

On the protection and use of historical and cultural heritage sites

Unofficial translation

Law of the Republic of Kazakhstan dated December 26, 2019 No. 288-VI ЗPK.

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This Law determines the purpose, objectives and legal framework in the field of protection and use of historical and cultural heritage sites.

Article 1. Legislation of the Republic of Kazakhstan on the protection and use of historical and cultural heritage sites

The legislation of the Republic of Kazakhstan on the protection and use of historical and cultural heritage sites is based on the Constitution of the Republic of Kazakhstan and consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

If an international treaty ratified by the Republic of Kazakhstan establishes other rules than those contained herein, then the rules of the international treaty shall apply.

Article 2. Purpose and objectives of protection and use of historical and cultural heritage sites

1. The purpose of the protection and use of historical and cultural heritage sites shall be to ensure their revival, preservation, and popularization.

2. The objectives of the protection and use of historical and cultural heritage sites shall be:

1) identification, registration, research and monitoring of the state of historical and cultural heritage sites;

2) ensuring state control in the field of protection and use of historical and cultural heritage sites;

3) assistance to international cooperation in the field of protection and use of historical and cultural heritage sites;

4) ensuring the preservation of the historical, architectural and artistic appearance of the historical and cultural heritage sites during archaeological work and scientific restoration work of historical and cultural monuments.

Article 3. Basic concepts used in this Law

The following basic concepts are used in this Law:

1) ensembles and complexes - groups of isolated or combined monuments, buildings and structures of a fortification, palace, residential, public, administrative, commercial, industrial, scientific, educational, religious purpose, including fragments of historical plans and buildings of settlements, localized on historically formed territories;

2) monuments of archeology - parking lots, fortified settlements, remains of ancient buildings, settlements, fortifications, industries, canals, roads, burial grounds, barrows,

necropolises, megalithic structures, stone statues, petroglyphs, areas of the historical cultural layer of ancient settlements and other places with traces of human life and activities;

3) archaeological work - work to identify, research and preserve historical and cultural heritage sites through archaeological excavations and exploration;

4) sacred sites - historical and memorable places, man-made and natural religious sites, landscapes, structures associated with outstanding historical events and personalities, as well as the spiritual values of the people;

5) a preliminary list of the world cultural heritage of the Republic of Kazakhstan - a list of historical and cultural monuments submitted to the UNESCO World Heritage Committee for inclusion in the UNESCO List of all peaceful cultural and natural heritage;

6) monuments of urban planning and architecture - architectural ensembles and complexes, historical centers, quarters, squares, streets, buildings of civil, residential, industrial, military, religious architecture, folk architecture, as well as related works of monumental, decorative and applied and garden park art, natural landscapes;

7) protection obligation - a document that fixes the state of a monument of history and culture at the time of issuing this document and the conditions for keeping a monument of history and culture by the owner or user of the monument of history and culture;

8) memorial plaque - a slab of marble, granite, metal or other materials containing information about an outstanding person or significant event, installed on the facades of buildings and structures;

9) constructions of monumental art - works of monumental art (monuments, steles, busts), erected to perpetuate the memory of outstanding persons, commemorated historical events;

10) monuments of history and culture - historical and cultural heritage sites included in the State List of Monuments of History and Culture;

11) scientific and restoration work of monuments of history and culture - research, design and production work carried out in order to ensure the preservation of monuments of history and culture;

12) State List of Monuments of History and Culture - a list of historical and cultural heritage sites, recognized as monuments of history and culture, indicating their type, category and coordinates;

13) user of a monument of history and culture - an individual or legal entity who, in accordance with this Law, is granted the right to use a monument of history and culture on the basis of an agreement with its owner;

14) historical and cultural heritage sites – items of immovable property with associated works of painting, sculpture, applied art, science, technology and other items of material culture that have arisen as a result of historical processes and events of interest from the point of view of history, archeology, architecture, urban planning, art, science, technology, aesthetics, ethnology, anthropology, social culture;

15) a list of preliminary registration of historical and cultural heritage sites (hereinafter - the list of preliminary registration) - a list of newly identified historical and cultural heritage sites subject to study and determination of the appropriate status;

16) the authorized body for the protection and use of historical and cultural heritage sites (hereinafter referred to as the authorized body) - the central executive body that carries out management and intersectoral coordination in the field of protection and use of historical and cultural heritage sites;

17) historical and cultural expertise - a study aimed at establishing the historical and cultural significance and degree of preservation of the historical and cultural heritage site;

18) historical and architectural reference plan - a document fixing the territory and location of the monument of history and culture in the relevant area;

19) National Pantheon - a place for the burial of deceased (perished) persons, which is an architectural structure of memorial value, founded in order to perpetuate the memory of prominent figures of the state, science, culture, as well as persons who contributed to the development of Kazakhstan;

20) UNESCO World Heritage List - a list of world cultural and natural heritage sites, formed on the basis of a decision of the UNESCO World Heritage Committee.

