

On the procedure and conditions for detention of persons in special institutions, special rooms providing temporary isolation from societies

Unofficial translation

The Law of the Republic of Kazakhstan dated 30 March, 1999 No. 353-I.

Unofficial translation

Footnote. The title shall be in the wording of the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

This Law shall determine the legal basis for the activities of special institutions, special rooms that provide legal temporary isolation from society, and also establish the rights and obligations of the persons held in them.

Footnote. The Law is supplemented by preamble in accordance with the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 1. General provisions Article 1. Tasks of this Law

Footnote. Article 1 is excluded by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 2. Basic concepts used in this Law

The following basic concepts shall be used in this Law:

1) special reception center - a special institution of the internal affairs bodies, designed to receive and keep persons subjected to administrative arrest, foreigners and stateless persons subject to forcible expulsion;

2) special institutions - detention facility, temporary detention facility, reception centre, special center;

2-1) special room – a room intended for a short-term restriction of the personal freedom of an individual, a representative of a legal entity, an official for a period established by law, with the aim of suppressing an administrative offense or ensuring administrative proceedings;

3) person, subjected to administrative arrest, - a person, in relation of whom the regulation on imposition of administrative arrest is issued by court;

4) person, not having defined place of residence, - a person who does not have registration at the place of residence or dwelling in the territory of the Republic of Kazakhstan;

5) separate cell – special premise, intended for detention of one person, accused in custody for the purposes of his (her) complete and strict isolation;

5-1) guardhouse - special premises equipped under military police, providing legally assigned temporary social isolation of military servicemen:

Subject to administrative arrest;

detained on suspicion of committing criminal offenses, also suspects, accused of committing a criminal offence, defendants in respect of whom detention has been chosen as a preventive measure;

sentenced to arrest;

sentenced to imprisonment – pending the court's conviction enforcement and commitment to enforcement authorities;

6) preventive restriction of freedom of movement - a measure of individual prevention of offenses, which consists in temporary isolation in a special institution of the internal affairs bodies:

persons who do not have a fixed place of residence and (or) identity documents, in the absence of signs of criminal and administrative offenses in their actions and if it is impossible to identify such persons by other means;

foreigners and stateless persons subject to forcible expulsion on the basis of a verdict, decision, court order that has entered into legal force, as well as those who have not left the territory of the Republic of Kazakhstan within the period specified in the judicial act on expulsion;

7) is excluded by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication);

8) reception centre – special institution of internal affairs bodies, intended for reception and detention of persons, not having defined place of residence and identity cards, in the absence of signs of criminal and administrative infractions in their actions and impossibility of establishment of their personality by other methods;

9) cell - a room for detention of persons placed in the detention center, a special reception center, temporary detention facility, investigation cell;

10-1) disciplinary cell - a cell intended for detention of one person who committed a malicious violation of the established order of detention;

11) detention facility - special institution intended for detention of:

the suspected and accused of committing a crime, in relation of whom detention in custody was chosen as a preventive measure;

convicted to arrest;

convicted to deprivation of liberty;

convicted to deprivation of liberty, left or directed to carry out work on household service;

convicted who came from institutions in accordance with article 88 of the Criminal Executive Code of the Republic of Kazakhstan;

11-1) room of temporary facility - a cell intended for detention of minors who committed a violation of the established order of detention;

11-2) premises for temporary detainees - specially adapted premises intended for compulsory detention of military servicemen for a term established by law, in order to suppress an administrative offense or assure administrative proceedings;

12) a temporary detention facility - a special institution intended for detention of persons detained on suspicion of committing criminal offenses, as well as persons subjected to administrative arrest, in cases provided by paragraph 5 of Article 46-6 of this Law.

Footnote. Article 2 is in the wording of the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Laws of the Republic of Kazakhstan dated 09.11.2011 No. 490-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication); dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 3. Purposes of keeping persons in special institutions, special premises, guardhouses, premises for temporary detainees

Footnote. The heading of Article 3 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

The detention of persons in special institutions, special premises, guardhouses, and premises for temporary detainees shall be purposed to implementation of the measures prescribed by the laws of the Republic of Kazakhstan.

Footnote. Article 3 shall be in the wording of the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 4. Principles of detention in special institutions, special premises, guardhouses, premises for temporary detainees

Footnote. The heading of Article 4 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Confinement in special institutions, special premises, in guardhouses, in premises for temporary detainees shall be executed on the principles of legality, presumption of innocence, equality of citizens before the law, humanism, respect for the honor and dignity of the individual, rules of the international law, and actions shall be avoided aimed at infliction of physical or moral suffering on suspects and accused of crimes held in special institutions or guardhouses.

Footnote. Article 4 shall be in the wording of the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); with amendments introduced by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 5. Grounds for placement of persons in the special institutions

The grounds of placement of persons in the special institutions:

1) placement of suspected and accused in commission of crimes, in relation of whom detention in custody is elected as preventive measure, in the detention facility shall be carried out by decree of judge;

2) placement detained on suspicion in commission of criminal infractions in the temporary detention facility shall be carried out on protocol of detention, made by the investigator or interrogating officer.

Placement of suspected, accused, defendants, in relation of whom detention in custody is elected as preventive measures, in the temporary detention facility shall be carried out by decree of judge in the cases when transfer in the detention facility is not possible because of distance or absence of appropriate ways of communication.

In the cases when the suspected minor may not be left in the same place of residence on living conditions and upbringing, he (she) may be placed in the organization, carrying out the functions on protection of right of the child in accordance with the Law in the manner provided by Article 540 of Criminal Procedure Code of the Republic of Kazakhstan;

3) placement in temporary detention facility, special reception centers of persons subjected to administrative arrest, shall be carried out on the basis of the judge's decree on the arrest;

3-1) placement in a special reception center of foreigners and stateless persons subject to forcible expulsion on the basis of a verdict, decision, court order that has entered into legal force, as well as those who have not left the territory of the Republic of Kazakhstan within the period specified in the judicial act on expulsion, is carried out on the basis of the decision of the internal affairs bodies on the preventive restriction of freedom of movement, sanctioned by the court. Preventive restriction of the freedom of movement of such persons is allowed in this case for the period necessary to organize their expulsion from the Republic of Kazakhstan, but not more than thirty days;

4) placement of persons, not having defined place of residence and (or) identity cards in the reception center shall be carried out on the basis of regulation of internal affairs bodies, sanctioned by the court.

Footnote. Article 5 is in the wording of the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 5-1. Grounds for placing a person in a special room

Placement of a person in a special room shall be carried out on the basis of an administrative detention protocol drawn up by an authorized official.

Footnote. Chapter 1 shall be supplemented by Article 5-1 in accordance with the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 5-2. Grounds for placement of military servicemen in guardhouses and in premises for temporary detainees

1. Grounds for placing military servicemen in guardhouses:

1) placement of persons subject to administrative arrest shall be made on the basis of a judge's decision on arrest;

2) placement of detainees on suspicion of committing criminal offenses shall be made according to the detention protocol drawn up by the investigator or interrogating officer;

3) placement of suspects accused of committing crimes, defendants in respect of whom detention has been applied as a preventive measure shall be made by order of the judge;

4) placement of those sentenced to arrest shall be made on the basis of a court verdict and an order for its execution.

Military servicemen sentenced to imprisonment may be held in guardhouses on the basis of a court verdict pending the conviction enforcement and before they are committed to the enforcement authorities.

2. The placement of military servicemen in premises for temporary detainees shall be made on the basis of a protocol on administrative detention drawn up by an authorized official of the military police.

It shall be allowed to place military servicemen detained on suspicion of committing criminal offenses in the premises for temporary detainees under the duty officer of the military police authority of the Armed Forces of the Republic of Kazakhstan in cases when delivery to a guardhouse or a temporary detention facility is not possible due to remoteness or lack of proper communication means.

Footnote. Chapter 1 has been supplemented by Article 5-2 pursuant to the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 6. Legal status of persons held in special institutions, special premises, guardhouses, premises for temporary detainees

Footnote. The heading of Article 6 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

1. Persons held in special institutions, special premises, in guardhouses, in premises for temporary detainees, shall enjoy the rights and freedoms, and also bear the obligations established for citizens of the Republic of Kazakhstan, with the restrictions stipulated by the Constitution and laws of the Republic of Kazakhstan.

2. Foreigners and stateless persons held in special institutions, special rooms, shall enjoy the rights and freedoms, and also bear the duties established for citizens of the Republic of Kazakhstan, unless otherwise provided by the Constitution, laws of the Republic of Kazakhstan and international treaties ratified by the Republic of Kazakhstan.

Footnote. Article 6 shall be in the wording of the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 7 Places of detention of persons suspected, accused of committing a crime, maintaining their records

Footnote. The title is in the wording of the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated November 24, 2021 No. 75-VII (shall be enforced ten calendar days after the day of its first official publication).

1. Places of detention in custody of suspected and accused shall be:

1) detention facilities of correctional system and bodies of national security of the Republic of Kazakhstan;

2) temporary detention facilities of internal affairs bodies, national security of the Republic of Kazakhstan.

2. In the cases provided by this Law, the places of detention in custody of the suspected and accused may be the institutions of penitentiary system and guardhouses (detention rooms)

3. In cases where detention on suspicion of committing a criminal offense is carried out in accordance with the Criminal Procedure Code of the Republic of Kazakhstan by the captains

of sea vessels on a long voyage, the heads of the territorial divisions of the Border Service of the National Security Committee of the Republic of Kazakhstan, the commandant of the locality, the suspects are kept in the premises, which are determined by the indicated officials and are specially adapted for the detention of suspects.

4. A person or body, in execution of whom there is a criminal case shall be obliged to notify one of the relatives of suspected or accused on place or on change of place of his (her) detention in custody during twelve hours in accordance with the Criminal Procedure Code of the Republic of Kazakhstan.

The notification on the place or change of the detention place of a suspected or accused foreigner shall be directed to the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Committee for National Security, the authorized body of penitentiary system of the Republic of Kazakhstan, as well as to the embassy, consulate or other representative of the state, the citizen which he is.

Keeping records of persons held in pre-trial detention centers of the penitentiary system is carried out in the manner determined by the authorized body in the field of penitentiary activities.

Footnote. Article 7 as amended by the Laws of the Republic of Kazakhstan dated 16.07.2001 No. 244 (shall be enforced from 1 January, 2001); dated 10 July, 2002 No. 338; dated 29 December, 2004 No. 25; dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication); Constitution Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 11.07.2017 № 91-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated November 16, 2020 No. 375-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); dated November 24, 2021 No. 75-VII (shall be enforced ten calendar days after the day of its first official publication).

