

On combating corruption

Unofficial translation

The Law of the Republic of Kazakhstan dated 18 November 2015 № 410-IV LRK.

Unofficial translation

This Law regulates social relations in the field of combating corruption and is aimed at implementing the anti-corruption policy of the Republic of Kazakhstan.

Chapter 1. GENERAL PROVISIONS

Article 1. Explanation of some definitions contained in this Law:

The definitions contained in this Law are used to mean the following:

1) administrative and economic functions - the right to manage and dispose the property which is on the balance sheet of the organization, granted in the manner established by the law of the Republic of Kazakhstan;

1-1) a person holding a responsible public position - a person holding a position that is established by the Constitution of the Republic of Kazakhstan, constitutional and other laws of the Republic of Kazakhstan for direct execution of the functions of the state and the powers of state bodies, including a deputy of the Parliament of the Republic of Kazakhstan, a judge, and a person who, according to the legislation of the Republic of Kazakhstan on civil service, holds a political civil service position or an administrative civil service position of block "A";

2) an official - a person who permanently, temporarily or by special authority fulfills the functions of a representative of power or performs organizational and administrative or administrative and economic functions in state bodies, local self-government bodies, as well as in the Armed Forces, other troops and military formations of the Republic of Kazakhstan;

2-1) a person performing managerial functions in a state organization or a subject of a quasi-public sector - a person who permanently, temporarily or by special authority performs organizational and administrative or administrative and economic functions in these organizations;

3) a person authorized to perform public functions – a civil servant in accordance with the laws of the Republic of Kazakhstan on the civil service, a maslikhat deputy, as well as a person temporarily performing duties required by a civil service position, prior to his/her appointment to this civil service position;

4) a person equated to persons authorized to perform state functions - a person elected to local self-government bodies; a citizen registered in the manner prescribed by the law of the Republic of Kazakhstan as a candidate for the President of the Republic of Kazakhstan, deputies of the Parliament of the Republic of Kazakhstan or maslikhats, akims of towns of

district significance, settlements, villages, rural districts, as well as members of an elected body of local self-government; an employee who works permanently or temporarily in a local government body, whose remuneration is paid from the state budget of the Republic of Kazakhstan; a person performing managerial functions in a state organization or a subject of a quasi-public sector, employees of the National Bank of the Republic of Kazakhstan and its departments; employees of the authorized organization in the field of civil aviation, acting in accordance with the legislation of the Republic of Kazakhstan on the use of the airspace of the Republic of Kazakhstan and aviation activities, employees of the authorized body for regulation, control and supervision of the financial market and financial organizations;

5) conflict of interest - a contradiction between the personal interests of persons holding a responsible public position, persons authorized to perform public functions, persons equated to them, officials and their official powers, in which the personal interests of these persons may lead to non-performance and (or) improper performance of their official duties;

6) corruption - illegal use by persons holding a responsible civil service position, persons authorized to perform public functions, persons equated to persons authorized to perform public functions, officials of their official powers (powers of office) and related opportunities to obtain or derive, personally or through intermediaries, material (non-material) benefits and advantages for themselves or third parties, as well as bribery of the said persons through benefits and advantages provided to them;

7) anti-corruption policy - legal, administrative and organizational measures aimed at reducing corruption risks, increasing public confidence in the activity of state bodies and other measures in accordance with this Law;

8) anti-corruption restrictions - restrictions established by this Law and aimed at preventing corruption offences;

9) combating corruption – the activity of anti-corruption agencies, within their powers, on preventing corruption, including fostering an anti-corruption culture in the society, identification and elimination of causes and conditions facilitating the commission of corruption offences, as well as identification, suppression, solution and investigation of corruption offences and elimination of their consequences;

10) the authorized body for combating corruption - a central executive body in the field of the civil service and combating corruption and its department, their territorial subdivisions performing the functions of implementing the anti-corruption policy of the Republic of Kazakhstan and coordination in the field of combating corruption, within their powers;

