

**On Introduction of Amendments and Supplements to the Decree of the President of the Republic of Kazakhstan Having the Force of Constitutional Law “On Courts and Status of Judges in the Republic of Kazakhstan”**

*Unofficial translation*

Constitutional Law of the Republic of Kazakhstan dated July 1, 1997 N 143

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The Decree of the President of the Republic of Kazakhstan Having the Force of Constitutional Law dated December 20, 1995 N 2694 "On Courts and Status of Judges in the Republic of Kazakhstan" (Bulletin of the Supreme Council of the Republic of Kazakhstan, 1995, N 23, Article 147; Constitutional Law of the Republic of Kazakhstan dated April 11, 1997 "On Introduction of Supplements to the Edicts of the President of the Republic of Kazakhstan Having the Force of Constitutional Laws, "On the Parliament of the Republic of Kazakhstan and Status of Its Deputies" and "On Courts and Status of Judges in the Republic of Kazakhstan" On the Issues of Regulation of Granting Benefits to Certain Categories of Citizens" published in the magazines "Yegemen Kazakhstan" and "Kazakhstanskaya Pravda" on April 15, 1997; Constitutional Law of the Republic of Kazakhstan dated June 17, 1997 "On Introduction of Amendments to the Decree of the President of the Republic of Kazakhstan Having the Force of Constitutional Law "On Courts and Status of Judges in the Republic of Kazakhstan" published in the magazines "Yegemen Kazakhstan" and "Kazakhstanskaya Pravda" on June 19, 1997) should be introduced with the following amendments and supplements:

1. Item 4 of Article 2 should be deleted.
2. In Article 3:  
sub-item 1) should be deleted;  
sub-items 2) - 7) should be considered as sub-items 1) - 6).
3. In Article 7:  
in item 1, the words "Decisions, sentences and resolutions of the courts should be announced in public" should be deleted;  
should be supplemented with item 3 of the following contents:  
"3. Decisions, sentences and resolutions of the courts should be announced in public".
4. Item 2 of Article 8 should be worded as follows:  
"2. Consideration of cases by higher courts shall be carried out in the order determined by the procedural legislation."
5. In Article 10:  
item 1 the words "shall be created" should be supplemented with the words "and

a b o l i s h e d " ; a n d

should be supplemented with item 3 of the following contents:

"3. Judicial centres of the district (city) courts shall be created and abolished by the Minister of Justice pursuant to the joint proposal of the head of justice office and the chairman of a regional court and court equivalent to it".

6. Item 1 of Article 11 should be supplemented with the following paragraph:

"In creating a judicial centre in its structure, the district (city) court shall consist of the chairman of a court, senior judge of the judicial centre and regular judges".

7. Item 2 of Article 12 should be deleted:

8 . I n A r t i c l e 1 3 :

the title of the Article should be supplemented with the words "Senior Judge of the J u d i c i a l C e n t r e " ;

should be supplemented with item 3 of the following contents:

"3. The Senior judge of the judicial centre shall be a judge and have the rights of the chairman of a district (city) court, except for the powers stipulated in the sub-items 4), 5), 7) and 8), as well as in sub-item 6) (in the part of appointment and discharge from the position of employees of the court machinery) of item 2 of this article".

9 . i n A r t i c l e 1 4 :

the title of the Article after the words "of the chairman" should be supplemented with the words "senior judge of the judicial centre"; i n i t e m 1 :

the words "(city) court" should be supplemented with the words "senior judge of the j u d i c i a l c e n t r e " ;

the word "its" should be substituted for the word "their".

10. Item 1 of Article 15 the words "shall be created" should be supplemented with the words " a n d a b o l i s h e d " .

1 1 . A r t i c l e 1 6 :

i n i t e m 1 :

the word "chairmen" should be supplemented with the words "of the judicial";

the word "other" should be deleted;

in sub-items 2), 3), and 4) of item 2 the word "collegium" should be substituted for the words "judicial collegium".

12. Article 18 should be worded as follows:

"Article 18. Presidium of a regional court and Court Equivalent to It"

Presidium of a regional court and court equivalent to it shall consist of the chairman of a court and four regular judges elected annually by the panel of a regional court by secret ballot by majority of votes from the total number of the members of the court".

