) take part in the study and verification of materials;

3) make motions, give reasons for and justifications to his/her proposals on issues under consideration;

4) submit documents available to him/her;

5) participate in the decision-making by voting;

6) conduct retreat meetings with judicial candidates and judges in the regions;

7) participate in plenary and expanded plenary sessions of regional courts and the Supreme Court, meetings of councils for interaction with courts and bodies of the judicial community, the Justice Quality Commission on issues within the competence of the Council;

8) conduct a personal reception of citizens within the competence of the Council;

8-1) make proposals on the list of issues submitted for consideration at the meeting of the Council;

9) exercise other powers provided for by this Law.

2. A member of the Council shall:

1) participate in meetings of the Council;

2) be impartial and objective in considering issues within the competence of the Council;

3) observe confidentiality with respect to information on the private life of judicial candidates and judges, which became known to him/her through the execution of powers conferred on him/her, as well as the secrecy of voting;

4) withdraw his/her name from considering an issue on the agenda of a meeting of the Council, if he/she is a spouse, close relative or in-law relative of a person in respect of whom a decision is to be made.

Footnote. Article 6 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2).

Article 7. The Secretary of the Council – head of the administrative office

1. The Secretary of the Council - head of the administrative office:

1) manages the performance of the Council's administrative office;

2) at the suggestion of members of the Council, makes up a list of issues to be considered at a forthcoming meeting, and informs the Chairman of it in advance;

3) certifies with his signature extracts from the minutes of meetings, recommendations, conclusions and protocol decisions adopted by the Council;

4) organizes inspections, if it is necessary;

5) fixes the list of persons invited to a meeting of the Council and ensures their attendance

;

6) executes orders of the Chairman and decisions of the Council;

7) manages the administrative office of the Council: organizes, coordinates and controls the work of its units;

8) organizes information-and-analytical, organizational-and-legal, material-and-technical and financial support for the activity of the Council's administrative office;

8-1) organizes the activities of the Judicial jury, the personnel reserve Commission, the Qualification commission, the competitive selection Commission;

9) approves the provisions on structural units of the administrative office in coordination with the Chairman of the Council;

10) supervises the observance of performance and labor discipline by the Council's administrative office;

11) manages the Council's public procurement, also signs accounts payable;

12) organizes and is responsible for the conduct of public procurement for the material-and-technical support of the activity of the Council;

13) Excluded by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication);

14) in accordance with the procedure established by the legislation of the Republic of Kazakhstan, appoints and dismisses employees of the Council's administrative office;

15) handles issues related to business travels, granting of vacations, provision of financial assistance, training (retraining), professional development, incentives, payment of premiums and bonuses to employees of the Council's administrative office;

16) resolves the issues of disciplinary responsibility of employees of the Council staff;

Note from ILLI!

Paragraph 1 is to be supplemented with sub-paragraphs 16-1) and 16-2) in accordance with the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 15.07.2024).

17) sees to the preparation of a budget request, its submission to the Chairman of the Council, and also to the performance of other budget-related procedures;

18) ensures the development of and approves plans for financing the body and the financial reporting of the Council;

19) represents the Council in its relations with state bodies and other organizations within its competence;

20) within his/her competence, ensures the fulfillment of the requirements of the legislation of the Republic of Kazakhstan on combating corruption;

21) takes measures to improve the management of the Council's activity, exercises control over execution of the Council's decisions;

22) manages the handling of applications from natural and legal persons;

23) performs other organizational and administrative functions provided for by the legislation of the Republic of Kazakhstan.

2. In the event of temporary absence of the secretary of the Council, his/her duties shall be assigned to a member of the Council's administrative office by an order of the secretary.

Footnote. Article 7 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 3. MEETINGS OF THE COUNCIL

Article 8. Meetings of the Council

1. A meeting of the Council is authorized to make decisions if attended by at least two-thirds of the total number of the Council's members.