Article 8. Detention facilities of correctional system and bodies of national security of the Republic of Kazakhstan

Footnote. The title is in the wording of the Law of the Republic of Kazakhstan dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

1. Detention facilities of correctional system and bodies of national security of the Republic of Kazakhstan (hereinafter – detention facilities) intended for detention of suspected and accused, in relation of whom detention in custody is elected as preventive measure.

2. Detention facilities shall have a right of legal entity. They shall be created, reorganized and liquidated by the decision of the Government of the Republic of Kazakhstan.

3. Financing of detention facilities shall be carried out at the expense of budget funds.

Footnote. Article 8 as amended by the Laws of the Republic of Kazakhstan dated 20.12.2004 No. 13 (shall be enforced from 1 January, 2005); dated 29.12.2004 No. 25; dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015).

Article 8-1. Guardhouses

1. Guardhouses shall be established under the military police bodies of the Armed Forces of the Republic of Kazakhstan and the National Security Committee of the Republic of Kazakhstan and shall be their structural divisions.

2. The decision on creation, reorganization and liquidation of guardhouses shall be made depending on their departmental affiliation, respectively, by the Ministry of Defense of the Republic of Kazakhstan, the National Security Committee of the Republic of Kazakhstan.

3. The procedure and organization of the work of the guardhouses shall be determined by the charter of the garrison and guard services of the Armed Forces, other troops and military formations of the Republic of Kazakhstan.

Footnote. Chapter 1 has been supplemented by Article 8-1 under the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 9. Temporary detention facilities of internal affairs bodies, national security of the Republic of Kazakhstan

1. Temporary detention facilities of internal affairs bodies shall be their structural subdivisions. Financing of temporary detention facilities of internal affairs bodies shall be carried out at the expense of budget funds.

2. Temporary detention facilities of bodies of national security of the Republic of Kazakhstan shall be financed at the expense of budget funds.

3. Decision on creation, reorganization and liquidation of temporary detention facilities shall be adopted depending on their departmental affiliation in the manner respectively established by the Ministry of Internal Affairs, National Security Committee of the Republic of Kazakhstan.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 10 July, 2002 No. 338; dated 20 December, 2004 No. 13 (shall be enforced from 1 January, 2005).

Article 9-1. Reception center and special reception centers of internal affairs bodies

1. Reception center and special reception centers of internal affairs bodies shall be structural subdivisions of internal affairs bodies.

Reception center and special reception centers shall be created, reorganized and liquidated by the decision of Ministry of Internal Affairs of the Republic of Kazakhstan.

Upon imposition of the state of emergency, other premises, complying with the sanitary requirements and excluding the possibility of their unwarranted leaving, adapted for detention of persons, not having the defined place of residence and (or) identity cards or subjected to administrative arrest may be used as reception center and special reception center by the decision of commandant of locality.

2. Procedure and organization of activity of reception centers and special reception centers shall be determined by the Ministry of Internal Affairs of the Republic of Kazakhstan.

3. Financing of reception centers and special reception centers shall be carried out at the expense of budget funds.

Footnote. The Law is supplemented by Article 9-1 in accordance with the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Constitution Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Law of the Republic of Kazakhstan dated 10.01.2015 No. 275-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 9-2. Special rooms

1. Special rooms shall be created at the duty units of police bodies by order of the Minister of Internal Affairs of the Republic of Kazakhstan.

2. The procedure for organizing the activities of special rooms and the standard rules of the internal regulations of a special room shall be determined by the Ministry of Internal Affairs of the Republic of Kazakhstan.

Footnote. Chapter 1 shall be supplemented by Article 9-2 in accordance with the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 9-3. Premises for temporary detainees

1. Inside the guardhouses, premises shall be arranged for temporary detainees, to which the procedure and organization of the activities of the guardhouses are applicable.

The procedure and organization of activities of premises for temporary detainees shall be determined by the charter of the garrison and guard services of the Armed Forces, other troops and military formations of the Republic of Kazakhstan.

2. In the absence of guardhouses in the garrisons, by order of the Minister of Defense of the Republic of Kazakhstan, premises for temporarily detained persons shall be created under the duty officer of the military police of the Armed Forces of the Republic of Kazakhstan.

The procedure for organizing the work of the premises for temporary detainees under the duty officer of the military police of the Armed Forces of the Republic of Kazakhstan and the

standard internal regulations in them shall be determined by the Ministry of Defense of the Republic of Kazakhstan.

Footnote. Chapter 1 has been supplemented by Article 9-3 under the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 10. Use of institutions, executing a sentence, premises, specially equipped for detention of persons, subjected to administrative detention, and detention rooms for detention of suspected and accused in custody

1. The convicted serving a sentence in the institutions of the penitentiary system, upon suspicion or accusation in commission other crime by them may be detained in these institutions, but isolated from other convicted, serving a sentence.

2. Suspected and accused of committing criminal offenses related to violations of the State Border of the Republic of Kazakhstan, prior to delivery to temporary detention facilities , may be kept in premises specially equipped for keeping persons subjected to administrative detention.

3. Suspected and accused, in relation of whom detention in custody is applied as preventive measure shall be places to the medical institution in the manner provided by paragraph 2 of Article 23 of this Law in the case of necessity of appointment of examination on the grounds, provided by the legislation, as well as in the case of rendering them the medical assistance.

4. Suspected and accused military servicemen may be detained in the detention rooms in the cases and procedure, provided by the Criminal Procedure Code of the Republic of Kazakhstan, this Law and other regulatory legal acts.

Footnote. Article 10 as amended by the Laws of the Republic of Kazakhstan dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 16.11.2020 No. 375-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 11. Servants of places of detention in custody

1. The servants of places of detention in custody shall be the persons of private and senior officers of internal affairs bodies, correctional system, servants of national security bodies of the Republic of Kazakhstan, exercising the obligations on ensuring the regime of detention in custody.

2. For the period of fulfillment of duties to ensure the regime of detention, captains of ships, heads of institutions of the penitentiary system, territorial divisions of the Border Service of the National Security Committee of the Republic of Kazakhstan, as well as persons

authorized by them, bear duties and enjoy the rights granted by this Law to employees of places of detention guarded.

3. The head of administration of places of detention in custody in this Law shall be:

1) heads of detention facilities;

2) the heads of the institutions of the penitentiary system;

3) heads of temporary detention facilities;

4) heads of territorial subdivisions of the Border Service of the National Security Committee of the Republic of Kazakhstan in charge of temporary detention facilities;

5) the heads of the military police, in charge of whom are guardhouses.

6) is excluded by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

4. Staff in places of detention shall be specially trained, knowledgeable and skilled in working with persons with disabilities.

Footnote. Article 11 as amended by the Laws of the Republic of Kazakhstan dated 10.07.2002 No. 338; dated 20.12.2004 No. 13 (shall be enforced from 01.01.2005); dated 29.12.2004 No. 25; dated 13.02.2012 № 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 16.11.2020 No. 375-VI (shall be enforced ten calendar days after the day of its first official publication); No. 129-VII of 27.06.2022 (shall be enacted ten calendar days after the date of its first official publication).

Article 12. The grounds of transfer of suspected and accused, detained in the detention facilities, to the temporary detention facilities

1. The grounds of transfer of suspected and accused, detained in the detention facilities may be transferred to the temporary detention facilities in the cases, when it is necessary for conducting of investigatory actions, judicial examination of cases out of the bounds of inhabited localities, where the detention facilities located, from which the daily transfer is impossible, for the term of execution of specified actions and judicial process, but no more than thirty days.

2. The ground for this transfer shall be the regulation of prosecutor, judge as well as regulation of investigator or interrogating officer, sanctioned by prosecutor, his (her) assistant

Footnote. Article 12 as amended - dated 20 December, 2004 No. 13 (shall be enforced from 1 January, 2005).

Article 13. The terms of detention in custody

The terms of detention in custody of suspected and accused shall be determined by Criminal Procedure Code of the Republic of Kazakhstan.

Article 14. The regime in the places of detention in custody

1. The regime, providing observance of rights of suspected and accused, execution by them their obligations, their isolation, as well as performance of tasks, provided by the Criminal Procedure Code of the Republic of Kazakhstan shall be established in the places of detention in custody.

2. Ensuring of regime shall be imposed on administration, as well as servants of places of detention in custody, that shall bear responsibility, established by the Law for non-fulfilment or improper fulfilment of official obligations.

Article 15. Internal order in the places of detention in custody

1. Rules of internal order in the places of detention in custody of suspected and accused in commission of criminal infractions (hereinafter – The rules of internal order) shall be approved by the Ministry of Internal Affairs, National Security Committee, Ministry of Defence of the Republic of Kazakhstan for the purposes of ensuring of regime in the places of detention in custody.

The order shall be established by the Rules of internal order:

- 1) reception and placement of suspected and accused for cells;
- 2) conducting of personal search, fingerprinting, photographing as well as inspection of objects of suspected and accused;
- 3) seizure of objects, substances and food products, prohibited for storage and use, from suspected and accused;
- 4) material and social security of suspected and accused;
- 5) acquirement of food products, as well as articles of daily necessity and other industrial goods by the suspected and accused;
- 6) reception and transfer of packages, parcels to the suspected and accused;
- 7) reception and sending of telegrams, letters, money transfers by the suspected and accused;
- 8) forwarding of proposals, applications and complaints by the suspected and accused;
- 9) religious practices by suspected and accused;
- 10) involvement of accused to labor;
- 11) participation of suspected and accused in the family-legal relations and civil transactions;
- 12) conducting of subscription of suspected and accused to the newspaper and journals;
- 13) health service support of suspected and accused;
- 14) daily walks of suspected and accused;

15) conducting of appointments of suspected and accused with the persons, listed in Article 17 of this Law;

16) ensuring participation of suspected, accused and defendants in the investigatory actions and judicial sittings;

17) personal reception of suspected and accused by the head of administration of the place of detention in custody and persons, authorized by them;

18) giving of bodies of suspected and accused, died in the places of detention in custody;

19) application of incentives and penalties to the suspected and accused;

20) release of suspected and accused from custody.

2. Rules of conduct of suspected and accused in the places of detention in custody, the list and quantity of food products, articles of daily necessity, shoes, clothes and other industrial goods, which the suspected and accused may have by one, storage, receive in packages, parcels and acquire via bank transfer shall be established by the rules of internal order, as well as shall be specified the list of services, rendered to the suspected and accused for the established fee.

Footnote. Article 15 as amended by the Laws of the Republic of Kazakhstan dated 20.12.2004 No. 13 (shall be enforced from 01.01.2005); dated 29.12.2004 No. 25; dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015).