1 3 . I n A r t i c l e 1 3 :

sub-item 1) should be worded as follows:

"1) within the limits of his powers shall consider cases in the order of supervision and on newly discovered circumstances in the order determined by the procedural legislation";  
sub-item 2) the word "chairmen" should be supplemented with the words "of the judicial";  
in sub-item 3) the words "activity and" should be deleted.

1 4 .                      A r t i c l e                      2 1 :

in the title of the article and item 1 the word "Collegiums" should be substituted for the words "Judicial Collegiums";

item 2 the word "Panels" should be supplemented with the words "of the judicial";  
item 3 the words "of one" and "another" should be supplemented with the word "judicial".

1 5 .                      A r t i c l e                      2 2 :  
i n                      i t e m                      2 :

sub-item 2) the word "sessions" should be supplemented with the words "of the judicial";  
sub-item 5) the word "chairmen" should be supplemented with the words "of the judicial";  
sub-item 6) the word "activity" should be supplemented with the words "of the judicial";  
sub-item 7) the words "of the chairman" should be supplemented with the words "of the judicial";  
and

should be supplemented with sub-item 13) of the following contents:

"13) in the established procedure on his own against chairmen of the judicial collegiums and judges of a regional court or court equivalent to it or together with the head of the justice office against chairmen and judges of district (city) courts and courts equivalent to them, senior judges of the judicial centres shall submit proposals on conferment of qualifications to them and their deprivation";

sub-item 13) should be considered as sub-item 14);

item 3 the word "chairmen" should be supplemented with the words "of the judicial";

1 6 .                      i n                      A r t i c l e                      2 3 :

the title of the article, item 1 and paragraph of item 2 the words "The Chairman" should be supplemented with the words "of the Judicial";

sub-item 5) of item 2 the word "activity" should be supplemented with the words "of the judicial";

item 3 the word "chairman" should be supplemented with the words "of the judicial";

17. Item 1 of Article 24 should be supplemented with the following paragraph:

"Martial courts shall be created and abolished by the President of the Republic of Kazakhstan pursuant to the proposal of the Minister of Justice".

18. Item 1 of Article 25 the words "of the chairman and" should be supplemented with the word "regular".

1 9 .                      A r t i c l e                      2 7 :

in item 1, the words "chairmen of the collegiums and" should be substituted for the words "chairmen of the judicial collegiums and regular";

in sub-items 2) and 3) of item 2 the word "collegium" should be substituted for the words

"judicial collegium";

in item 4 the words "and court equivalent to it" should be deleted.

20. In Article 28:

item 1 should be supplemented with the words "supervise their activity within the procedural forms stipulated by law";

in item 2:

in sub-item 2) the word "all" should be deleted;

in sub-item 3) the word "courts" should be deleted.

21. Article 29:

in item 2:

the word "chairmen" should be supplemented with the words "of the judicial";

the word "other" should be deleted;

in item 3:

in sub-items 3), 4) and 5) the word "collegium" should be substituted for the words "judicial collegium";

sub-item 6) before the word "martial" should be supplemented with the word "judicial".

22. Article 30 should be worded as follows:

"Article 30. Plenum of the Supreme Court

Plenum of the Supreme Court shall consist of the Chairman, chairmen of the judicial collegiums and judges of the Supreme Court".

23. Article 31:

in sub-item 1) the word "courts" should be deleted;  
should be supplemented with sub-items 5) and 6) of the following contents:

"5) elect members of the Disciplinary Collegium of the Supreme Court;

6) elect members of the Presidium of the Supreme Court";

sub-item 5) should be considered as sub-item 7).

24. Item 1 of Article 33 should be worded as follows:

"1. Presidium of the Supreme Court shall consist of the Chairman of the Supreme Court, eight regular judges, elected annually at the plenum by secret ballot by majority of votes from total number of members of the plenum".

25. In Article 34:

sub-item 1) should be worded as follows:

"1) consider cases in the order of supervision and on newly discovered circumstances in the order determined by the procedural legislation";

sub-item 3) the word "chairmen" should be supplemented with the words "of the judicial".