2. Meetings of the Council are held openly and publicly. Representatives of state bodies may be invited to a meeting. Representatives of the public and accredited journalists have the

right to attend meetings of the Council. Where necessary, the Council may hold closed meetings, decisions on the conduct of which are taken by a majority vote of the members of the Council.

Closed meetings of the Council may not be held when considering issues on the dismissal of judges from office, except in cases provided for by law, on summing up the results of the competition for vacant positions of judges, chairmen of judicial boards and chairmen of courts, including when discussing candidates and making decisions on them.

3. Representatives of the public and accredited journalists attending a meeting of the Council have the right to make photo, video and audio recording without interfering with the proceedings of the Council's meeting.

Photo, video and audio recording is not carried out if a relevant request was made by a participant of the meeting, if subject to consideration of the Council's meeting are materials concerning him/her.

4. The Council shall consider materials within two months from the date of their receipt and is obliged to notify an applicant of the outcome of their consideration.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 9. Procedure of a meeting of the Council

1. The procedure for holding meetings of the Council, as well as other issues of organizing the work of the Council, including the procedure for making decisions and voting, shall be determined by the rules of the Council adopted by a majority of votes of the Council members.

2. Persons claiming to take up certain positions or to be removed from their offices shall participate in a meeting of the Council that considers relevant materials. The absence of a person properly notified of the time and place of the meeting is not an obstacle to the consideration of the matter on the merits, if his/her direct participation is not required.

3. Members of the Council are obliged to attend meetings, delegation of their powers to other officials is not allowed.

Footnote. Article 9 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2).

Article 10. Decisions of the Council

1. Decisions of the Council on personnel issues of the courts, disciplinary responsibility of judges and assessment of the quality of their work shall be made by at least two-thirds of the votes of its members participating in the meeting, in the absence of the person in respect of whom the issue is being considered, as well as other invited persons.

Decisions of the Council on other, including procedural issues shall be adopted by a majority of votes of its members participating in the meeting.

2. Excluded by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2).

3. The Council shall make decisions in the form of a conclusion, protocol decision and/or recommendation. Members of the Council have no right to abstain from voting. In case of disagreement with the adopted decision, a member of the Council has the right to write a separate opinion, which is attached to the minutes of a meeting of the Council.

4. If votes are equal, the presiding judge has the casting vote.

5. The Council creates conditions for free familiarization of all persons with its decisions, which are posted on the Internet resource of the Council.

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 21.02.2019 No. 227-VI (see Article 2 for the procedure for entry into force).

Chapter 4. PROCEDURE AND TERMS OF ADMINISTERING THE QUALIFYING EXAM BY THE QUALIFICATION COMMISSION OF THE COUNCIL

Article 11. The Qualification Commission of the Council

1. The qualifying exam of judicial candidates aiming to identify their level of knowledge and ability to apply it in practice is administered by the Qualification Commission of the Council (hereinafter referred to as the Commission).

2. Excluded by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

2-1. The procedure for forming the Commission, as well as holding its meetings, is determined by the rules of the Council.

3. Excluded by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication)

4. The persons recommended to enter the Commission shall have professional knowledge in the field of jurisprudence, at least ten years of legal experience and an impeccable reputation.

5. The Chairman and members of the Commission are not entitled to participate in a meeting considering issues related to their spouses, close relatives or in-law relatives.

6. The performance of the Commission's activity is ensured by the Council's administrative office.

Footnote. Article 11 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 12. Meetings of the Commission on qualification exams

Meetings of the Commission on qualification exams are held openly and publicly. Meetings are considered competent if they are attended by at least two thirds of the total number of members of the Commission.

Observers may be invited to the meetings of the Commission.

Footnote. Article 12 - as amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 13. Procedure and terms of administering (taking) qualifying exams

1. The procedure for accepting documents, passing qualification exams in the Commission, appealing their results is determined by the rules of the Council.

2. Excluded by the Law of the RK dated 20.12.2021 № 83-VII (shall enter into force upon the expiry of ten calendar days after the day of its first official publication).