Article 4. Historical and cultural heritage sites

1. The identified historical and cultural heritage sites shall be included in the list of preliminary registration by local executive bodies of regions, cities of republican status, the capital, and, until a final decision on their status is made, shall be subject to protection along with historical and cultural monuments in accordance with this Law.

2. The inclusion in the State List of Historical and Cultural Monuments of historical and cultural heritage sites included in the preliminary registration list, or their exclusion from the preliminary registration list shall be carried out by the relevant state bodies within three years from the date of their inclusion in the preliminary registration list.

3. The term specified in paragraph 2 of this article may be extended by local executive bodies of regions, cities of republican status, the capital for a period of not more than two years.

4. Historical and cultural heritage sites shall attain the status of historical and cultural monuments from the day they are entered into the State List of Historical and Cultural Monuments of Republican Silt and Local Significance.

Article 5. Monuments of history and culture

1. Monuments of history and culture shall be divided into the following types:

- 1) monuments of archeology;
- 2) monuments of urban planning and architecture;
- 3) ensembles and complexes;
- 4) sacred sites;
- 5) constructions of monumental art.

2. Monuments of history and culture in the Republic of Kazakhstan shall be subject to mandatory protection and preservation in the manner prescribed by this Law, shall have a special legal regime for their use, change of ownership of them and deprivation of their status.

Deprivation of a historical and cultural monument of its status and exclusion from the State List of Historical and Cultural Monuments shall be allowed only in case of complete physical loss of the site and (or) loss of historical and cultural significance.

3. For monuments of history and culture, the local executive body of the corresponding administrative-territorial unit shall draw up a passport for the monument of history and culture in the manner determined by the authorized body. Upon receipt of new information about the historical and cultural monument, an enclosure with new information shall be attached to the passport of the historical and cultural monument.

Article 6. Categories of monuments of history and culture

Monuments of history and culture shall be divided into the following categories:

1) monuments of history and culture of international importance, which are of particular importance for world history and culture;

2) monuments of history and culture of republican status, which are of particular importance for the history and culture of the Republic of Kazakhstan;

3) monuments of history and culture of local significance, which are of particular importance for the history and culture of the corresponding administrative-territorial unit.

Article 7. Participation of individuals and legal entities in the implementation of measures for the protection and use of historical and cultural heritage sites

Individuals and legal entities shall participate in the popularization of historical and cultural monuments, assist local executive bodies of regions, cities of republican status, the capital, districts (cities of regional status) in the implementation of measures to protect, preserve and use historical and cultural heritage sites.

Article 8. International cooperation in the field of protection and use of historical and cultural heritage sites

1. International cooperation in the field of protection and use of historical and cultural heritage sites shall be carried out in accordance with this Law and international treaties of the Republic of Kazakhstan.

2. International cooperation in the field of protection and use of historical and cultural heritage sites shall be carried out in order to protect and use historical and cultural monuments, which are:

1) the property of the Republic of Kazakhstan but located in the territories of other states;

2) the property of other states but located on the territory of the Republic of Kazakhstan;

3) the property of other states located on their territories but historically associated with the Republic of Kazakhstan.

Article 9. Competence of the Government of the Republic of Kazakhstan in the field of protection and use of historical and cultural heritage sites

The Government of the Republic of Kazakhstan shall:

- 1) develop the main directions of state policy in the field of protection and use of historical and cultural heritage sites;
- 2) approve the regulations on the National Pantheon;
- 3) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 10. Competence of the authorized body

The authorized body shall:

- 1) forms and implements the state policy in the field of protection and use of objects of historical and cultural heritage;
- 2) monitor the state of historical and cultural monuments of international and republican status and ensure their safety;
- 3) establish the rates of rent for the use of monuments of history and culture, which are in state ownership;
- 4) recognize the historical and cultural heritage site and (or) a historical and cultural monument of local significance as historical and cultural monuments of republican status and include them in the State List of Historical and Cultural Monuments of Republican Status on the basis of the conclusion of the historical and cultural expertise and recommendations of a special commission on the issues of historical and cultural heritage;
- 5) deprive a historical and cultural monument of republican status of its status and exclude it from the State List of Historical and Cultural Monuments of Republican Status on the basis of the conclusion of the historical and cultural expertise and the recommendation of a special commission on historical and cultural heritage;
- 6) approve the State List of Monuments of History and Culture of Local Significance;
- 7) coordinate projects of scientific and restoration work of monuments of history and culture, economic and other activities in the territories of historical and cultural monuments of international and republican status and their protected zones;
- 8) form a preliminary list of the world cultural heritage of the Republic of Kazakhstan from among the monuments of history and culture;
- 9) present a preliminary list of the world cultural heritage of the Republic of Kazakhstan;
- 10) develop and approve the rules for the formation and submission of a preliminary list of the world cultural heritage of the Republic of Kazakhstan;
- 11) approve the provision for use of historical and cultural monuments of international and republican status, which are state property as well as historical and cultural monuments of local significance, which are republican property;
- 12) coordinate the movement and change of the monument of history and culture;