26. Article 35:

in the title of the article and items 1 and 2 the word "Collegiums" should be substituted for the words "Judicial Collegiums";

in item 1 the words "Consideration of the cases in the order of supervision shall be carried



collegiums or judges of the Supreme Court".  
29. in Article 38:  
item 2 should be deleted;  
items 3 and 4 should be considered as items 2 and 3 respectively.

30. Sub-item 4) of item 1 of Article 40 the words "by the order" should be supplemented with the words "of election".

31. In item 3 of Article 41 the words "which shall be given to him by the agencies of Internal Affairs pursuant to his application" should be deleted.

32. In item 3 of Article 42:  
the words "sixty years" should be substituted for the words "shall be determined in accordance with the Constitution and legislation of the Republic of Kazakhstan";  
the word "chairmen" should be supplemented with the words "of the judicial".

33. In Article 44:  
item 1 the word "chairmen" should be supplemented with the words "of the judicial";  
item 2 the words "courts, chairmen" should be supplemented with the words "of the judicial";

item 3 the word "Chairmen" should be supplemented with the words "senior judges of the judicial centers";

should be supplemented with item 4 of the following contents:

"4. The Chairman of the Supreme Court the chairmen of the judicial collegiums of this court shall be elected to office for five years from amongst the judges of this court.

Chairmen of the regional courts and courts equivalent to them, chairmen of the judicial collegiums of these courts, chairmen of the district (city) courts and courts equivalent to them shall be assigned to office for five years".

34. in Article 45:  
item 1 the word "elected" should be supplemented with the words "or appointed";  
item 2 should be worded as follows:

"2. The Chairman of the Supreme Court, chairmen of the judicial collegiums and judges of the Supreme Court shall take oath at the meeting of the Senate of the Parliament of the Republic of Kazakhstan.

Chairmen of the regional courts and courts equivalent to them shall take oath at the plenum of the Supreme Court. The rest of the judges shall take oath at the corresponding conferences of judges."

35. In Article 46:  
sub-item 1) of item 1 should be supplemented with the words "or in case of his arrest due to detention at the scene of a crime and institution of criminal proceedings for the commission of serious crimes";

in item 2:  
after the word "correspondingly" should be supplemented with the words "by the

President of the Republic against the Chairman of the Supreme Court,"  
the word "chairmen" should be supplemented with the words "of the judicial".

36 . Article 47 :  
in item 1 :

in sub-item 2) the words "due to reaching of the age limit of judicial tenure or in case of  
death" should be deleted ;

should be supplemented with sub-item 4) of the following contents:

"4) if a judge fails to carry out the requirements stipulated by item 1 of Article 42 of this  
Edict" ;

sub-items 4) - 6) should be considered as sub-items 5) - 7) respectively;  
should be supplemented with sub-items 8), 9), and 10) of the following contents:

"8) in case of appointment, election and transfer of a judge to another position in state  
agencies ;

9) due to reaching of the age limit of judicial tenure;  
10) in case of death" ;

in item 2 :  
in sub-item 1) :

the words "by the decision" should be substituted for "by the resolution";

the word "chairmen" should be supplemented with the words "of the judicial";

sub-item 2) the words "courts, chairmen" should be supplemented with the words "of the  
judicial" .

37. Article 48 should be worded as follows:

"Article 48. Transfer of Judges

Judges of the regional courts and courts equivalent to them, chairmen and judges of the  
district (city) courts and courts equivalent to them, senior judges of the judicial centres with  
their consent may be transferred across by decision of the Minister of Justice pursuant to the  
proposal of chairmen of the regional courts and courts equivalent to them and the heads of the  
justice offices ."

38 . Article 49 :

in item 3 the words "and to the position of the chairman and judge of a district (city) court  
" should be deleted ;

should be supplemented with item 4 of the following contents"

"4. Execution of materials for persons recommended for the positions of the chairmen of  
the district (city) courts and courts equivalent to them and senior judges of the judicial centres  
and submission of these materials to the Qualification Collegium of Justice shall be carried  
out by the Minister of Justice";

items 4 and 5 should be considered as items 5 and 6 respectively;  
item 5 :

the words "courts, chairmen" should be supplemented with the words "of the judicial";

should be supplemented with the following paragraph:

"No less than two alternative candidates should be submitted to the positions of a chairman of a regional court and court equivalent to it, and the chairmen of the judicial collegiums of these courts.";

item 6 the word "chairmen" should be supplemented with the words "of the judicial".