Chapter 2. Detention in custody of suspected and abused in commission of a crime

Footnote. The title is in the wording of the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 16. Rights of suspected and accused

1. Suspected and accused during the period of residing in the places of detention in custody shall have a right to:

1) receive information on their rights and obligations, regime of detention in custody, disciplinary requirements, procedure of submission of proposals, applications and complaints;

2) personal security in the places of detention in custody;

3) apply to the head of administration of the place of detention in custody and persons, controlling activity of the places of detention in custody, during residing of the specified persons in its territory;

4) the appointment with the defense;

5) the appointment with relatives and other persons, listed in Article 17 of this Law;

6) keep the documents and records to oneself, relating to the criminal case or concerning the issues of implementation of their rights and legal interests, except for those documents and records, which may be used for the illegal purposes or which contain the details, consisting the state and other legally protected secret;

7) apply with proposals, applications, as well as in a court, on issues on legality and reasonableness of their detention in custody and violations of their legal rights and interests;

8) maintain correspondence and use the writing materials;

9) get free meals, material and social, health service support;

10) eight hours of sleep at night. During of which prohibited their involvement in participation in the procedural and other actions, except for the cases, provided by Criminal Procedure Code of the Republic of Kazakhstan;

11) daily walk of duration at least one hour;

12) use things and objects, the list and number of which are determined by the Internal Regulations;

13) use literature and publications of print media from the library of place of detention in custody or acquired through the administration of the place of detention in custody in the trade network, as well as board games;

14) worship in the premises of the place of detention in custody of suspected and accused, have the religious literature to oneself, cult-objects – upon condition of observant of Rules of internal order and right of other suspected and accused;

15) self-education and use the special literature;

16) receive the packages and parcels;

17) courteous treatment by the servants of the places of detention in custody;

18) participate in the civil transactions;

19) exercise other rights, provided by the legislative acts.

2. Suspected and accused, detained in the detention facilities shall also have a right to:

1) receive and send the money transfers;

2) conclude and discharge a marriage, participate in other family-legal relations in the case, if it is not contradict to the legislation;

3) acquire the food products and articles of daily necessity in the shop (stall) of detention facility or through the administration of the place of detention in custody in the trade network;

4) subscribe to the newspapers and journals and receive them;

5) receive the clothes for the season, allowed to be worn in the places of detention in custody, from administration if it is necessary.

2-1. Suspects and defendants having a disability, either speech impairment or a hearing or visual impairment, shall have the right to access the services of specialists in dactylic sign language or Brailleя.

3. Suspected and accused, detained in custody shall have the opportunity to work in the existence of relevant conditions.

4. Besides the rights above mentioned, suspected and accused shall have the rights, provided by the Criminal Procedure Code of the Republic of Kazakhstan.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); No. 129-VII of 27.06.2022 (shall be enforced ten calendar days after the date of its first official publication).

Article 17. Appointments with defenders, relatives and other persons

1. From the moment of arrest, the suspects, accused and defendants are granted private and confidential meetings with the advocate. The number and duration of meetings are not limited.

The appointments shall be provided with:

1) with a lawyer participating in the case as a attorney - upon presentation of a lawyer's certificate and a written notice of protection (representation), provided for by the Law of the Republic of Kazakhstan "On advocacy and legal assistance";

2) representatives of trade unions and other public associations, being defender, - on presentation of relevant decision of public association or its governing body on assignment as defender;

3) with other persons participating in the case as advocates - upon presentation of a court order, a resolution of an investigator or an inquiry officer, as well as an identity document;

4) with an official representative of a diplomatic mission or consular office of a foreign state - upon presentation of a decision of the body conducting the criminal proceedings.

2. On the basis of the written permission of the person or body conducting the criminal proceedings, the suspects, accused and defendants may be granted no more than two, and minors - no more than three meetings a month with relatives and other persons, each lasting up to three hours.

3. Meetings with relatives and other persons are carried out under the supervision of employees of places of detention. In the event of an attempt to transfer to the suspect, the accused and the defendant the prohibited items, substances and foodstuffs or information that may obstruct the establishment of the truth in a criminal case or contribute to the commission of a crime, the meetings are terminated early.

4. Is excluded by the Law of the Republic of Kazakhstan dated 27.12.2019 No. 292-VI (the order of enforcement see Article 2).

5. The number and duration of appointments shall be provided to the contagious patient (HIV / AIDS and tuberculosis) in the established procedure, after preliminary conversation with medical worker (doctor) and written notification on possibility of infection

Footnote. Article 17 as amended by the Law of the Republic of Kazakhstan dated 11.12.2009 No. 230-IV (shall be enforced from 01.01.2010); dated 05.07.2018 No. 177-VI (

shall be enforced from 01.01.2019); dated 27.12.2019 No. 292-VI (the order of enforcement see Article 2).

Article 18. Ensuring of personal security of suspected and accused

Upon occurrence of the threat for life and health of suspected and accused or the threat of commission a crime against the personality of other suspected and accused, the servants of the places of detention in custody shall be immediately obliged to take measures on ensuring of personal security of suspected or accused, in relation of whom such threat is occurred.

Article 19. Communications

1. Suspected and accused shall be permitted to receive and post not more than two letters and telegrams in month to their relatives and other persons. Post and reception of correspondence shall be carried out at the expense of suspected and accused.

2. Communication of suspected and accused shall be carried out only through the administration of the place of detention in custody, by permission of person or body, in the processing of whom there is a criminal case and shall subject to censure, except for the cases, provided by paragraph 2 of Article 20 of this Law.

3. The letters, containing details, which may interfere to establish the truth on criminal case or contribute to commit a criminal infraction, executed by cryptography, cipher, containing the state or other legally protected secret shall not be posted, and shall not be served and transferred to the person and body, in the processing of whom there is a criminal case.

4. Correspondence of the suspected and accused with persons detained in the institutions of the penitentiary system shall be carried out with the permission of a person or the body in the processing of whom there is a criminal case.

5. Service of letters, receiving to the name of suspected and accused, as well as post of his (her) letters to the addressees shall be carried out by administration of the place of detention in custody not later than three days from the date of receipt of the letter or delivery it to the suspected and accused, except for the holidays and weekends. If it is necessary to translate the letter to the state or officially used Russian language, the term of delivery of letter may be increased for the time, needed for the translation.

6. Information about the death or serious illness of close relatives shall be reported to the suspected and accused immediately after its reception.

7. The letters received for the name of the suspected or accused after his departure from the place of detention in custody shall be posted to the place of his departure no later than two working days after their receipt.

Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 20. Direction of proposals, applications and complaints

1. Proposals, applications and complaints of suspected and accused, addressed to the state bodies, bodies of local self-government, public associations and mass media shall be directed through the administration of the place of detention in custody.

2. Proposals, applications and complaints, addressed to the prosecutor and the court shall subject to the censure and shall be immediately directed to the addressee in the sealed form.

3. Proposals, applications and complaints, addressed to the state bodies shall be considered by administration of the place of detention in custody and directed not later than the day of its submission.

4. The procedure, established by paragraph 3 of Article 19 of this Law shall be applied in relation of proposals, applications and complaints, containing details, which may interfere to establish the truth on criminal case or contribute to commit a criminal infraction, executed by cryptography, cipher, containing the state or other legally protected secret.

5. Complaints to the actions and decisions of court, interrogating officer, the head of investigative body, investigator or prosecutor shall be immediately directed in the procedure provided by Criminal Procedure Code of the Republic of Kazakhstan.

6. Answers to the proposals, applications and complaints shall be declared to the suspected and accused on receipt, and attached to personal matters.

7. Prosecution of suspected and accused in any form for applying with proposals, applications or complaints shall not be allowed in connection with violations their rights and legal interests. Civil servants of places of detention in custody, guilty in such prosecution shall bear responsibility in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015).

Article 21. Meals, acquisition of food and essentials

Suspects and accused persons shall be provided with free meals sufficient to maintain health and strength, according to the standards determined as prescribed by the Budget Code of the Republic of Kazakhstan. Suspects and accused persons shall be given the right to acquire food, essentials and other commodities by bank transfer, with the exception of those prohibited for storage and use in accordance with paragraph 4 of Article 24 of this Law.

Footnote. Article 21 - 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 22. Material and social support

1. Administration of the place of detention in custody shall be obliged to provide conditions, complying with the requirements of hygiene, sanitation and fire safety to the suspected and accused.

2. Suspected and accused shall be detained in the premises, on the basis of the standard of sanitary areas for one person not later than two and a half square meters.

3. Suspected and accused shall be provided by individual sleeping place, bedding items and cutlery.

4. All cells shall be provided by means of broadcasting. Distribution of literature and publications of printed media shall be allowed to the cells from the library of the place of detention in custody.

Article 23. Health service support

1. Administration of the place of detention in custody shall be obliged to provide observance of established sanitary and hygienic and epidemiological requirements, health protection of suspected and accused.

2. The National Security Committee and the Ministry of Defence shall determine the procedure for providing medical, including psychiatric, care to suspects and accused persons, as well as the procedure for keeping them in medical institutions and involving the personnel of these institutions in their care, in coordination with the competent authority responsible for health care.

2-1. The administration of the remand centre of the criminal enforcement (penitentiary) system shall provide premises for the medical care of suspects and accused persons and ensure the proper functioning of these premises.

3. In cases of bodily injury of suspects and accused persons, medical personnel of places of detention shall examine them without delay. The medical examination results shall be recorded in due course and communicated to the victim. If so decided by the head of the administration of the place of detention or the person or body in charge of the criminal case, medical examinations shall be conducted by staff of medical organisations.

4. In the case of serious diseases or death of suspected or accused, administration of the place of detention in custody shall inform their close relatives and prosecutor, who makes inspection on this fact. The body of the deceased after post mortem examination, as well as production of actions, provided by the legislation shall be transferred to the persons, its demand. Disposal of deceased, the body of which is not demanded shall be carried out at the expense of the state.

5. In the case of detection of serious diseases of the suspected or accused from which the death may occur, administration of detention facility shall have a right to raise a question on the change of preventive measure before the prosecutor and body, in whose processing the case is, on the change of preventive measure.

6. In the case of the death of a foreigner detaining in the detention facility or a room of temporary facility, the administration of the place of detention in custody shall immediately inform on that fact the General Prosecutor, the Ministry of Foreign Affairs, the Ministry of Internal Affairs and the Committee for National Security of the Republic of Kazakhstan. In addition, the procurator supervising the application of laws in places of detention, as well as the embassy or other representatives of the state the citizen of which the deceased was, is notified in written form.

Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 29 December, 2004 No. 25; dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); No. 95-VII of 30.12.2021 (shall be effective on 01.07.2022).

Article 24. Reception of packages, parcels and money transfers

1. Suspected and accused shall be allowed to receive unlimited number of packages and parcels, the weight of which is not exceed the standards, provided by postal regulations.