3. Persons who previously worked as regular judges for at least five years and who within four years from the date of resignation expressed their desire to re-occupy the position of a judge are exempt from taking the qualifying exam, except for persons removed from office for cause provided for by the Constitutional Law of the Republic of Kazakhstan “On the Judicial System and Status of Judges of the Republic of Kazakhstan”.

Note!

Paragraph 4 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 15.07.2024).

4. Persons who graduate from the Supreme Court's Academy of Justice shall be exempted from the qualification exam within four years of graduation.

5. Persons specified in paragraph 2 of Article 29 of the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan" shall not be allowed to pass qualification exams.

6. The result of a qualifying exam is valid for four years from the day the exam was passed.

7. Persons who have not passed psychological testing shall be allowed to retake it no earlier than six months later.

Persons who have not passed the other stages of the qualification exam shall be allowed to pass them again no earlier than three months later.

8. Information on the persons, who passed a qualifying exam, as well as standard questions of a qualifying exam are posted on the Council’s Internet resource.

9. An electronic system through which a judicial candidate takes one of the examination steps shall be provided with appropriate security measures that preclude unauthorized access to information, disruption of the operation of the software and hardware collecting, processing, accumulating, storing, retrieving and transmitting information, the putting of the said means out of order.

In order to check the compliance of the electronic system with the requirements specified in part one of this paragraph, an independent evaluation may be conducted, including the involvement of foreign specialists.

9-1. Candidates shall be allowed to interview members of the Commission after passing a special verification.

The document on the results of a special check shall be valid for one year from the date of its issuance.

10. The procedure for passing the qualification exam shall include:

psychological testing;

computer testing for knowledge of the legislation of the Republic of Kazakhstan;

a written essay;

testing the applicant's ability to apply the available knowledge in practice based on solving problems simulating situations from judicial practice (solving case problems);

interview with members of the Commission, which can be combined with one of the stages of the qualification exam.

The procedure for passing the qualification exam shall be established by the decision of the Council.

The number, content, development procedure and the list of questions of the qualification exam for the position of judge shall be determined by the Council.

10-1. For persons who have at least fifteen years of experience in the legal profession and shall be specialists in certain branches of Law, applying for the position of judge of the regional court in the procedure of competition provided for in the second part of paragraph 1 of Article 16 of this Law, the procedure for passing the qualification exam shall include:

psychological testing;

testing the applicant's ability to apply the available knowledge in practice based on solving problems that model situations from judicial practice (solving case problems).

The results of passing the qualification exam specified in this paragraph shall be valid for participation in the competition provided for in the second part of paragraph 1 of Article 16 of this Law.

Footnote. Article 13 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 20.12.2021 № 83-VII (shall enter into force upon the expiry of ten calendar days after the day of its first official publication).

Article 14. Refusal to accept qualification exams

The decision on refusal to accept qualification exams shall be made by the Chairman of the Commission and shall be allowed in cases where candidates for judges do not meet the requirements imposed by legislative acts of the Republic of Kazakhstan.

In case of refusal to accept the qualification exams, the Chairman of the Commission is obliged to issue a reasoned response to the citizen within a month from the date of submitting the application or receiving the results of a special inspection specified in paragraph 9-1 of Article 13 of this Law.

Footnote. Article 14 in the wording of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); as amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 15. Procedure and terms of polygraph testing

1. Persons who successfully passed the qualification exam, taking into account the results of psychological testing by decision of the Council, can be sent for a polygraph examination in order to obtain additional information and verify the reliability of the information reported.

2. The main task of the testing is to identify:

1) unlawful intentions;

2) covert behavioral disorders, negative dependencies, use of narcotic, psychotropic and other psychoactive substances that cause mental and physical dependence;

3) concealment or distortion of personal data, information on income, property and property obligations, the presence of dual citizenship, the use of forged documents;

4) previous facts of committing corruption offences, disclosure of secret or official information to unauthorized persons;

5) contacts with prohibited public associations, criminal and terrorist organizations or participation in commercial structures, if this was not previously part of their official duties;

6) abuse of office.