13) carry out cross-sectoral coordination in the field of protection and use of historical and cultural heritage sites;

14) develop and approve the rules for identifying, recording, granting and depriving of status, moving and changing, monitoring the state and changing the category of historical and cultural monuments;

15) develop and approve the rules for granting use of monuments of history and culture and access to them;

16) develop and approve the rules for issuing security obligations;

17) develop and approve the rules for determining the protected zone, the development control zone and the zone of the protected natural landscape of the historical and cultural monument and the regime of their use;

18) develop and approve the rules and conditions for carrying out scientific restoration work of monuments of history and culture;

19) develop and approve the rules and conditions for the implementation of archaeological work;

20) develop and approve the rules for the establishment of monumental art structures;

21) develop and approve the rules for the establishment of memorial plaques;

22) develop and approve rates for the performance of scientific and restoration work of monuments of history and culture;

23) develop and approve qualification requirements and conditions for licensing activities for the implementation of scientific and restoration work of monuments of history and culture and (or) archaeological work;

24) develop and approve the rules for the protection and use of monuments of history and culture;

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

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 11. Competence of local executive bodies of regions, cities of republican status, the capital, districts (cities of regional status)

1. Local executive bodies of regions, cities of republican status, the capital shall:

1) ensure the identification, accounting, preservation, study, use and monitoring of the state of historical and cultural heritage sites;

2) ensure the carrying out of scientific restoration of ionic works on monuments of history and culture;

3) provide for measures for organizing accounting, preservation, study, scientific restoration work of historical and cultural monuments of local importance and archaeological work in the plans for the economic and social development of the respective territories;

4) coordinate the licensing of activities for the implementation of scientific restoration work of monuments of history and culture and (or) archaeological work;

5) in agreement with the authorized body, when developing and approving urban planning projects, ensure the implementation of measures to identify, study, preserve historical and cultural monuments of all categories, draw up historical and architectural reference plans and maps of the relevant area;

6) manage the work of entering into the master plans of the corresponding settlements of historical and architectural reference plans;

7) draw up and issue security obligations, control their implementation by the owners and users of historical and cultural monuments;

8) create commissions for the protection of monuments of history and culture;

9) carry out work to establish structures of monumental art;

10) carry out work on the installation of memorial plaques;

11) consider and agree on the scientific and project documentation of scientific and restoration work planned at the monuments of history and culture of local importance;

12) in agreement with the authorized body, recognize historical and cultural heritage sites as monuments of history and culture of local importance and include them in the State List of Monuments of History and Culture of Local Significance on the basis of the conclusion of the historical and cultural expertise;

13) deprive a historical and cultural monument of local significance of its status and exclude it from the State List of Historical and Cultural Monuments of Local Significance on the basis of the conclusion of the historical and cultural expertise in agreement with the authorized body;

14) exercise, in the interests of local government, other powers assigned to local executive bodies by the legislation of the Republic of Kazakhstan.

2. On their territory, local executive bodies of districts (cities of regional status) shall:

1) involve the public in carrying out activities for the preservation and popularization of historical and cultural monuments;

2) inform the local executive bodies of regions, cities of republican status, the capital or an authorized body within their competence about the elimination of damage, the threat of destruction of monuments of history and culture;

3) make proposals on the inclusion of historical and cultural heritage sites in the State List of Historical and Cultural Monuments of Local Significance;

4) exercise, in the interests of local government, other powers assigned to local executive bodies by the legislation of the Republic of Kazakhstan.

Article 12. Licensing of activities for the implementation of scientific restoration work of monuments of history and culture and (or) archaeological work

1. Activities for the implementation of scientific restoration work of monuments of history and culture and (or) archaeological work shall be subject to licensing in accordance with the legislation of the Republic of Kazakhstan on permissions and notifications.

2. Applicants who have applied for a license to carry out scientific restoration work of monuments of history and culture and (or) archaeological work in the subtype of archaeological work, and licensees carrying out this subtype of activity, must have at least one a researcher with a higher education in the relevant specialty with at least five years of work experience and an academic degree in this field or master's degrees, doctor's degree, doctor of philosophy (PhD).