2. Money transfers, incoming to the suspected and accused to the places of detention in custody shall be credited to their personal accounts. Suspected and accused may send the money transfers to the relatives and other persons with the permission of administration of the places of detention in custody.

3. The administration of places of detention shall receive medication for suspects and accused persons on the opinion of a doctor, in cases where it is not possible to provide them with such medication.

4. Items, substances and food products, which constitute a danger for life or health of persons or may be used as crime instruments, or for obstruction of objectives of detention in custody shall be prohibited to transfer to the suspected and accused.

5. Suppression from inspection or transfer of items, substances and food products, prohibited for storage and use to the suspected and accused, as well as transfer them any of items, substances and food products, contrary to the established rules shall entail responsibility in accordance with the legislation.

Footnote. Article 24 as amended by Law of the Republic of Kazakhstan of 30.12.2021 No . 95-VII (shall be enacted on 01.07.2022).

Article 25: Provision of additional paid services

1. To the greatest extent possible, suspected, accused and remand prisoners shall be provided with additional paid domestic and medical services in remand prisons.

2. Paid domestic services, the list of which and the procedure for their provision shall be established by the Ministry of Internal Affairs and the National Security Committee of the Republic of Kazakhstan, shall be provided to suspects, accused persons and defendants by the administration of the remand centre.

3. Medical institutions located in pre-trial detention centres shall provide paid medical services to suspects, accused persons and defendants as required by the legislation of the Republic of Kazakhstan.

Footnote. Article 25 as reworded by Law of the Republic of Kazakhstan No. 95-VII of 30.12.2021 (shall be enacted on 01.07.2022).

Article 26. Involvement of accused to labor

1. In the existence of relevant conditions, the accused, at their request, shall be involved to labor in the established procedure, in the territory of detention facilities.

2. The salary of accused after detention, provided by the Law shall be transferred to their personal accounts.

3. Involvement of accused to labor shall not prevent to conduct the preliminary investigation and interrogation.

Article 27. Ensuring participation of suspected and accused in the investigatory actions and judicial sittings

1. Administration of the places of detention in custody shall ensure reception of suspected and accused to the places of detention in custody and transfer them to the convoy for sending to the place of destination by order of investigator, person, carrying out investigation, prosecutor or the court (judge).

2. Release of suspected and accused from participation in the investigatory actions and judicial sittings shall be carried out on the basis provided by the legislation.

Article 28. Participation of suspected and accused in the civil transactions

Suspected and accused shall have a right to participate in the civil transactions through their representatives or directly, with permission of person or body, in the processing of whom there is a criminal case, and in the procedure, established by the Rules of internal order, except for the cases, provided by the legislation.

Article 29. Features of detention in custody of women

1. Suspected and accused women may have their children at the age of up to three years.

2. In detention places for pregnant women and women with children, improved material and living conditions shall be created, with specialized medical care and increased nutrition and material support established, and determined as prescribed by the Budget Code of the Republic of Kazakhstan.

3. Daily walks with duration up to three hours shall be provided to the pregnant women and women, having the children.

4. A placement in disciplinary cell as a measure of penalty may not be applied to the pregnant women and women, having the children.

5. In the case of necessity, administration of the place of detention in custody may make an application on temporary transfer of the child to the relatives or other persons, or to the childcare centre in the procedure established by the Law.

Footnote. Article 29 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); No. 95-VII of 30.12.2021 (shall be effective from 01.07.2022); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 30. Features of detention in custody of minors

1. For underage suspected and accused persons improved conditions and increased nutritional standards shall be provided, established as prescribed by the Budget Code of the Republic of Kazakhstan.

2. Daily walks of suspected and accused minors shall be established with duration of not less than two hours.

During the walks the minors shall have the opportunity for exercise and sports.

3. In the existence of conditions, the movies shall be shown, watching television shall be organized, the premises as well as sport areas in the open air shall be equipped for the sports activities and other leisure for the suspected and accused minors.

4. To the suspected and accused minors shall be permitted to acquire and receive the textbooks and school supplies, as well as receive them in the parcels and packages over the standards, provided by Article 24 of this Law.

Footnote. Article 30 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).

Chapter 3. Ensuring isolation and prevention of infractions in the places of detention in custody Article 31. Basic requirements of ensuring of isolation

1. Suspected and accused shall be detained in the mass and separate cells in accordance with the requirements of separate placement, provided by Article 32 of this Law.

2. Placement of suspected and accused in the separate cells for the term more than one day shall be allowed on motivated resolution of the head of administration of the place of detention in custody, sanctioned by the prosecutor. Sanctions of prosecutor for the placement of suspected and accused in the separate cells shall not be required in the following cases:

1) In the absence of other possibility to ensure observance of requirements of separate placement, provided by Article 32 of this Law;

2) in the interests of ensuring security of life and health of suspected or accused or other suspected or accused;

3) in the existence of written application of suspected or accused on separate detention;

4) upon placement of suspected and accused in the separate cells in night-time, if during the day they are detained in the mass cells.

3. Conversations, transfer of any items and correspondence of suspected and accused with suspected and accused, detained in other cells or other premises of the places of detention in custody shall not be allowed.

4. Conversations, transfer of any items and correspondence of suspected and accused with persons, being at liberty shall be carried out in accordance with requirements of this Law.

5. Basic requirements of ensuring of isolation shall be observed upon transfer of suspected and accused outside of the places of their detention in custody.

Article 32. Separate placement in the cells

1. Placement of suspected and accused in the cells shall be performed in recognition of their personality and psychological compatibility. Smokers shall be placed separately from nonsmokers as far as possible.

2. Upon placement of suspected and accused, as well as convicted in the cells observance of following requirements are compulsory:

1) separately detained:

men and women;

the minors and adults, except for the cases, when for prevention of violations in the cells, when the minors are detained, detention of positively characterized adults, for the first time bringing to the criminal responsibility is necessary;

persons, for the first time bringing to the criminal responsibility, and persons, previously detained in the places of detention;

suspected, accused from convicted, sentences in relation of whom entered into legal force; suspected and accused by one criminal case or several interconnected cases;

2) separately from other suspected and accused shall be detained:

suspected and accused in commission of especially grave and grievous crimes; convicted upon dangerous repetition of crimes;

foreigners and persons without citizenship in the existence of conditions for their detention separately from other suspected, accused;

persons, being or have been the judges, lawyers, employees of judicial bodies, servants of internal affairs bodies, procuracy, tax, financial police, bodies of the state incomes,

anti-corruption service, economic investigation service, customs bodies, servants and military servicemen of special state bodies, military servicemen of internal military forces, National Guard, Armed Forces of the Republic of Kazakhstan;

by the decision of administration of the place of detention in custody or by written decision of person or body, in the processing of whom there is a criminal case, suspected and accused, life and health are threatened by other suspected and accused;

afflicted persons with infectious diseases or in need in special medical care and observation.

Footnote. Article 32 as amended by the Laws of the Republic of Kazakhstan dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.11.2014 No. 257 (the order of enforcement see Subparagraph 12) Article 10); dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 10.01.2015 No. 275-V (shall be enforced upon expiry of ten calendar days after its first official publication); No. 89-VII of 29.12.2021 (shall enter into force ten calendar days after the date of its first official publication).

Article 33. Protection of suspected and accused and their supervision

1. Suspected and accused, that are in the places of detention in custody and supervision shall be moved within the territory of these places under guard or accompanied by the servants of the places of detention in custody.

The procedure for implementation of protection and supervision of persons being in pretrial detention centers of penitentiary system shall be determined by the Ministry of Internal Affairs of the Republic of Kazakhstan.

2. Suspected and accused shall be subjected to the personal search, fingerprinting and photographing.

The premises, where they are placed shall be subjected to the search, and their items, packages and parcels to the inspection.

3. Money, securities and valuables, that are found in the places of detention in custody and the owner of which is not established shall be seizure, on that the protocol is made, and shall be transferred to the authorized body, in the competence of which entered their implementation, in the procedure established by the legislation of the Republic of Kazakhstan

4. Money, securities and valuables, voluntarily surrendered during inspection shall be withdrawn and stored in accordance with the rules of internal order before the release of suspected or accused without the right of use and disposition them during their stay in the places of detention in custody. In the case of conviction and direction of persons, held under guard, to the places of detention, the above mentioned money, securities and valuables shall be transferred according to the list of institution to the enforcing criminal penalties.

5. Items, substances and food products, prohibited for storage and use by the suspected and accused shall be transferred for storage to the administration of the place of detention in custody or shall be destroyed by the decision of court.

6. Employees of the places of detention shall inspect the items and clothes of persons upon entry and exit from the territory of the places of detention, as well as inspection of entering and leaving vehicles, the seizure of objects, substances and food products that are prohibited for storage and use by the suspects and accused.

7. Special investigation, counter-intelligence and secret investigative activities shall be conducted in the places of detention in custody for the purpose of identification, prevention, suppression and detection of crimes, as well as preventing, opening and suppressing intelligence and (or) subversive actions, in the manner prescribed by the legislation of the Republic of Kazakhstan.

Footnote. Article 33 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2009 No. 228-IV (the order of enforcement see Article 2); dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2014 No. 233-V (shall be enforced from 01.01.2015); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 34. Ensuring of security requirements on the territories adjacent to the places of detention in custody

The security requirements may be established by presentation of bodies of correctional system in the territories, that are directly adjacent to the detention facilities and the boundaries of which are determined by the local executive bodies.

Footnote. Article 34 as amended by the Law of the Republic of Kazakhstan dated 29 December, 2004 No. 25.

Article 35. Basic obligation of suspected and accused

1. Suspected and accused shall be obliged to:

1) observe procedure of detention in custody, established by this Law and Rules of internal order;

2) execute the legal requirements of administration of the places of detention in custody;

3) observe requirements of hygiene and sanitation;

4) go on a daily walk (release from the walks shall be carried out by the head of the place of detention in custody on the report of medical worker of the place of detention in custody);

5) observe the rules of fire safety;

- 6) treat with due care to the property of the places of detention in custody;
- 7) carry out the cleaning of cells and other premises in the order of precedence;
- 8) not commit the actions, degrading the servants of the places of detention in custody, suspected and accused, as well as other persons;
- 9) not prevent to the servants of the places of detention in custody, as well as other persons, ensuring procedure of detention in custody, in execution them of official responsibilities;
- 10) not commit of intended action, that threaten their lives and health, as well as the life and health of other persons.

2. Suspected and accused shall be prohibited to have the items, substances and food products, prohibited for storage and use in accordance with paragraph 4 of Article 24 of this Law, as well as storage and use them.