39 . Article 50 :

in item 1 :

in sub-item 1) the word "collegiums" should be substituted for the words "of the judicial collegiums" ;

sub-item 2) the words "of the Chairman of the Supreme Court, chairmen" and "courts, chairmen" should be supplemented with the words "of the judicial";

sub-items 3) and 4) should be worded as follows:

"3) consider complaints on the decisions of the Disciplinary Collegium of the Supreme Court ;

4) consider the issues on resignation and termination of the resignation of the Chairman of the Supreme Court, chairmen of the judicial collegiums and judges of this court, chairmen of the regional courts and courts equivalent to them, chairmen of the judicial collegiums and judges of this court" ; and

should be supplemented with sub-item 6) of the following contents:

"6) consider the issues on implementation of judicial legal reforms";

item 4 should be worded as follows:

"4. The Supreme Judicial Council shall elect from among its members the Secretary of the Supreme Judicial Council pursuant to the proposal of the President of the Republic of Kazakhstan .

In the absence of the President of the Republic of Kazakhstan one of the members of the Supreme Judicial Council shall chair the session of the Supreme Judicial Council pursuant to his assignment" ;

item 6 should be worded as follows:

"6. The members of the Supreme Judicial Council and invited persons shall be informed about the date, place and agenda of the session no later than three days before the session";

item 7 should be deleted ;

items 8 and 9 should be considered as items 7 and 8 respectively, being worded as follows :

"7. The Supreme Judicial Council shall accept opinions and (or) recommendations on cases in point by ballot of majority vote from amongst its members. If the votes are equal then the vote of the chairman of the session shall be deciding. Opinions and (or) recommendations shall be signed by all the members of the Supreme Judicial Council who have participated in voting .

8. The Supreme Judicial Council shall introduce opinions and (or) recommendations on



the cases considered at its session to the President of the Republic of Kazakhstan on the basis of which the head of the state shall make the corresponding decision";

item 10 should be considered as item 9.

40 . Article 51 :

in item 2 :

in sub-item 1) the words "as well as to the positions of chairman and judge of a district (city) court" should be deleted; and

should be supplemented with sub-item 2) of the following contents:

"2) give recommendations for the positions of chairmen and judges of the district (city) courts and courts equivalent to them and senior judges of the judicial centres";

sub-item 3) should be deleted;

sub-item 2) should be considered as sub-item 3);

sub-items 4) and 5) should be worded as follows:

"4) consider the issues on resignation and termination of the resignation of the chairmen and judges of the district (city) courts and courts equivalent to them, senior judges of the judicial centres and make recommendations on the basis of which the Minister of Justice shall make the corresponding decision;

5) conduct qualification examinations pursuant to the applications of persons who have wished to be involved in notarial and advocatory activity and make recommendations on the basis of which the Ministry of Justice shall grant a license";

item 8 should be deleted;

items 9 - 11 should be considered as items 8 - 10;

in the item 8 the words "decision and recommendation" and "chairman of the collegium" should be substituted for the words "decisions and (or) recommendations" and "the chairman of the collegium session";

item 9 the word "justice" should be supplemented with the words "except for the stipulated in sub-item 5) of the item 2 of this article";

41 . Article 52 :

in item 1 :

sub-item 1) should be supplemented with the following paragraph:

"Abolition or alteration of the judicial decision shall not entail liability of the judge who has made or has participated in making this decision if at the same time he has not committed gross violations of the law";

sub-item 3) should be worded as follows:

"3) for gross failure to comply with procedural terms of consideration of cases"; and should be supplemented with sub-item 4) of the following contents:

"4) for violation of labour discipline";

item 2 the words "courts, chairmen" and "collegiums" should be supplemented with the words "of the judicial" and "and senior judges of the judicial centres".