Applicants who have submitted an application for a license to carry out scientific restoration work of monuments of history and culture and (or) archaeological work in subspecialty for the implementation of scientific restoration work of monuments of history and culture, and licensees carrying out this subtype of activity, must have in its composition at least one specialist-restorer with secondary technical and vocational education with work experience of at least five years or a researcher in the relevant specialty with at least five years of work experience and an academic degree in this field or master's degrees, PhD in this specialty, PhD.

A scientist or a specialist-restorer working in an organization licensed to carry out scientific and restoration work of monuments of history and culture and (or) archaeological work cannot be declared by another organization in the process of applying for a license for these subtype of activities.

3. Licensing of activities for the implementation of scientific restoration work of monuments of history and culture and (or) archaeological work shall be carried out by the authorized body in agreement with the local executive bodies of regions, cities of republican status, the capital.

Article 13. State control in the field of protection and use of historical and cultural heritage sites

1. The purpose of state control in the field of protection and use of historical and cultural heritage sites shall be to ensure that individuals and legal entities comply with the legislation of the Republic of Kazakhstan on the protection and use of historical and cultural heritage sites.

State control in the field of protection and use of historical and cultural heritage sites shall be carried out by the authorized body and local executive bodies of regions, cities of republican status, the capital.

2. State control in the field of protection and use of historical and cultural heritage sites, carried out by the authorized body shall include control over:

1) the use and procedure for the maintenance of historical and cultural monuments of international and republican significance;

2) the establishment of structures of monumental art;

3) carrying out archaeological and scientific restoration work on historical and cultural monuments of international and republican status.

3. State control in the field of protection and use of historical and cultural heritage sites, carried out by local executive bodies of regions, cities of republican status, the capital shall include control over:

1) the use and maintenance of historical and cultural monuments of local significance;

2) carrying out scientific and restoration work of monuments of history and culture of local significance and archaeological work with the exception of work over monuments of history and culture of international and republican significance.

4. The state control in the sphere of protection and use of historical and cultural heritage sites shall be in the form of inspections and preventive control in accordance with the Entrepreneurial Code of the Republic of Kazakhstan.

Article 14. Holders of ownership right

The holders of the ownership right to historical and cultural heritage sites shall be the Republic of Kazakhstan, individuals and legal entities.

Article 15. State ownership of monuments of history and culture

Monuments of history and culture located on the territory of the Republic of Kazakhstan and not belonging to other entities shall be the property of the Republic of Kazakhstan.

The Republic of Kazakhstan may acquire ownership rights to monuments of history and culture that constitute the historical and cultural heritage of the people of Kazakhstan, which have historical and cultural value, under agreements with their owners.

On behalf of the Republic of Kazakhstan, the powers of the owner for the monuments of history and culture of international and republican status shall be exercised by the authorized body, and for the monuments of history and culture of local significance - by local executive bodies of regions, cities of republican status, the capital.

Article 16. Rights of the owner of a monument of history and culture

The owner shall have the right to own, use and dispose of historical and cultural monuments as property with the exception of the right to destroy them independently.

The owner of a historical and cultural monument shall have the right to demand non-disclosure of its content or deny access for research and public inspection for a period of up to fifty years, if the property item belongs to him/her on the basis of inheritance rights and, by its origin or content, is related to the person of the testator or the ancestors of the owner.

The owner shall have the right to profit (receive income) as a result of the use and operation of historical and cultural monuments limited by the protective obligation.

Article 17. Obligations of owners and users of monuments of history and culture

1. Owners and users of historical and cultural monuments shall carry out activities for their preservation and shall be obliged to comply with the conditions for maintaining a historical and cultural monument by:

1) taking measures to ensure the preservation of historical and cultural monuments;
2) ensuring access to the monument of history and culture for scientific, educational, tourist, informational and educational purposes in the manner and within the limits established by agreements with local executive bodies of regions, cities of republican status, the capital, with the exception of cases provided for in part two of Article 16 of this Law.

2. The owners of monuments of history and culture shall be obliged to notify the local executive bodies of regions, cities of republican status, the capital of the alleged or completed changes in property rights.

3. The conditions for the maintenance of historical and cultural monuments by the owners and users of historical and cultural monuments shall be recorded in the protection obligation issued by the local executive bodies of regions, cities of republican status, the capital.

Article 18. Withdrawal of mismanaged historical and cultural monuments

The confiscation from the owner of mismanaged historical and cultural monuments shall be carried out in accordance with Article 256 of the Civil Code of the Republic of Kazakhstan, Article 33 of the Law of the Republic of Kazakhstan "On State Property" and with this Law.

Article 19. Benefits in the acquisition of ownership of a historical and cultural monument

The owners of parts of the historical and cultural monument, which is in common shared ownership, shall have the preferential right to acquire ownership of other parts of this historical and cultural monument.