Article 36. Incentives and procedure of their application

1. For exemplary performance of obligations, observance of established procedure of detention in custody, the following incentives may be applied to the suspected and accused:

- 1) preschedule withdrawal of early imposed penalty;
- 2) permission for additional visit the premises for sports activities, as well as for other forms of leisure activity by the suspected and accused minors.

2. Incentive shall be applied by the head of administration of the place of detention in custody or his (her) assistant.

Article 37. Measures of penalties

The following measures of penalties may be applied to the suspected and accused for the failure to fulfill the established obligations:

- 1) a remark;
- 2) a reprimand;
- 3) placement in a disciplinary cell for a period of up to fifteen days;
- 4) placement in the room of temporary facility of the juvenile suspected and accused for up to seventy-two hours.

Footnote. Article 37 in the new wording of the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 38. Procedure of application of measures of penalty

1. The penalties for violations of established procedure of detention in custody shall be imposed by the head of administration of the place of detention in custody or his (her) assistant. For one violation may not be imposed more than one penalty to the guilty person.

2. Penalty shall be imposed in recognition of circumstances of commission of violation and behavior of suspected and accused. Penalty may be imposed not later than ten days from the date of detection of violation, and if in connection with violation an inspection is conducted – from the date of its completion, but not later than one month from the date of commission of violation.

3. Before imposition of penalty, suspected or accused shall offer the written explanation, and in the case of refusal from offering of explanations on that shall be made the relevant act.

4. Penalty in the form of reprimand shall be imposed in oral or written form, other penalties – in written form.

5. Suspected and accused shall have a right to apply with appeal of penalty to the superior civil servant, prosecutor or court. Filing of a complaint shall not suspend the execution of penalty.

Article 39. Detention in a disciplinary cell, a room of temporary facility

1. The suspected and accused may be placed in a disciplinary cell, and minors - in a room of temporary facility for:

- 1) oppression and insult of other suspected and accused;
- 2) disobedience to legal requirements of the employees of the places of detention in custody or other persons for insulting them;
- 3) repeated violation of the rules of isolation;
- 4) storage, production and consumption of alcoholic beverages;
- 5) storage, production and use of other items, substances and food products prohibited for storage and use;
- 6) participation in gambling games.

2. Punishment in the form of placement to a disciplinary cell, a room of temporary facility shall be also applied to the suspected and accused, who were previously reprimanded two or more times.

3. Placement to a disciplinary cell, a room of temporary facility shall be carried out on the basis of the decision of the head of administration of the place of detention in custody or the person performing his duties and the conclusion of the medical officer on the possibility of keeping the suspected or accused in the disciplinary cell, a room of temporary facility.

4. The suspected and accused are provided with an individual bed and bedding only for the time of sleep at the set time in the disciplinary isolator, temporary isolation facilities.

5. The suspected and accused, placed in a disciplinary cell, a room of temporary facility shall be prohibited:

- 1) correspondence, visits, except visits with the defender;
- 2) purchase of food products and basic necessities;
- 3) receiving letters, parcels and deliveries;
- 4) use of board games, books, newspapers, magazines and other literature.

Parcels and deliveries are handed to the suspected and the accused after the expiration of their term in the disciplinary cell, a room of temporary facility.

Other restrictions that are not provided by this article, with respect to the suspected and accused in the disciplinary cell, room of temporary facility shall not be allowed. Sending of their proposals, applications and complaints shall be carried out in accordance with the procedure provided for in Article 20 of this Law.

6. The head of the administration of the place of detention in custody or the person performing his duties shall have the right to postpone execution of the penalty in the form of confinement to a disciplinary cell, a room of temporary facility, to release the suspected or the accused ahead of schedule, taking into account medical indications. If the deadline for the execution of the penalty for medical reasons exceeds one month from the date of its imposition, the suspected or the accused shall be exempted from the penalty.

7. Women with infants, pregnant women and minors shall not be placed in a disciplinary cell.

Footnote. Article 39 in the new wording of the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 40. Material responsibility of suspected and accused

1. Suspected and accused shall bear material responsibility for material damage, caused to the state during detention in custody:

1) upon execution of labor obligations, - in the procedure and amounts, provided by labor legislation of the Republic of Kazakhstan;

2) caused by other actions, - in the procedure and amounts, provided by the legislation.

2. The amount of material damage, caused to the state by suspected or accused shall be determined by regulation of the head of administration of the place of detention in custody.

3. Regulation shall be declared to the suspected or accused on receipt and may be appealed to the superior civil servant, prosecutor or court.

4. In the case of refusal of voluntary compensation of material damage, it shall be recovered in the judicial procedure in accordance with the legislation of the Republic of Kazakhstan.

5. The sums, incorrectly recovered for the caused material damage shall subject to return to the suspected or accused and shall be credited to the personal account.

6. At the request of suspected or accused, the material damage caused by him (her) may be compensated by his (her) relatives or other persons with their consent.

7. In the case of direction of convicted person to the institution, executing the penalty, uncompensated material damage shall be recovered by administration of specified institution from the funds, incoming to the personal account of convicted.

8. In the case of release of suspected or accused from custody, uncompensated material damage may be recovered by court decision.

9. Material damage, caused to the suspected or accused due to the fault of administration of the place of detention in custody shall be recovered in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 40 as amended by the Law of the Republic of Kazakhstan dated 15 May, 2007 No. 253.

Article 41. Measures, applied in the case of refusal of the meal

1. Upon establishment of the fact of refusal of the meal of suspected or accused, the head of administration or his (her) assistant shall be obliged to find out the reasons and inform the person and body, in the processing of which there is a criminal case, as well as prosecutor, carrying out supervision for application of the Laws in the places of detention in custody.

2. Suspected or accused, refusing of the meal shall be detained as far as possible separately from other suspected and accused and shall be under supervision of medical worker.

3. The measures, including enforcement measures, directed to the health support of suspected or accused, refusing of the meal, if his (her) life is threatened shall be carried out by medical indication on the basis of written report of medical worker, supervising for him (her).

4. Refuse of the meal of suspected or accused shall not prevent to his (her) prison transfer or convoy to other places of detention in custody, as well as participation in the investigatory actions and judicial sittings. If it is necessary, the prison transfer or convoy shall be conducted accompanied by medical worker.

Article 42. General ground of application of physical force, special means, gas and fire arms in the places of detention in custody

Physical force, special means, gas and fire arms shall be applied by the servants of the places of detention in custody or other servants of correctional system, internal affairs bodies, involving for ensuring of legal order, only in the cases, provided by the legislation. The servants of the places of detention in custody shall be obliged to undergo the special training, as well as periodic inspection for applicability to the actions in the conditions, related with application of physical force, special means, gas and fire arms.

Footnote. Article 42 as amended by the Law of the Republic of Kazakhstan dated 29 December, 2004 No. 25.

Article 43. Application of physical force in the places of detention in custody

Physical force, as well as fighting methods of struggle may be applied in the places of detention in custody in relation of suspected or accused for suppression of infraction

committed by them or overcoming of his (her) countering to the legal requirements of servants of the places of detention in custody, if nonviolent methods do not provide termination of infraction or carrying out of legal requirements.

Article 44. Application of special means and gas spray gun in the places of detention in custody

1. Special means and gas spray gun may be applied in the places of detention in custody in the following cases:

1) for holding off an attack of suspected or accused to the servants of the places of detention in custody and other persons;

2) for suppression of mass disorders or group violations of established regime of detention in custody;

3) for suppression of illegal actions of suspected or accused, rendering defiance to the legal requirements of the servants of the places of detention in custody or other servants of correctional system, internal affairs bodies, engaging for ensuring of law enforcement;

4) for hostages release, holding off an attack on the buildings, premises, construction, transport vehicles, land plots, belonging to the citizens, organizations and state bodies, as well as for release them from capture;

5) for suppression of attempt to escape of suspected or accused from the places of detention in custody or from the convoy;

6) for suppression of attempt of suspected or accused to cause harm to others or themselves;

7) for detention and conveying of suspected, accused and convicted, escaped or evading of serving the sentence of imprisonment.

2. As the special means may be applied:

1) handcuffs – in the case, provided by subparagraph 3), 5)-7) of paragraph 1 of this Article, in the absence of handcuffs the servants of places of detention in custody shall have a right to use improvised means of binding;

2) rubber truncheons – in the cases, provided by subparagraph 1)-6), 7) of paragraph 1 of this Article;

3) gas spray gun and lachrymatory agents – in the cases, provided by subparagraphs 1)-4), 6), 7) of paragraph 1 of this Article;

4) light and sound devices distracting influence – in the cases, provided by subparagraphs 1)-4), 6) of paragraph 1) of this Article;

5) devices for opening premises, forced stopping of transport – in the cases, provided by subparagraphs 2) and 4) of paragraph 1 of this Article;

6) water cannons, armored vehicles and other special transport vehicles – in the cases, provided by subparagraphs 2) and 4) of paragraph 1 of this Article;

7) service animals – in the cases, provided by subparagraphs 1)-6), 7) of paragraph 1 of this Article.

3. It shall be prohibited to apply the special means, gas spray gun and fighting methods of struggle in relation of women, persons with obvious signs of disability, except for the cases of commission by them an attack, threatening the life and health of others, group attack or rendering of armed resistance.

Footnote. Article 44 as amended by the Law of the Republic of Kazakhstan dated 29 December, 2004 No. 25.

Article 45. Application of fire arms in the places of detention in custody

1. Firearms may be applied in the places of detention in custody in the following cases:

1) for protection against attack, threatening the life or health of servants of the places of detention in custody, suspected and accused, other persons;

2) for holding off an attack of suspected or accused to the servants of the places of detention in custody, other persons in order to possess of weapon;

3) for hostages release, captured buildings, constructions, premises and transport vehicles;

4) for holding off group or armed attack on the buildings, constructions, premises and transport vehicles of the places of detention in custody;

5) for detention of person, rendering of armed resistance, as well as overtaken in commission of grievous crime against life and health of servants of the places of detention in custody or other persons;

6) for suppression of attempt to escape of suspected or accused from the places of detention in custody or from the convoy;

7) for detention of armed person, refusing to execute the legal requirement of the servant of the place of detention in custody on surrender of weapons;

8) for suppression of violent release of suspected and accused;

9) protection from animal attack;

10) sending of emergency signal or call for help;

11) in all other cases of necessary defence and extreme necessity.

2. It shall be prohibited to apply the weapons in relation of women and minors, except for the cases of commission by them an armed attack, rendering of armed resistance, taking of hostages, transport vehicles, as well as aircraft or group attack.

3. The prosecutor shall be immediately informed on each case of use of weapon and special means, caused the death of persons or other grave consequences.