3. Conclusion of the polygraph testing is advisory.

4. The procedure for the polygraph testing is established by the Government of the Republic of Kazakhstan.

Footnote. Article 15 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 20.12.2021 № 83-VII (shall enter into force upon the expiry of ten calendar days after the day of its first official publication).

Chapter 5. RECOMMENDATION FOR APPOINTMENT TO THE POST PRESIDENT AND JUDGE OF THE DISTRICT COURT, CHAIRMAN OF THE JUDICIAL BOARD AND JUDGE OF THE REGIONAL COURT, JUDGE OF THE SUPREME COURT

Footnote. The Title of the Chapter 5 in the wording of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2).

Article 16. Competition for the position of judge

1. Note!

Part one of paragraph 1 is put into effect from 01.01.2024 by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (the text is deleted).

A separate competition may be held for candidates for the vacant position of a judge of the regional court who meet the requirements established by paragraph 4 of Article 29 of the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan" and who are specialists in certain branches of law, the list of which is approved by the Council at the recommendation of the Supreme Court. The procedure for conducting such a separate competitive selection is determined by the regulations of the Council.

2. The decision on the announcement of the competition is made by the Chairman of the Council at the recommendation of the secretary of the Council on the basis of the schedule of competitions approved annually by the Council and posted on the Council's Internet resource.

The procedure for approving the schedule of the competition, as well as the information included in it, is determined by the regulations of the Council.

3. The schedule is drawn up taking into account the analysis and forecast of the turnover of judges, the terms of office of the chairmen and chairmen of the judicial boards of local courts, as well as available vacancies.

4. Note!

Paragraph 4 is put into effect from 01.01.2024 by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (the text is deleted).

5. Note!

Paragraph 5 is put into effect from 01.01.2024 by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (the text is deleted).

In order to obtain complete and objective information about the identity of applicants, the Council staff has the right to request additional information about applicants from law enforcement agencies and their territorial divisions, other state bodies, bar associations, as well as non-governmental organizations.

Footnote. Article 16 – as amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Note!

The title of Article 17 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

Article 17. Participants of the competition for the position of chairman and judge of the district court, chairman of the judicial board and judge of the regional court, judge of the Supreme Court

Note!

Part one of paragraph 1 is amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

1. Citizens who meet the requirements of sub-paragraphs 1), 2), 3), 4) and 6) of paragraph 1 of Article 29 of the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan", as well as current judges may participate in the competition for obtaining a recommendation of the Council for the position of chairman and judge of the district court.

Note!

Part two of paragraph 1 is to be excluded by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

Candidates for vacant positions of the chairman of the district court must be acting judges or have at least five years of experience as a judge.

2. Citizens who meet the requirements of the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan" can participate in the competition to receive the recommendation of the Council for the position of the chairman of the judicial collegium and the judge of the regional court, judges of the Supreme Court.

Note!

Part one of paragraph 3 is amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

3. Participants of the competition for the position of chairman and judge of the district court must receive the conclusions of the Council for Interaction with the Courts and the plenary session of the regional court at the place of residence or work.

The participants of the competition for the positions of the chairman of the judicial board of the regional court and the judge of the Supreme Court must receive the conclusions of the plenary session of the Supreme Court and the Council for interaction with the courts at the place of work.

The conclusions of the Council for interaction with the courts and the plenary session are advisory in nature.

4. Information about the participants of the competition, the date of the plenary sessions, the meeting of the Council for interaction with the courts, as well as the decisions made by them should be posted on the Internet resource of the Council and published in other media.

Footnote. Article 17 in the wording of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); as amended by the Laws of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 18. Procedure for selection of candidates for vacant positions

1. The competitive selection of candidates for vacant positions shall be carried out by the Council openly and publicly in conditions that exclude interference with its activities.

1-1. The procedure for the competitive selection of candidates for vacant judicial positions shall be determined by the rules of the Council.