The preemptive right to acquire other parts of a historical and cultural monument, provided for in the first part of this article, shall also apply to cases when the buyer's property does not have the status of a historical and cultural monument.

When a monument of history and culture is publicly sold, the state shall have the right of preferential acquisition at the market (auction) price, except for the cases established by parts one and two of this article.

Article 20. Protection and use of historical and cultural heritage sites

1. Historical and cultural heritage sites shall be used for scientific, educational and informational purposes.

2. Protection and use of historical and cultural heritage sites shall include measures to identify, record, research and monitor the state of historical and cultural heritage sites.

Article 21. State lists of monuments of history and culture

The state list of monuments of history and culture of republican status shall be approved by the authorized body.

The state list of monuments of history and culture of local significance shall be approved by local executive bodies of regions, cities of republican status, the capital in agreement with the authorized body.

Article 22. Special Commission on Historical and Cultural Heritage

An advisory board – a special commission on issues of historical and cultural heritage shall be created under the authorized body in order to develop proposals and recommendations on issues of historical and cultural heritage. The position and composition of the special commission on historical and cultural heritage shall be approved by the authorized body.

Article 23. Protection and use of monuments of history and culture

1. Monuments of history and culture shall be used to revive and preserve the spiritual and cultural traditions of the people of Kazakhstan, as well as for scientific, educational, tourist, informational and educational purposes .

2. The mode of use of lands of historical and cultural monuments shall be determined in the projects of protected zones, zones of regulation of development and zones of protected natural landscape of monuments of history and culture approved by local executive bodies of regions, cities of republican status, the capital.

3. Protection and use of historical and cultural monuments shall include measures for the preservation, research, popularization and monitoring of the state of historical and cultural monuments.

Article 24. Procedure and conditions for granting historical and cultural monuments for use

1. The provision for use of monuments of history and culture to individuals and legal entities shall be carried out for scientific, educational, tourist, informational and educational purposes.

2. Monuments of history and culture of local significance, which are communal property, shall be provided for use by decision of local executive bodies of regions, cities of republican status, the capital.

Historical and cultural monuments of local importance, which are republican property, shall be provided for use by decision of the authorized body for state property management in agreement with the authorized body.

Historical and cultural monuments of international and republican status, which are communal property, shall be provided for use by decision of local executive bodies of regions , cities of republican status, the capital in agreement with the authorized body.

Historical and cultural monuments of international and republican status, which are republican property, shall be provided for use by the decision of the authorized body for state property management in agreement with the authorized body.

Article 25. Deprivation of the right to use a monument of history and culture

Individuals and legal entities, in whose use the monument of history and culture is, shall be deprived of the right of enjoyment in accordance with the laws of the Republic of Kazakhstan in case of violation of the obligation to use the monument of history and culture in accordance with its nature and purpose, as a result of which the monument of history and culture is exposed threat of destruction or damage.

Article 26. Ensuring the preservation of historical and cultural heritage sites located on lands provided for ownership and use

The owners of land plots and land users shall be obliged to ensure the safety of historical and cultural heritage sites located on the lands provided to them.

In case of non-fulfillment by the persons specified in part one of this article the obligation to ensure the preservation of historical and cultural heritage sites, land plots occupied by historical and cultural heritage sites shall be withdrawn in accordance with the laws of the Republic of Kazakhstan.

Article 27. Coordination of urban development projects

Urban development projects affecting the territories of historical and cultural monuments shall be subject to approval by the authorized body.

Article 28. Zones of protection of monuments of history and culture

1. In order to ensure the protection of monuments of history and culture, each historical and cultural monument shall be assigned its protection zone, a zone of regulation of development and a zone of a protected natural landscape.

Determination of the boundaries of protected zones, development regulation zones and zones of a protected natural landscape of historical and cultural monuments shall be carried out by:

local executive bodies - in relation to monuments of history and culture of local importance;

the authorized body - in relation to historical and cultural monuments of international and republican status.

2. The boundaries of protected zones, development regulation zones and zones of a protected natural landscape of historical and cultural monuments shall be approved by local executive bodies of regions, cities of republican status, the capital and shall be entered into the historical and architectural base plan and a map-diagram of the corresponding area where the location of historical and cultural monuments is recorded.

3. Violation of the regime of land use within the protection zones, zones of regulation of development and zones of protected natural landscape of monuments of history and culture shall entail administrative responsibility in accordance with the Code of the Republic of Kazakhstan on Administrative Offenses.

Article 29. Relocation and changing of the monument of history and culture

1. Relocation and changing of a historical and cultural monument shall be a change in the position of a historical and cultural monument in space, its appearance, space-planning and design solutions and structures, interior and other physical characteristics reflected in the passport of a historical and cultural monument.