Article 46. Regime of special conditions in the places of detention in custody

1. In the cases of natural disasters, epidemics, epizootic diseases, extensive fires, major accidents of life support systems, mass disorders or defiance of suspected and accused or in the existence of real threat of armed attack to the places of detention in custody, the regime of special conditions shall be introduced in the relevant places of detention in custody for the

term of not more than thirty days by the decision of Ministry of internal affairs, Chairman of the National Security Committee, Minister of Defence of the Republic of Kazakhstan, agreed upon with the Procurator General of the Republic of Kazakhstan.

2. Upon introduction of the regime of special conditions may be restricted or suspected all the measures, carried out with participation of suspected and accused; shall be enhanced their security, access control and supervision of suspected and accused, detaining in custody; shall be terminated reception of packages and parcels, as well as shall be taken other measures, provided by the Law.

3. In the case of occurrence of immediately dangerous to life and health of suspected and accused, other persons, the head of administration of the place of detention in custody may independently introduce the measures, provided by paragraph 2 of this Article, with immediate notification respectively the Ministry of internal affairs, Chairman of the National Security Committee, Minister of Defence, Procurator General of the Republic of Kazakhstan, the head of internal affairs bodies, correctional system, national security, in the territory of which there is a place of detention in custody.

4. Regime of special conditions in the places of detention in custody shall be cancelled by the body or civil servant, by whom it was introduced, or superior body or civil servant.

Footnote. Article 46 as amended by the Laws of the Republic of Kazakhstan dated 16.07.2001 No. 244 (shall be enforced from 1 January, 2001); dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 3-1. Detention of persons in the reception centers

Footnote. The Law is supplemented by Chapter 3-1 in accordance with the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 46-1. Reception and registration of persons, brought to the reception centers

1. Reception of persons, not having the fixed place of residence and (or) documents of identification shall be carried out in the basis of regulation of internal affairs bodies.

2. If during the term, provided for reception, the identity has not been established, the complex of measures shall be conducted by the internal affairs bodies in the manner approved by the Ministry of Internal Affairs of the Republic of Kazakhstan by agreement with General Prosecutor of the Republic of Kazakhstan.

If it is impossible to establish the place of residence and (or) identity of the person, the internal affairs bodies shall direct the regulation on application of preventive restriction of liberty of movement in relation of such person in a court during forty-eight hours from the date of detention.

After receiving of court sanction, the regulation shall be immediately announced on receipt to the person, not having the fixed place of resident and (or) the documents of identification. In the case of refusal by court to sanction the regulation on application of preventive restriction of liberty of movement, such person shall be immediately released from the reception center.

3. Upon detention of person, not having the fixed place of residence and (or) documents of identification, in which there are the children, the court shall take the measures on determination of the place of his (her) residence in accordance with the legislation of the Republic of Kazakhstan.

4. Upon placement of foreigners in the reception center, the state body, carrying out detention shall immediately inform the General Prosecutor on that, the Ministry of Foreign Affairs, National Security Committee and Ministry of Internal Affairs of the Republic of Kazakhstan.

5. Each person, brought and placed in the reception center shall be subjected to personal search, medical examination, sanitary disposal, fingerprinted and photographed.

6. Procedure of conducting of personal search, medical examination, sanitary disposal, fingerprinting and photographing, as well as the list of items, subjected to seizure shall be determined by the rules of internal order in the reception center, approved by the Ministry of Internal Affairs of the Republic of Kazakhstan.

Article 46-2. Verification of persons, placed in the reception center

1. A person, not having the fixed place of residence and (or) documents of identification, placed in the reception center shall be subjected to verification for the purposes of establishment of identity.

2. Polling of person, placed in the reception center shall be carried out during the day of his (her) stay in the reception center. The results of polling shall be formed by the protocol, signed by the respondent and servant, carried out the polling.

Article 46-3. The terms of detention, procedure and grounds of release from the reception center

1. A person, not having the fixed place of residence and (or) documents of identification shall be placed in the reception center on the basis of regulation of internal affairs body, sanctioned by court on application of preventive restriction of liberty of movement for the term of up to thirty days.

2. A person, not having the fixed place of residence and (or) documents of identification shall be released from the reception center earlier than the term, established by paragraph 1 of this Article, in the cases of:

- 1) establishment of identity;

2) establishment of implication to the commission of criminal and administrative infractions;

3) establishment of the person of a minor age with direction to the centers of adaptation of minors in the manner established by the legislation of the Republic of Kazakhstan;

4) transfers in the order of readmission.

3. Upon release of person, not having the fixed place of residence and (or) documents of identification shall be issued the regulation, in which the results of verification on establishment of identity are represented, by the head of reception center or his (her) assistant from the reception center. During twenty-four hours from the date of release, the prosecutor, a court and center of social adaptation for persons, not having the fixed place of residence shall be informed in a written form.

The documents, money and items, seized from him (her), except for the items and substances, the storage of which is illegal shall be returned to the person, released from the reception center on receipt, who does not have the fixed place of residence and (or) documents of identification.

4. Upon release from the reception center, the packed meal by food standards, provided for detention in the reception center, and release certificate shall be given to the persons, not having the fixed place of residence and (or) documents of identification at the time of travel to the place of further devices.

Footnote. Article 46-3 as amended by the Law of the Republic of Kazakhstan dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 13.05.2020 No. 327-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 46-4. The regime of detention in the reception center

1. The regime, ensuring security of detained persons and excluding possibility of their unauthorized leave shall be established in the reception centers. Conditions of detention in the reception center, equipment of premises, the plan of the day shall be determined by the rules of internal order of reception center, approved by the Ministry of Internal Affairs of the Republic of Kazakhstan.

2. The persons, not having the fixed place of residence and (or) documents of identification, detained in the reception centers shall be provided by meal by the standards, established for detained in custody and residing in the temporary detention facility.

If the detained have the children, they may be placed together in a separate cell by the court decision and shall be provided by the meals in accordance with the legislation of the Republic of Kazakhstan on prevention of infractions, neglect and homelessness among minors.

3. Men, placed in the reception center shall be placed separately from women.

4. Physical force and special means may be applied to the persons, detained in the reception center in accordance with the Law of the Republic of Kazakhstan “On internal affairs bodies of the Republic of Kazakhstan”.

Article 46-5. Rights and obligations of persons, detained in the reception centers

1. Persons, detained in the reception centers shall have a right to:
 - 1) receive information on their rights and obligations, regime of detention in the reception center, procedure of submission of proposals, applications and complaints;
 - 2) personal security in the period of stay in the reception center;
 - 3) get material and social and health service support by standards, approved by the rules of internal order;
 - 4) eight hours of sleep at night;
 - 5) daily walk at least two hours a day;
 - 6) worship – upon condition of observance of rules of internal order and rights of other persons, detained in the reception center;
 - 7) apply to administration of reception center, procuracy bodies, the court on issues of legality and reasonableness of their detention, as well as violation of their rights and legal interests.

2. Persons, placed in the reception centers shall be obliged to comply with the rules of internal order.

3. The following enforcement actions shall be applied to the persons, violated the established rules of internal order, depending on nature and gravity of offence:

- 1) warning;
- 2) extraordinary duty on cleaning of premises of reception center.

Decision on application of enforcement actions shall be adopted by the head of reception center and formed by the motivated regulation.

Chapter 3-2. Confinement of persons subject to administrative arrest, foreigners and stateless persons subject to forcible deportation, in special reception centers, temporary detention facilities, and in guardhouses

Footnote. The heading of Chapter 3-2 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Footnote. The Law shall be supplemented by Chapter 3-2 in accordance with the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); in the new wording of the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); as amended by the Law of the

Republic of Kazakhstan dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 46-6. Reception and registration of persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, delivered to special reception centers, temporary detention facilities

Footnote. The heading of Article 46-6 as amended by the Law of the Republic of Kazakhstan dated 19.12.2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication).

1. Upon admission to a special reception center, a temporary detention facility for persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, the presence of:

1) a judge's decision on the arrest, signed personally and sealed by the court;

1-1) decisions of the internal affairs body on the preventive restriction of freedom of movement, sanctioned by the court;

2) the protocol of personal inspection with seized items prohibited for storage in a special reception center, a temporary detention facility;

3) documents certifying the identity of a person subjected to administrative arrest, a foreigner and a stateless person, subject to forcible expulsion.

2. The procedure for registration of persons brought to a special reception center, temporary detention facility, conduct of a personal search, medical examination, fingerprinting, photographing, visiting by official representatives of diplomatic missions or consular offices of foreign states of a foreigner who is a citizen of the state they represent, as well as a list of things subject to withdrawal, are determined by the Internal Regulations in a special reception center, approved by the Ministry of Internal Affairs of the Republic of Kazakhstan.

3. The administration of a special reception center, a temporary detention facility, within 24 hours, notifies the close relatives at the place of residence about the placement of persons subjected to administrative arrest in a special reception center, a temporary detention facility or their sending to the appropriate medical organizations, and in the case of detention of a foreigner - an embassy, consulate or other representative office of a foreign state through the Ministry of Foreign Affairs of the Republic of Kazakhstan.

4. Appeals of persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, addressed to the court, prosecution authorities or other state bodies, are not considered and sent to the address within twenty-four hours from the time of their submission.

5. In cases of absence of a special reception center or the absence of places in it or the impossibility of being delivered to a special reception center because of its remoteness or lack

of appropriate means of communication, the detention of persons under administrative arrest in a temporary detention facility is permissible.

Persons subjected to administrative arrest and persons detained on suspicion of having committed criminal offenses are held separately in a temporary detention facility.

Footnote. Article 46-6 as amended by the Law of the Republic of Kazakhstan dated 27.12.2019 No. 292-VI (the order of enforcement, see article 2); dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 46-7. Detention regime for persons subjected to administrative arrest, foreigners and stateless persons subject to forcible expulsion

Footnote. The heading of Article 46-7 as amended by the Law of the Republic of Kazakhstan dated 19.12.2020 № 385-VI (shall be enforced ten calendar days after the day of its first official publication).

1. Persons under administrative arrest, foreigners and stateless persons subject to forcible deportation are kept in cells, the doors of which must have strong locks and viewing holes, the windows are equipped with metal bars. In each cell, the Internal Regulations are posted in a special reception area, a temporary detention facility.

2. Regime that provides round-the-clock duty and excludes the possibility of unauthorized withdrawal of detainees from the institution shall be established in special reception centers, temporary detention facilities.

Persons subjected to administrative arrest, foreigners and stateless persons subject to forcible expulsion may be subject to physical force and special means in accordance with the Law of the Republic of Kazakhstan “On Internal Affairs Bodies of the Republic of Kazakhstan”.

3. Persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, held in special reception centers, temporary detention facilities, are provided with food according to the norms established for those held in custody and in a temporary detention center. Foodstuffs are issued to duty officers daily according to the statement.

4. Men placed in special reception centers, temporary detention facilities shall be placed separately from women.

5. Patients with an infectious form of tuberculosis, venereal and other infectious diseases are isolated from other persons subjected to administrative arrest, foreigners and stateless persons subject to forcible expulsion.

6. Military men subjected to administrative arrest shall be held at guardhouses.

The procedure of serving an administrative arrest by military men at the guardhouse shall be determined by the Ministry of Defense, the Ministry of Internal Affairs, and the Committee for National Security of the Republic of Kazakhstan.

Footnote. Article 46-7 as amended by the Law of the Republic of Kazakhstan dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 46-8. Rights and obligations of persons subject to administrative arrest, foreigners and stateless persons subject to forcible deportation, held in special reception centers, temporary detention facilities and in guardhouses

Footnote. The heading of Article 46-8 as amended by the Law of the Republic of Kazakhstan dated 19.12.2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication); dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

1. Persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, held in special reception centers, temporary detention facilities, have the right to:

1) to receive information about their rights and obligations, the regime of detention in a special reception center, a temporary detention facility, the procedure for submitting proposals, applications and complaints;

2) for personal security while in a special reception center, a temporary detention facility;

3) to get material – social and medical and sanitary services in accordance with the norms approved by the Internal Regulations in a special reception center;

4) to receive letters, parcels, packages and deliveries;

5) for an eight-hour sleep at night;

6) for a daily walk of at least two hours a day;

7) for religious rituals - provided that the Rules of Internal Regulations are followed in a special reception center, a temporary detention facility and the rights of others;

8) to apply to the administration of a special reception center, a temporary detention facility, the prosecutor's office, a court on the violation of their rights and legal interests.

2. Persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, placed in special reception centers, temporary detention centers, are obliged to comply with the Internal Regulations in a special reception center, temporary detention center.

3. Military servicemen subject to administrative arrest and held in guardhouses shall be subject to the provisions of paragraphs 1 and 2 of this article in accordance with the procedure for military personnel serving administrative arrest in a guardhouse.

Footnote. Article 46-8 as amended by the Law of the Republic of Kazakhstan dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication); dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 46-9. Release of persons under administrative arrest, foreigners and stateless persons subject to forcible deportation, from a special detention center, temporary detention facility, guardhouse

Footnote. The heading of Article 46-9 as amended by the Law of the Republic of Kazakhstan dated 19.12.2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication); dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

1. Persons under administrative arrest shall be released from a special detention center, temporary detention facility, or guardhouse after they have served the administrative arrest time established by a judge's resolution.

1-1. Foreigners and stateless persons subject to forcible expulsion are released from a special detention center for the execution of a sentence, decision, court order on expulsion or after the expiration of the period of preventive restriction of freedom of movement.

2. The documents, money and things confiscated from them for keeping shall be returned to the exempted persons, except for the things, the storage of which is illegal.

3. In case of illegal storage by persons subjected to administrative arrest, foreigners and stateless persons subject to forcible deportation, firearms or cold steel, explosive, potent or poisonous substances and narcotic drugs, decisions are made in accordance with the legislation of the Republic of Kazakhstan.

4. The released person shall be issued a certificate of his stay in a special detention center, temporary detention facility, or a guardhouse.

Footnote. Article 46-9 as amended by the Law of the Republic of Kazakhstan dated December 19, 2020 No. 385-VI (shall be enforced ten calendar days after the day of its first official publication); dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 3-3. National preventive mechanism

Footnote. The Law is supplemented by chapter 3-3 in accordance with the Law of the Republic of Kazakhstan dated 02.07.2013 No. 111-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Footnote. In Chapter 3-3, the words "Commissioner for Human Rights", "On the Commissioner for Human Rights", "Of the Commissioner for Human Rights", "To the Commissioner for Human Rights", have been respectively replaced by the words "Commissioner for Human Rights in the Republic of Kazakhstan", "On the Commissioner for Human Rights in the Republic of Kazakhstan", "Of the Commissioner for Human Rights in the Republic of Kazakhstan", "To the Commissioner for Human Rights in the Republic of Kazakhstan" under Law of the Republic of Kazakhstan No. 157-VII of 05.11.2022 (shall be enforced ten calendar days after the date of its first official publication).

Article 46-10. National preventive mechanism

1. The national preventive mechanism shall be operated as a system for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, functioning through the activities of the national preventive mechanism actors.

2. In their activities, participants of the national preventive mechanism shall visit special institutions and premises providing temporary isolation from society, as well as other organisations specified by the laws of the Republic of Kazakhstan for visits by these participants (hereinafter referred to as preventive visits).

3. Among the participants in the national preventive mechanism shall be the Commissioner for Human Rights in the Republic of Kazakhstan, as well as members of public monitoring commissions and public associations engaged in protecting the rights and legitimate interests of citizens, lawyers, social workers and doctors selected by the Coordination Council.

4. The Commissioner for Human Rights in the Republic of Kazakhstan shall coordinate the activities of the members of the national preventive mechanism, shall take measures under the legislation of the Republic of Kazakhstan to ensure the required capacity and professional knowledge of the members of the national preventive mechanism.

5. Participants of the national preventive mechanism for preventive visits shall be reimbursed from the budget as determined by the Government of the Republic of Kazakhstan.

Article 46-11. Coordination Council

1. A Coordination Council shall be established under the Office of the Commissioner for Human Rights of the Republic of Kazakhstan with a view to ensuring efficient coordination of the activities of the national preventive mechanism.

The members of the Coordination Council, excluding the Commissioner for Human Rights in the Republic of Kazakhstan, shall be elected by a commission established by the Commissioner for Human Rights in the Republic of Kazakhstan from among the nationals of the Republic of Kazakhstan.

2. The Commissioner for Human Rights in the Republic of Kazakhstan shall approve:
the regulations on the Coordination Council of the Ombudsman for Human Rights in the Republic of Kazakhstan;

the procedure for selecting participants in the national preventive mechanism;
selection procedures for members of the national preventive mechanism;
procedures for the establishment of teams of national preventive mechanism members for preventive visits;

methodological recommendations on preventive visits;

procedures for the preparation of an annual consolidated report on preventive visits.

3. The Coordination Council shall cooperate with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations Committee against Torture.

Article 46-12. Requirements for participation in the national preventive mechanism

1. The following persons may not be members of the national preventive mechanism:

- 1) who have an outstanding conviction or a criminal record that has not been expunged or expunged in accordance with the law;
- 2) those suspected or accused of committing a crime;
- 3) those declared by a court to be legally incompetent or of diminished capacity;
- 4) judges, lawyers, civil servants and military personnel, as well as employees of law enforcement and special public bodies;
- 5) registered with a psychiatrist and/or addiction therapist.

2. Persons who have been exempted from criminal responsibility on non-rehabilitation grounds for an intentional offence may also not be members of the national preventive mechanism; those dismissed from government or military service, from law-enforcement or special public bodies or from the courts or expelled from the Bar Association on negative grounds; and those stripped of their licence to practise as a lawyer.

Article 46-13. Rights of a participant in the national preventive mechanism

1. A participant in the national preventive mechanism shall be entitled to:

- 1) obtain information on the number of persons detained in institutions and organisations subject to preventive visits, the number of such institutions and their location;
- 2) have access to any information relating to the treatment of persons detained in institutions and organisations subject to preventive visits, as well as the conditions of their detention;
- 3) pay preventive visits, as appropriate, in formed teams;
- 4) interview persons detained in institutions and organisations subject to preventive visits and/or their legal representatives without witnesses, in person or through an interpreter if necessary, as well as any other person whom the national preventive mechanism participant believes can provide relevant information;
- 5) freely choose and visit institutions and organisations subject to preventive visits;
- 6) accept reports and complaints of torture and other cruel, inhuman or degrading treatment or punishment.

2. A participant in the national preventive mechanism shall be independent when exercising lawful activities.

Article 46-14. Obligations of participants of the national preventive mechanism

1. While exercising their powers, participants of the national preventive mechanism must observe the legislation of the Republic of Kazakhstan.

2. Participants of the national preventive mechanism shall not interfere with the activities of institutions and organisations subject to preventive visits.

3. Should circumstances raise doubts as to the impartiality of a participant of the national preventive mechanism who is part of the preventive visit team, he or she shall withdraw from the preventive visit.

4. Participants of the national preventive mechanism must register reports and complaints of torture and other cruel, inhuman or degrading treatment or punishment received under the procedure established by the Commissioner for Human Rights in the Republic of Kazakhstan.

Accepted communications and complaints shall be forwarded for consideration by the Commissioner for Human Rights in the Republic of Kazakhstan under the procedure prescribed by the legislation of the Republic of Kazakhstan.

Information on reports and complaints received and communicated shall be entered into the Preventive Visits Report.

5. Participants in the national preventive mechanism that breach the provisions hereof shall be held liable under the laws of the Republic of Kazakhstan.

Article 46-15. Termination of powers of a participant in the national preventive mechanism

The powers of a participant in the national preventive mechanism shall terminate upon:

- 1) a breach of the provisions hereof;
- 2) a written declaration of resignation;
- 3) his/her death or the entry into force of a court decision declaring him/her dead;
- 4) departure for permanent residence beyond the territory of the Republic of Kazakhstan;
- 5) loss of citizenship of the Republic of Kazakhstan;
- 6) entry into force of a conviction by a court;
- 7) other events envisaged by the laws of the Republic of Kazakhstan.

Article 46-16. Types and frequency of preventive visits

1. Preventive visits by the national preventive mechanism shall be subdivided into:

- 1) intermittent preventive visits at regular intervals of at least once every four years;
- 2) interim preventive visits paid between periodic preventive visits to monitor the implementation of the recommendations from the previous periodic preventive visit and to prevent harassment of persons interviewed by the national preventive mechanism by the administration of the institutions and organisations subject to the preventive visit;
- 3) special preventive visits based on reports of torture and other cruel, inhuman or degrading treatment or punishment.

2. The Coordination Council shall establish a timetable and a list of institutions and organisations subject to preventive visits, within the limits of the allocated budget.

Article 46-17. Preventive visit regulations

1. Preventive visits shall be led by groups formed by the Coordination Council from among participants in the national preventive mechanism, under the rules approved by the Government of Kazakhstan in consultation with the Commissioner for Human Rights in the Republic of Kazakhstan.

2. In forming preventive visiting groups, no participant in the national preventive mechanism may be discriminated against on grounds of origin, social, official or material status, gender, race, nationality, language, attitude towards religion, beliefs, place of residence or any other circumstances.