42. Article 53 should be worded as follows:

"Article 53. The Right to Initiate a Disciplinary Case

The right to initiate a disciplinary case shall belong to:

1) Minister of Justice against chairmen of the regional courts and courts equivalent to them, chairmen of the judicial collegiums and judges of these courts, chairmen and judges of the district (city) courts and courts equivalent to them as well as senior judges of the judicial centres on the grounds stipulated by sub-items 2), 3) and 4) of item 1 and item 2 of Article 52 of this Edict; head of the justice office against chairmen and judges of the district (city) courts and courts equivalent to them and senior judges of the judicial centres on the same grounds;

2) Chairman of the Supreme Court against chairmen of the judicial collegiums and judges of the Supreme Court on the grounds stipulated by item 1, and the chairmen of the judicial collegiums by the same item and item 2 of Article 52 of this Edict; against chairmen of the regional courts and courts equivalent to them, chairmen of the judicial collegiums and judges of these courts, chairmen and judges of the district (city) courts and courts equivalent to them and senior judges of the judicial centres on the grounds stipulated by sub-items 1) and 3) of item 1 of Article 52 of this Edict;

3) Chairman of the regional court and court equivalent to it against chairmen of the judicial collegiums and judges of these courts on the grounds stipulated by item 1, and the chairmen of the judicial collegiums by the same item and item 2 of Article 52 of this Edict; against chairmen and judges of the district (city) courts and courts equivalent to them and senior judges of the judicial centres on the grounds stipulated by sub-items 1) and 3) of item 1 of Article 52 of this Edict".

43. In Article 55:

items 1, 2 and 3 should be worded as follows:

"1. The Supreme Judicial Council shall consider complaints on the decisions of Disciplinary Collegium of the Supreme Court.

2. Disciplinary Collegium of the Supreme Court shall consider disciplinary cases against chairmen of the judicial collegiums and judges of the Supreme Court, chairmen of the regional courts and courts equivalent to them, chairmen of the judicial collegiums of these courts, as well as complaints on the decisions of the regional disciplinary collegiums and collegiums equivalent to them.

Disciplinary Collegium of the Supreme Court shall be elected at the plenum of the Supreme Court for two years.

3. The regional disciplinary collegiums and collegiums equivalent to them shall consider disciplinary cases against judges of the regional courts and courts equivalent to them, as well as chairmen and judges of the district (city) courts and courts equivalent to them, senior judges of the judicial centres";

in the item 5 the words "by the Minister of Justice and the Chairman of the Supreme Court" should be substituted for "by the President of the Republic of Kazakhstan".

44. Item 2 of Article 57 should be supplemented with the following paragraph:  
"Disciplinary penalty may be remitted early by the disciplinary collegium which has  
i m p o s e d i t . " .

45. Article 58 should be worded as follows:

"Article 58. Appeal of Decisions of a Disciplinary Collegium

1. The decision of a regional disciplinary collegium and collegium equivalent to it may be  
appealed to the Disciplinary Collegium of the Supreme Court within ten days by the judge  
against whom it has been made and by the person who has initiated the case.

2. The decision of the Disciplinary Collegium of the Supreme Court may be appealed to  
the Supreme Judicial Council of the Republic of Kazakhstan within ten days by the judge  
against whom it has been made and by the person who has initiated the case".

46. In Article 59:

items 4 and 5 should be worded as follows:

"4. Judges of the courts of the Republic of Kazakhstan shall be conferred on  
qualifications. The issues of conferment of the qualifications to judges and their deprivation  
shall be determined by the Regulation approved by the President of the Republic of  
K a z a k h s t a n .

5. The Regulation On Military Service shall apply to judges of the martial courts and  
judicial martial collegium of the Supreme Court of the Republic of Kazakhstan and they shall  
be provided for alls of allowances established by legislation".

47. In Article 68:

paragraph one should be considered as item 1; and

should be supplemented with item 2 of the following contents:

"2. The procedure and terms of the medical service and sanatorium-resort therapy of the  
judges shall be determined by the regulatory legal acts of the Republic of Kazakhstan.".

48. In Article 69:

the title of the Article should be worded as follows:

"Insurance of the Judges";

item 1 the word "private" should be supplemented with the word "property";

item 2 should be worded as follows:

"2. The procedure and terms of the compulsory insurance of the judges and their property  
shall be determined by the regulatory legal acts of the Republic of Kazakhstan.".