2. Relocation and changing of the monument of history and culture shall be prohibited.

An exception shall be allowed only in cases of destruction of more than seventy percent of the monument of history and culture or loss of historical and cultural significance and or if

its relocation and change will entail an improvement in the conditions for its preservation by the decision of:

1) the authorized body on the basis of the conclusion of the historical and cultural expertise and the recommendation of the special commission on the issues of historical and cultural heritage for historical and cultural monuments of international and republican status;

2) local executive bodies of regions, cities of republican status, the capital on the basis of the conclusion of the historical and cultural expertise on historical and cultural monuments of local significance in agreement with the authorized body.

3. Individuals and legal entities that have received a decision, when relocating and changing a monument of history and culture, must ensure the conditions for its preservation.

The relocated and changed historical and cultural monument shall be fixed by:

local executive bodies of regions, cities of republican status, the capital - in relation to monuments of history and culture of local significance;

authorized body - in relation to historical and cultural monuments of international and republican status.

4. Expenses associated with the implementation of these works shall be borne by individuals and legal entities who have received a decision to move and change the monument of history and culture.

Article 30. Ensuring the preservation of historical and cultural heritage sites during the development of territories

1. During the development of territories prior to the allotment of land plots, archaeological work must be carried out to identify historical and cultural heritage sites in accordance with the legislation of the Republic of Kazakhstan.

In case of discovery of items having historical, scientific, artistic and other cultural value, individuals and legal entities shall be obliged to suspend further work and inform the authorized body and local executive bodies of regions, cities of republican status, the capital, within three working days.

2. When historical and cultural heritage sites are discovered at the stage of development of land plots, they shall be included in the list of preliminary registration by local executive bodies of regions, cities of republican status, the capital within one month from the date of notification of the discovery, and until a final decision on their status is made, they shall be subject to protection along with monuments of history and culture in accordance with this Law.

The inclusion in the State List of Historical and Cultural Monuments of historical and cultural heritage sites discovered during the development of land plots and included in the list of preliminary registration, or their exclusion from the list of preliminary registration shall be carried out by the relevant state bodies within three months from the moment of their inclusion in the list of preliminary accounting.

In case of non-fulfillment of the measures provided for by this paragraph, the owner or land user shall have the right to resume the development of the land plot within the established time frame.

When intending to start large-scale restoration or new construction work on the territories of historical and cultural monuments included in the UNESCO World Heritage List, the authorized body shall, through the Ministry of Foreign Affairs of the Republic of Kazakhstan, notify the UNESCO World Heritage Committee in accordance with the Convention Concerning the Protection of World Cultural and Natural Heritage.

3. It shall be prohibited to carry out works that may endanger the existence of historical and cultural heritage sites.

Article 31. Planning of scientific restoration work of monuments of history and culture

1. Scientific and restoration work of monuments of history and culture shall be carried out on the basis of the plan of scientific restoration work on monuments of history and culture approved by the authorized body.

Carrying out scientific restoration work on historical and cultural monuments outside the plan shall be prohibited.

2. The plan of scientific restoration work on historical and cultural monuments shall be formed by the authorized body for the coming calendar year, taking into account the proposals of state bodies and local executive bodies as well as individuals and legal entities.

3. State bodies and local executive bodies as well as individuals and legal entities, shall submit proposals to the authorized body by February 1 of the year preceding the planned year.

4. The authorized body shall ensure the formation of a preliminary plan for scientific restoration work on historical and cultural monuments prior to April 1 of the year preceding the planned year.

The preliminary plan of scientific restoration work of monuments of history and culture, after agreement with interested state bodies, shall be approved by the authorized body prior to December 1 of the year preceding the planned year.

5. Amendments to the approved plan of scientific restoration work of monuments of history and culture shall be introduced by the authorized body on the basis of proposals from state bodies and local executive bodies as well as individuals and legal entities.

Article 32. Scientific restoration work on the monument of history and culture

1. Scientific restoration work on the monument of history and culture shall include:

1) scientific research - a set of measures aimed at studying, assessing the quality, degree of preservation and determining the scope of necessary work carried out to preserve a monument of history and culture, including activities carried out in the course of developing scientific and project documentation;

2) conservation - a set of measures that protect a historical and cultural monument from further destruction and ensure the consolidation and protection of structural parts and decorative elements without changing the historically formed appearance of a historical and

cultural monument. Conservation shall also include emergency response work, consisting of measures to ensure the physical safety of the monument of history and culture;

3) restoration - a set of measures that ensure the preservation and disclosure of the historical, architectural and artistic appearance of a historical and cultural monument by freeing it from layers that have no value and distorting the appearance of a historical and cultural monument, replenishment of the lost elements of the building, ensemble and complex on the basis of scientific sound data;

4) reconstruction - a set of measures to restore a lost monument of history and culture in the presence of sufficient scientific data and special historical, scientific, artistic or other cultural value of a monument of history and culture;

5) repair - a set of measures to maintain the technical condition of a historical and cultural monument by carrying out periodic works without changing its existing appearance;

6) adaptation - a set of measures carried out in order to create conditions for the modern use of a historical and cultural monument without harming its historical, scientific, artistic or other cultural value and preservation.