3. The administration of the institutions and organisations subject to preventive visits shall be responsible for ensuring the safety of participants in the national preventive mechanism. Should the national preventive mechanism's participants act inappropriately, the head of the administration of the institutions and organisation subject to the preventive visit shall inform the National Human Rights Ombudsman thereof in writing.

4. Following each preventive visit, a written report shall be prepared on behalf of the group, in a form adopted by the Coordinating Council and signed by all the preventive visit group participants. The member with the dissenting opinion shall prepare it in writing and attach it to the report.

Article 46-18. Annual consolidated report of the participants of the national preventive mechanism

1. The Coordination Council shall issue an annual consolidated report of the national preventive mechanism participants in view of their reports on preventive visits.

2. The annual consolidated report of the national preventive mechanism shall also comprise:

recommendations to authorised government bodies to improve the treatment of persons detained in institutions and organisations subject to preventive visits and to prevent torture and other cruel, inhuman or degrading treatment or punishment;

proposals for improving the legislation of the Republic of Kazakhstan.

The annual consolidated report of the national preventive mechanism shall be accompanied by a financial report on preventive visits for the preceding year.

3. The annual consolidated report of the participants in the national preventive mechanism shall be submitted for consideration by the competent state bodies and shall be posted on the website of the Commissioner for Human Rights in Kazakhstan within one month of its approval by the Coordination Council.

Article 46-19. Confidentiality

1. Participants in the national preventive mechanism may not divulge information regarding a person's private life that comes to their attention during preventive visits without the person's consent.

2. The disclosure by participants in the national preventive mechanism of information concerning a person's private life that becomes known to them in the course of preventive visits, without the person's consent, shall entail liability under the laws of the Republic of Kazakhstan.

Article 46-20. Interaction of authorised state bodies with participants in the national preventive mechanism

1. Public authorities and their officials shall assist participants in the national preventive mechanism to perform their lawful activities.

No public authority or official may restrict citizens' rights and freedoms for reporting acts of torture and other cruel, inhuman or degrading treatment or punishment to the national preventive mechanism participants.

Officials who obstruct the lawful activities of participants in the national preventive mechanism shall be liable under the laws of the Republic of Kazakhstan.

2. Within three months of receiving the annual consolidated report of the national preventive mechanism participants, the competent public authorities shall inform the Commissioner for Human Rights in the Republic of Kazakhstan in writing of the measures taken following consideration of the reports received.

3. Following the reports of the national preventive mechanism's participants based on the findings of preventive visits, the Commissioner for Human Rights in Kazakhstan shall be entitled, as provided for in the legislation of Kazakhstan, to apply to the authorized state bodies or officials for disciplinary or administrative proceedings or criminal proceedings to be instituted against an official who has violated the rights and freedoms of man and citizen.

Chapter 3-4. Confinement of persons subject to administrative detention in special premises, premises for temporary detainees

Footnote. The heading of Chapter 3-4 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Footnote. The Law shall be supplemented by Chapter 3-4 in accordance with the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 46-21. Reception and registration of persons subjected to administrative detention in special rooms

1. The procedure for reception and registration of persons placed in special rooms, conduct of personal searches, medical examinations, fingerprinting, photographing, as well as a list of things to be seized, shall be determined in accordance with the rules for organizing the activities of special rooms.

Reception and registration of military servicemen placed in premises for temporary detainees, conducting a personal search, medical examination (if necessary, fingerprinting and photography), as well as the list of articles to be confiscated, shall be determined in accordance with the rules for organizing the activities of premises for temporary detainees.

2. Close relatives at the place of residence shall be immediately notified of the placement of persons subject to administrative detention in special premises; the command (chiefs) of military units (institutions) shall be immediately notified of the placement of military servicemen subject to administrative detention in temporary detention premises.

When a foreigner is placed in a special room, the state body that carried out the administrative detention shall immediately notify the Prosecutor General's Office, the

Ministry of Foreign Affairs, the National Security Committee and the Ministry of Internal Affairs of the Republic of Kazakhstan.

Footnote. Article 46-21 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 46-22. Regime of detention in special premises, premises for temporary detainees

Footnote. The heading of Article 46-22 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

1. In special rooms, a regime shall be established to ensure the safety of detainees and to exclude the possibility of their unauthorized leaving. The conditions of detention, the requirements for the equipment of the rooms shall be determined by the standard rules of the internal regulations of the special room.

2. Detainees held in special rooms shall be provided with food according to the standards established for detainees in special detention centers. Food shall be issued daily according to the statement.

3. Men placed in special rooms shall be placed separately from women.

4. Juveniles in respect of whom detention has been applied shall be kept separately from adults.

5. Patients with infectious and parasitic diseases cannot be detained with other detainees.

6. In premises for temporary detainees, the confinement regime of military servicemen shall be determined by the rules for organizing the activities of premises for temporary detainees.

Footnote. Article 46-22 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 46-23. Rights and obligations of persons subject to detention, held in special premises, premises for temporary detainees

Footnote. The heading of Article 46-23 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

1. Persons detained shall have the right:

1) receive information about their rights and obligations, the confinement regime in special premises, premises for temporary detainees;

2) for personal safety while staying in special premises, premises for temporary detainees;

3) to receive material and household and medical services;

4) contact the head of the police, military police, prosecutors, and the court regarding violations of their rights and legitimate interests.

2. Persons placed in special premises, premises for temporary detainees, are obliged to comply with the internal regulations of the special premises, premises for temporary detainees, approved accordingly by the head of the police body, military police body

Footnote. Article 46-23 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 46-24. Release of detained persons from special premises, premises for temporary detainees

Footnote. The heading of Article 46-24 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

1. Persons subjected to detention shall be subject to immediate release upon elimination of the circumstances that served as the grounds for their detention, or at the end of the period of detention established by the legislation of the Republic of Kazakhstan.

2. The released persons shall receive the documents, money and things against receipt taken from them for storage, except for things the storage of which is illegal.

3. In case of unlawful possession by a detained person of firearms or cold steel, explosive, potent or toxic substances and narcotic drugs, decisions shall be made in accordance with the legislation of the Republic of Kazakhstan.

4. Upon release, the person shall be issued a certificate confirming his stay in special premises, premises for temporarily detained persons.

Footnote. Article 46-24 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 4. Final provisions Article 47. Grounds of release of suspected and accused from custody

Grounds of release of suspected and accused from custody shall be:

1) regulation of investigator, interrogating officer, prosecutor or judge, as well as judicial decree, rendered in accordance with Criminal Procedure Code of the Republic of Kazakhstan;

2) regulation of the head of administration of the place of detention in custody or prosecutor on release of specified suspected or accused in connection with expiration of a term of detention in custody, established by the legislation of the Republic of Kazakhstan.

Article 48. Procedure of release of suspected and accused from custody

1. Release of suspected and accused from custody shall be carried out by the head of administration of the place of detention in custody on receipt of motivated regulation of investigator, interrogating officer, prosecutor or judge, or on motivated decree of court.

2. The head of administration of the place of detention in custody shall be obliged to notify on that the body or person, in the processing of which there is a criminal case, as well as the prosecutor not later than twenty-four hours before the expiration of the term.

3. If upon the expiration of the statutory period of arrest or detention in custody as a preventive measure, the relevant decision on release of the suspected or the accused or on extension the period of detention as a preventive measure or notification about this decision has not been received, the head of the administration of the place of detention shall release him (her) by his (her) regulation and direct its copy to the body or person in whose proceedings the criminal case is being filed and to the prosecutor in accordance with the Criminal Procedure Code of the Republic of Kazakhstan within twenty-four hours.

4. Upon failure to comply with requirements of third paragraph of this Article, the head of administration of the place of detention of suspected and accused in custody shall bear responsibility, established by the Law.

5. The suspected or the accused, released from custody shall be given their personal documents, things, money stored on his personal account, as well as a certificate stating who authorized his detention; the reasons, place and time of detention and the election of a preventive measure; reasons and term of liberation. The suspected or accused, released from custody by the administration of the place of detention, if necessary, shall be provided with trip to the place of residence by rail, road or water transport, food, and clothing for season.

Footnote. Article 48 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 49. Supervision over the procedure and conditions of detention of persons in special institutions, special premises, guardhouses, and premises for temporary detainees

Footnote. The heading of Article 49 as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Supervision over the procedure and conditions of detention of persons in special institutions, special premises, guardhouses, and premises for temporary detainees shall be performed by the prosecution authorities.

Footnote. Article 49 shall be in the wording of the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 14.03.2023 No. 206-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 50. Public control

1. Public control shall be carried out by public associations for the purposes of rendering assistance to the persons, detained in the special institutions, in carrying out of their rights and

legal interests in a part of conditions of detention, health service support, organization of labour, leisure and education, provided by the legislation of the Republic of Kazakhstan.

2. Public control of special institutions in the form of activities of public monitoring commissions is carried out in accordance with Articles 33, 34, 35, 37 and 38 of the Penitentiary Code of the Republic of Kazakhstan.

3. excluded by the Law of the Republic of Kazakhstan dated November 24, 2021 No. 75-VII (shall be enforced ten calendar days after the day of its first official publication).

4. excluded by the Law of the Republic of Kazakhstan dated November 24, 2021 No. 75-VII (shall be enforced ten calendar days after the day of its first official publication).

5. Interference in the activities of special institutions, as well as in operational search, counterintelligence, criminal procedure activities and proceedings in cases of administrative offenses shall not be allowed upon carrying out public control.

Footnote. The Law is supplemented by Article 50 in accordance with the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication); dated November 24, 2021 No. 75-VII (shall be enforced ten calendar days after the day of its first official publication).

Article 51. Powers of public supervisory committee

1. Public supervisory committee, as well as members of public supervisory committee shall have a right to:

1) visit the special institutions without delay consisting of at least two members of the public supervisory committee in the manner determined by the central executive bodies;

2) have a conversation with persons, detained in the special institutions, with the consent of specified persons, as well as receive applications and complaints on issues of violation of their rights and legal interests;

3) apply with applications to the administration of special institutions and (or) the procuracy bodies on issues, related with ensuring of rights and legal interests of persons, detained in the special institutions.

2. Powers of public supervisory committee on visit of specified institutions shall be suspended for the period of introduction of a regime of special conditions in the special institutions.

3. Upon execution of powers, the members of public supervisory committee shall be obliged to observe provisions of regulatory legal acts, ensuring activity of special institutions, as well as comply with the legal requirements of administration of specified institutions. Implementation of measures of public control shall not create obstacles of carrying out of procedural actions.

Footnote. The Law is supplemented by Article 51 in accordance with the Law of the Republic of Kazakhstan dated 29.12.2010 No. 375-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

The President
of the Republic of Kazakhstan

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