49. Item 3 of Article 71 should be worded as follows:

"3. The resignation of a judge shall be terminated in cases of:

appointment to the position of a judge;

commission of a crime or misdemeanour by him which brings the authority of the  
judiciary into disrepute;

handing in his resignation;

loss of citizenship of the Republic of Kazakhstan;

h i s d e a t h " .  
5 0 . I n A r t i c l e 7 4 :  
item 1 the word "(city)" should be supplemented with the words " and court equivalent to  
i t " ;

item 3 should be worded as follows:  
"3. The structure and staff of the Supreme Court Office shall be approved by the  
Chairman of the Supreme Court within the funds provided for its maintenance".

5 1 . I n A r t i c l e 7 5 :  
item 1 and sub-item 1) of the item 3 after the word "(city)" should be supplemented with  
the words "and courts equivalent to them";  
item 2 should be deleted;  
item 3 should be considered as item 2;  
in sub-item 8) of the item 2 the words "direct the work" should be substituted for the  
words "organise the work".

52. Article 76 should be worded as follows:  
"Article 76. Secretary of the Judicial Session

1. When considering civil, economic and criminal cases at first instance the secretary of  
the judicial session shall keep the minutes of the judicial session and carry out assignments  
pursuant to the order of the chairman.

2. Appointment and discharge from office of the secretaries of judicial session of the  
Supreme Court shall be carried out by the Chairman of the Supreme Court and by justice  
offices for the local courts.

3. Numerical membership of the secretaries of judicial sessions of the district (city) courts  
and courts equivalent to them must correspond to the numerical membership of the judges of  
t h e s e c o u r t s " .

53. Item 2 of Article 77 should be worded as follows:  
"2. Officers of the law shall be under all courts except for the Supreme Court.  
Appointment and discharge from the job of the officers of the law shall be carried out by  
t h e j u s t i c e o f f i c e .

Officers of the law shall be provided with free uniform in accordance with, standards and  
in the order determined by the Government of the Republic of Kazakhstan; they shall be  
granted free travel for alls of public transport - urban, suburban and local traffic except for  
t a x i s .

Numerical membership of the officers of the law must correspond to the numerical  
m e m b e r s h i p o f j u d g e s " .

5 4 . I n A r t i c l e 7 8 :  
item 1 should be worded as follows:  
"1. Officers of the court shall be under all courts.  
Appointment and discharge from office of the officers of the court of the Supreme Court

shall be carried out by the Minister of Justice pursuant to the proposal of the Chairman of the Supreme Court and by justice offices for the local courts";

In sub-item 5) of item 2 the word "normal" should be substituted for the word "safe".

55. Item 3 of Article 80 should be worded as follows:

"3. Chairman of the Supreme Court, chairmen of the judicial collegiums and judges of this court shall be given certificates of the standard pattern by the President of the Republic of K a z a k h s t a n .

Chairmen of the regional courts and courts equivalent to them, chairmen of the judicial collegiums and judges of these courts, chairmen and judges of the district (city) courts and courts equivalent to them, senior judges of the judicial centres shall be given certificates of the standard pattern by the Minister of Justice."

56. Article 82 should be worded as follows:

"Article 82. Press Organs

The Supreme Court and the Ministry of Justice of the Republic of Kazakhstan shall have their own press organs".

57. Article 83 should be supplemented with item 5 of the following contents:

"5. Operation of item 4 of Article 44 shall apply to the persons who have been elected and appointed to the corresponding positions after January 1, 1996."

58. In Article 84:

item 1 should be supplemented with the following paragraph:

"The Regulation on Judges Certification shall be approved by the President of the Republic of Kazakhstan.";

in item 4:

in sub-item 2) the words "of the state" should be deleted;

sub-item 4) should be supplemented with the words "The Regulation on Disciplinary Collegium of the Supreme Court of the Republic of Kazakhstan, Local Disciplinary Collegiums and Collegiums Equivalent to Them."

*P r e s i d e n t o f*

*the Republic of Kazakhstan*