2. The main criteria for the selection of candidates for vacant positions of judges shall be a high level of knowledge, high moral and moral qualities and impeccable reputation.

Note!

Part two of paragraph 2 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

When holding a competition for the vacant position of the chairman of the district court and the chairman of the judicial board of the regional court, in addition to the criteria

specified in part one of this paragraph, organizational abilities shall also be taken into account

Judges who have worked for at least five years in courts located in a remote area, or in courts whose staff number is no more than three units, all other things being equal, shall have priority in the selection of candidates for equivalent positions in district courts.

The selection of candidates for vacant judicial positions shall also be carried out using a system of digital and evaluation criteria differentiated by categories of judicial positions, including those that take into account work in the court, prosecutor's office, and the bar determined by the Council, based on the requirements provided for by the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan" and this Law.

3. The study of candidates for judicial positions, as well as the submission of selected candidates to the meeting of the Council, shall be carried out by the Commission for competitive selection under the Council.

The procedure for the formation, as well as holding meetings of the Commission for competitive selection shall be determined by the regulations of the Council.

The winner of the competition for a vacant position shall be the candidate who receives at least two-thirds of the votes of the Council members participating in its meeting.

Online broadcasts of competitive procedures, as well as the publication of clarifications on the results of their conduct, shall be carried out in the manner determined by the regulations of the Council.

4. A candidate who is not a current judge and won the competition must additionally undergo a mandatory special check.

The passage of a special check shall be organized by the Council apparatus.

Candidates who have continuous experience in public service and have previously undergone a special verification can submit an appropriate certificate certified by the personnel service.

The document on the results of a special check shall be valid for one year from the date of its issuance.

5. If, based on the results of a special audit, information will be established indicating the start of a pre-trial investigation into the candidate who won the competition, including its termination subsequently on the grounds provided for in paragraphs 1), 2), 5), 6), 7) and 8), the second part of Article 35 of the Code of Criminal Procedure of the Republic of Kazakhstan, the Prosecutor's Office shall conduct an additional examination of the materials of criminal cases, the results of which shall be considered at a meeting of the Council.

Note!

Part two of paragraph 5 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

If there are grounds preventing the appointment to the position of the chairman or the judge of the district court, the chairman of the judicial board and judge of the regional court, judge of the Supreme Court candidate, selected and recommended by the Council for appointment, as well as in the event of its refusal to be appointed to a vacant position, the Council cancels the decision to make a recommendation and may recommend another candidate from among the persons who took part in the competition for appointment to a vacant position.

5-1. Candidates for judges can undergo an internship after receiving the recommendation of the Council on appointment to a vacant position.

The recommendation of the Council is subject to revision in case a candidate for judge receives a negative conclusion of the plenary session of the court based on the results of the internship. The procedure for reviewing the Council's recommendation is determined by the Council's rules of procedure.

If the Council recognizes the negative conclusion of the plenary session based on the results of the internship as justified, the Council's recommendation on appointment to a vacant judicial position in respect of such a candidate is canceled, and the following may be done with this vacant judicial position:

1) the candidate who participated in the competition for this judicial position is recommended;

2) a repeat competition has been announced.

6. If, as a result of the competition, candidates for the vacant positions submitted were not selected, then the competition for such vacant positions shall be declared as invalid, and:

1) candidates who participated in the competition for judicial positions, but were not selected for them, with their consent, judicial positions that remained unfilled according to the results of the competition may be offered;

2) a second contest may be announced.

7. Based on the results of the selection of candidates for vacant positions, information about the persons recommended by the results of the competition shall be posted on the Internet resource of the Council.

Footnote. Article 18 in the wording of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); as amended by the Law of the RK dated 20.12.2021 № 83-VII (shall enter into force upon the expiry of ten calendar days after the day of its first official publication); dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 6. PROCEDURE FOR CONSIDERATION OF CANDIDATES FOR VACANT POSITIONS OF CHAIRMEN OF REGIONAL COURTS, CHAIRMEN OF JUDICIAL BOARDS OF THE SUPREME COURT

Footnote. The Title of the Chapter 6 in the wording of the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article 2).