2. Scientific restoration work of the monument of history and culture shall be carried out in accordance with the scientific and project documentation of scientific restoration work of monuments of history and culture.

3. Scientific and restoration work of historical and cultural monuments shall be carried out at the expense of budget funds, attracting investments, as well as funds of owners and users of historical and cultural monuments.

4. Scientific and restoration work of historical and cultural monuments shall be carried out by individuals and legal entities on the basis of a license to carry out scientific restoration work of historical and cultural monuments and (or) archaeological work, as well as a license for construction and installation work in case of construction and installation works.

5. Individuals and legal entities carrying out scientific and restoration work of monuments of history and culture, ten calendar days before their start, must notify the local executive bodies of regions, cities of republican status, the capital on the commencement of scientific and restoration work of monuments of history and culture of the local significance, the authorized body - on the commencement of scientific restoration work of historical and cultural monuments of international and republican status.

6. Within thirty calendar days after the completion of scientific and restoration work on the monuments of history and culture, individuals and legal entities shall send a report containing a description and results of the scientific and restoration work on the monuments of history and culture:

of local significance - to local executive bodies of regions, cities of republican status, the capital;

international and republican significance, - to the authorized body.

Article 33. Planning of archaeological works

1. Archaeological works shall be carried out on the basis of the plan of archaeological work approved by the authorized body.

Archaeological work outside the plan shall be prohibited.

2. The plan of archaeological work shall be formed by the authorized body for the coming calendar year, taking into account the proposals of state bodies and local executive bodies as well as individuals and legal entities.

3. State bodies and local executive bodies as well as individuals and legal entities shall submit proposals to the authorized body by February 1 of the year preceding the planned year.

4. The authorized body shall ensure the formation of a preliminary plan of archaeological work prior to April 1 of the year preceding the planned year.

After agreement with the interested state bodies, the preliminary plan of archaeological work shall be approved by the authorized body prior to December 1 of the year preceding the planned year.

5. Amendments to the approved plan of archaeological work shall be introduced by the authorized body on the basis of proposals from state bodies and local executive bodies as well as individuals and legal entities.

Article 34. Implementation of archaeological work

1. Carrying out archaeological work on the territory of the Republic of Kazakhstan shall be allowed if there is a license to carry out scientific restoration work of monuments of history and culture and (or) archaeological work.

Individuals and legal entities carrying out archaeological work, ten calendar days before their start, shall be obliged to notify the local executive bodies of regions, cities of republican status, the capital on the beginning of archaeological work, with the exception of the work over historical and cultural monuments of international and republican status, of which the authorized body shall be notified.

2. All materials and finds obtained by individuals and legal entities of the Republic of Kazakhstan and other states as a result of archaeological work on the territory of Kazakhstan shall be transferred to the state museums of the Republic of Kazakhstan after scientific fixation and processing.

3. Within thirty calendar days after the completion of archaeological work, individuals and legal entities of the Republic of Kazakhstan and other states engaged in archaeological work on the territory of Kazakhstan shall send the following documents to the authorized body in paper and electronic media:

1) a letter indicating the surname, first name and patronymic (if it is indicated in the identity document) of an individual or the name of a legal entity, the name of an archaeological site, a source of funding;

2) a short report containing the goals, objectives and description of archaeological work;

3) a list of materials and finds with an indication of the size, weight, shape, material of manufacture, technique of execution of materials and finds and the attachment of color photographs of each material and find.

4. The submitted documents shall be considered by the authorized body within sixty calendar days from the date of their receipt.

5. In case of submission of documents that do not comply with paragraph 3 of this article, within five working days, the authorized body shall send a request to individuals and legal entities about the need to provide missing documents or information within five working days from the date of receipt of the request.

6. The received documents referred to in paragraph 3 of this Article are submitted for consideration by the special commission on historical and cultural heritage.

7. Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

8. Based on the results of consideration of documents, the special commission on historical and cultural heritage recommends the transfer of materials and finds to the state museum of republican or local significance, indicating the name of the museum.

Based on the recommendations of the special commission on historical and cultural heritage, the authorized body decides on the transfer of materials and finds to the state museum of republican or local significance, indicating the name of the museum.

9. The authorized body shall notify individuals and legal entities and the relevant state museum about the decision and the need to carry out the procedure for receiving and transferring materials and finds.