Note!

The title of Article 19 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

Article 19. Procedure for consideration of candidates for vacant positions of chairmen of regional courts, chairmen of judicial boards of the Supreme Court

1. Candidates for the vacant positions of presidents of regional courts, chairmen of judicial boards of the Supreme Court shall be considered by the Council on an alternative basis on the proposal of the President of the Supreme Court made by him after their consideration by the plenary session of the Supreme Court.

Note!

Article 19 is to be supplemented with paragraph 1-1 in accordance with the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

Note!

Paragraph 2 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

2. Candidates for vacant positions of chairmen of regional courts shall be recommended, as a rule, from among the judges of the regional court or persons who have at least ten years of experience as a judge.

Candidates for the positions of presidents of the judicial boards of the Supreme Court shall be submitted from among the judges of the Supreme Court.

At the same time, priority in the selection of candidates for the positions of chairman of the regional court, chairmen of the judicial boards of the Supreme Court shall be given to persons who are in the personnel reserve and have organizational abilities.

3. The submission of the President of the Supreme Court shall be accompanied by materials for all candidates considered at the plenary session of the relevant court on an alternative basis.

Note!

Article 19 is to be supplemented with paragraphs 3-1, 3-2, 3-3 and 3-4 in accordance with the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

Note!

Paragraph 4 is in the wording of the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced from 01.01.2024).

4. The Council without fail shall consider at the meeting all submitted candidates for vacant posts of chairmen of regional courts, chairmen of judicial boards of the Supreme Court

Footnote. Article 19 in the wording of the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2).

Article 20. Conditions for consideration of candidates for vacant positions

1. Note from ILLI!

Paragraph 1 is put into effect from 01.01.2024 by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (the text is deleted).

2. The procedure for appointing candidates to vacant positions of judges without competition in cases provided for by the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan" is determined by the regulations of the Council.

Footnote. Article 20 – as amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (see Article 2 for the procedure for entry into force).

Chapter 7. PROCEDURE FOR CONSIDERATION OF MATERIALS ON THE REMOVAL FROM OFFICE OF CHAIRMAN, CHAIRMAN OF THE JUDICIAL BOARD OF A COURT AND A JUDGE

Article 21. Grounds for considering the removal from office of chairman, chairman of the judicial board of a court and a judge or refusal to remove from office

1. The grounds for consideration by the Council of the issue of dismissal of the chairman, the chairman of the judicial board of the court and the judge are the statement of the chairman, the chairman of the judicial board of the court, the judge, the decision of the Commission on the quality of justice or the Judicial jury.

In the cases provided for by sub-paragraphs 4), 5), 6) and 7) of paragraph 1 of Article 34 of the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan", the basis for consideration by the Council of the issue of dismissal of the chairman, chairman of the judicial board of the court and the judge is the report of the authorized state body in the field of judicial administration with a supporting document attached.

The Commission on the quality of justice submits to the Council a decision on the recognition of a judge as unfit for his position due to professional unfitness.

The judicial jury submits to the Council a decision on the dismissal of the chairman, the chairmen of the judicial boards of the court and judges for committing disciplinary offenses by them or for non-compliance with the requirements of the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges of the Republic of Kazakhstan".

2. After receiving the materials, the Council shall verify, in accordance with the procedure established by the rules of the Council, the information contained in them by receiving

written explanations from the chairman, chairman of the judicial collegium of the court, judge and other persons, requesting relevant documents and familiarizing themselves with them, receiving other information from state bodies, organizations and citizens.

3. Based on the results of the inspection, a statement is made. The statement shall contain the presentation of revealed circumstances, the conclusion and proposals of the inspectors and their signatures.

Footnote. Article 21 as amended by the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the day its first official publication).