10. Individuals and legal entities shall transfer materials and finds with the attachment of a report on their scientific fixation and processing to the State Museum within one year from the date of receipt of the notification.

11. The transfer of materials and finds by individuals and legal entities to the State Museum shall be formalized by the acceptance and transfer certificate of materials and finds (hereinafter referred to as the acceptance certificate and transfer).

The acceptance certificate shall be drawn up in triplicate in Kazakh and Russian languages for each party and for the authorized body.

Within fifteen calendar days from the date of signing the acceptance certificate, the State Museum shall send one copy of the acceptance certificate to the authorized body.

12. After the completion of archaeological work, individuals and legal entities who carried out them, shall be obliged to carry out work on the preservation of the site, restore land plots and other natural sites damaged as a result of archaeological work.

Footnote. Article 34 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 35. Discovery of treasure containing things related to cultural values

1. If a treasure is found containing things related to cultural values, they shall be subject to transfer to the ownership of the Republic of Kazakhstan. The owner of the real estate in which such a treasure is discovered and the person who has discovered the treasure shall have the right, in accordance with Article 247 of the Civil Code of the Republic of Kazakhstan, to receive remuneration in the amount of fifty percent of the value of the treasure in equal shares, unless otherwise established by an agreement between them. In the event that a treasure containing things related to cultural values is discovered on a land plot or in other real estate that belongs to the state, the person who has discovered the treasure shall be entitled to receive fifty percent of the value of this treasure.

The value of the treasure shall be determined on the basis of a property appraisal report in accordance with the legislation of the Republic of Kazakhstan on appraisal activities.

2. Payment of remuneration for the discovery of a treasure containing things related to cultural values shall be made from budgetary funds in accordance with the Budget Code of the Republic of Kazakhstan.

Article 36. Historical and cultural expertise

1. The objects of historical and cultural expertise shall be:

- 1) land plots subject to development;
- 2) materials substantiating the inclusion of historical and cultural heritage sites in the state lists of monuments of history and culture;
- 3) materials justifying the exclusion of historical and cultural monuments from the state lists of historical and cultural monuments;
- 4) materials substantiating the inclusion of historical and cultural monuments in the preliminary list of the world cultural heritage of the Republic of Kazakhstan;
- 5) materials substantiating the change in the category of the monument of history and culture, movement and change of the monument of history and culture.

2. Historical and cultural expertise shall be carried out by individuals and legal entities carrying out activities in the field of protection and use of historical and cultural heritage sites, licensed to carry out scientific and restoration work of monuments of history and culture and (or) archaeological work as well as accreditation of the entity of scientific and (or) scientific and technical activities in accordance with the legislation of the Republic of Kazakhstan on science.

3. Historical and cultural expertise shall be carried out in the manner determined by the authorized body.

4. A conclusion shall be issued, based on the results of the historical and cultural expertise

The conclusion of the historical and cultural expertise can be appealed to the authorized body or in court.

Article 37. Responsibility for violation of the legislation of the Republic of Kazakhstan on the protection and use of historical and cultural heritage sites

Violation of the legislation of the Republic of Kazakhstan on the protection and use of historical and cultural heritage sites shall entail liability established by the laws of the Republic of Kazakhstan.

Article 38. Transitional provision

Licenses for activities to carry out archaeological and (or) scientific restoration work of historical and cultural monuments, issued before the entry into force of this Law, shall be subject to renewal within three years after the entry into force of this Law in the manner prescribed by the legislation of the Republic of Kazakhstan.

Article 39. Enactment procedure for this Law

1. This Law shall enter into force upon the expiration of ten calendar days after the day of its first official publication, with the exception of paragraph 2 of Article 12, which shall be enforced upon the expiration of six months after the day of its first official publication.

2. The Law of the Republic of Kazakhstan dated July 2, 1992 "On the Protection and Use of Historical and Cultural Heritage Sites" shall be deemed to have lost force (Bulletin of the Supreme Council of the Republic of Kazakhstan, 1992, No. 15, Article 363; 1995, No. 20, article 120; Bulletin of the Parliament of the Republic of Kazakhstan, 2004, No. 23, article 142; 2007, No. 2, article 18; No. 17, article 139; 2009, No. 18, article 84; 2010, No. 5, article 23; 2011, No. 1, article 2; No. 5, article 43; No. 11, article 102; No. 12, article 111; 2012, No. 15, article 97; 2013, No. 14, article 75; 2014, No. 1, article 4; No. 10, article 52; No. 19-I, 19-II, article 96; No. 23, article 143; 2015, No. 19-II, article 105; No. 20-IV, article 113; 2016, No. 6, article 45; 2017, No. 9, article 18; 2018, No. 10, article 32).

President of the Republic of Kazakhstan

K. TOKAYEV