Article 22. Familiarization of a judge with the results of inspection

1. A judge, in respect of whom the inspection was conducted, shall be familiarized with the statement and materials of the inspection. At the same time, he/she may give additional explanations, apply for verification of certain circumstances.

2. If a judge, in respect of whom the inspection was conducted, refuses to familiarize himself/herself with the statement and materials of the inspection, a protocol about this shall be drawn up, signed by the persons who conducted the inspection.

Article 23. Consideration of removal from office of chairman, chairman of the judicial board of a court and a judge

1. When considering the issue of dismissal of the chairman, the chairman of the judicial board of the court and the judge, the Council hears the explanation of the judge in respect of whom the issue of dismissal from the relevant position is being considered. The absence of the chairman, the chairman of the judicial board of the court and the judge at the meeting of the Council without valid reasons does not prevent the consideration of the issue. At the meeting, the reports of other persons invited at the request of the chairman, the chairman of the judicial board of the court and the judge, the secretary of the Council may be heard, documents are announced and other materials are considered.

2. The decision of the Council shall contain the circumstances underlying the adopted recommendation to the President of the Republic of Kazakhstan on the removal from office of the chairman, chairman of the judicial board of a court and a judge, or refusal to accept it with reference to specific materials.

3. The Council's refusal to give a recommendation on the removal from office of chairman, chairman of the judicial board of a court and a judge is a ground for the Judicial Jury to revoke its decision and reconsider it.

Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Note!

See the Regulatory resolution of the Constitutional Court of the Republic of Kazakhstan dated 21.04.2023 No. 10.

Article 24. Considering whether to appeal the decision of the Justice Quality Commission or the Judicial Jury

1. The decision of the Justice Quality Commission or the Judicial Jury may be appealed by a judge to the Council.

2. When considering whether to appeal the decision of the Justice Quality Commission or the Judicial Jury, the Council shall hear the explanation of the judge for whom the Justice Quality Commission or the Judicial Jury has decided. The failure of a judge to appear at a meeting of the Council without good reason does not prevent the consideration of the issue. At the meeting, messages from other persons invited at the request of the judge, the secretary of the Council can be heard, documents and other materials shall be read out.

3. Following the consideration of the issue of appealing the decision of the Justice Quality Commission or the Judicial Jury, the Council shall have the right to make one of the following decisions:

1) recognize the decision of the Justice Quality Commission or the Judicial Jury as justified;

2) find the decision of the Judicial Jury unreasonable and cancel it, terminating the proceedings;

3) recognize the decision of the Justice Quality Commission or the Judicial Jury as unreasonable and cancel it, sending it for reconsideration.

4) recognize the decision of the Justice Quality Commission as unreasonable, cancel it and make a new decision.

4. The decision of the Council on the transfer of a judge to another court, adopted based on the results of consideration of a judge's complaint against the decision of the Commission on the quality of justice based on the results of a periodic assessment of professional activity, is the basis for consideration at a meeting of the Council of the issue of transferring a judge to another court, and in case of refusal of the judge to be transferred - the issue of the judge's dismissal from his post.

Footnote. Article 24 in the wording of the Law of the RK dated 21.02.2019 № 227-VI (the procedure for entry into force see Article. 2); as amended by the Law of the RK dated 20.12.2021 № 83-VII (shall enter into force upon the expiry of ten calendar days after the day of its first official publication); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 8. FINAL PROVISIONS

Article 25. Final provisions

The Law of the Republic of Kazakhstan dated 17 November, 2008 "On the Supreme Judicial Council of the Republic of Kazakhstan" shall be considered to have lost force (Bulletin of the Parliament of the Republic of Kazakhstan, 2008, № 20, art. 80; 2010, № 24, art. 153; 2012, № 5, art. 39; 2014, № 14, art. 84; № 16, art. 90; № 22, art. 128).

Article 26. Procedure for the Enactment of this Law

This Law shall go into effect on 1 January 2016.

*The President
of the Republic of Kazakhstan*

N. NAZARBAYEV

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