11) corruption offence - an unlawful culpable act (action or inaction) with elements of corruption, for which administrative or criminal liability is established by law;

12) corruption risk – the likelihood of emergence of causes and conditions facilitating the commission of corruption offences;

13) prevention of corruption – the activity of anti-corruption agencies on the study, identification, limitation and elimination of causes and conditions facilitating the commission

of corruption offences through the development and application of a set of preventive measures;

14) organizational and administrative functions - the right, granted in the manner prescribed by the law of the Republic of Kazakhstan, to issue orders and instructions that are binding for the subordinates in the service, as well as to apply incentives and disciplinary sanctions in relation to the subordinates.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 484-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 19.04.2019 No. 249-VI (shall be enforced from 01.08.2019); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020); dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 2. Scope of this Law

1. This Law shall apply in the Republic of Kazakhstan in respect of individuals and legal entities. Outside the Republic of Kazakhstan, this Law shall apply in respect of citizens of the Republic of Kazakhstan and legal entities registered in the Republic of Kazakhstan, unless otherwise provided for by the international treaty ratified by the Republic of Kazakhstan.

2. Criminal liability and punishment for corruption crimes are provided for by the Criminal Code of the Republic of Kazakhstan, administrative liability and penalties for administrative corruption offences – by the Code of the Republic of Kazakhstan on Administrative Offences.

Article 3. Legislation of the Republic of Kazakhstan on combating corruption

1. Legislation of the Republic of Kazakhstan on combating corruption is based on the Constitution of the Republic of Kazakhstan and consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If the international treaty ratified by the Republic of Kazakhstan establishes rules other than those contained in this Law, the rules of the international treaty shall apply.

Article 4. Basic principles of combating corruption

Combating corruption is based on the following principles of:

- 1) legality;
- 2) priority of protecting the rights, freedoms and legitimate interests of a human and a citizen;
- 3) publicity and transparency;
- 4) cooperation of the state and civil society;
- 5) systemic and integrated use of anti-corruption measures;
- 6) priority use of measures to prevent corruption;
- 7) encouragement of persons who assist in combating corruption;
- 8) inevitability of punishment for the commission of corruption offences.

Article 5. The purpose and tasks of combating corruption

1. The purpose of combating corruption is to eliminate corruption from the society.
2. To achieve the purpose of combating corruption requires the tackling of such tasks as:
 - 1) creation of an atmosphere of intolerance towards corruption in the society;
 - 2) identification of conditions and causes facilitating the commission of corruption offences, elimination of their consequences;
 - 3) boosting cooperation between anti-corruption entities;
 - 4) development of international cooperation for combating corruption;
 - 5) detection, suppression, solution and investigation of corruption offences.

Chapter 2. MEASURES TO COMBAT CORRUPTION

Article 6. Set of measures to combat corruption

The set of anti-corruption measures includes:

- 1) anti-corruption monitoring;
- 2) analysis of corruption risks;
- 3) fostering an anti-corruption culture;
 - 3-1) carrying out scientific anti-corruption expertise of draft regulatory legal acts in accordance with the legislation of the Republic of Kazakhstan;
 - 4) identification of corruption-related provisions in the course of a legal review in accordance with the legislation of the Republic of Kazakhstan;
 - 5) development of and compliance with anti-corruption standards;
 - 6) financial control;
 - 7) anti-corruption restrictions;
 - 8) prevention and resolution of conflicts of interest;
 - 9) anti-corruption measures in the field of entrepreneurship;
 - 10) identification, suppression, solution and investigation of corruption offences;
 - 11) a report on corruption offences;
 - 12) elimination of consequences of corruption offences;
 - 13) elaboration and publication of the National Report on Combating Corruption.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 26.11.2019 No. 273-VI (shall be enforced from 01.01.2020).

Article 7. Anti-corruption monitoring

1. Anticorruption monitoring is an activity of anti-corruption agencies on the collection, processing, compilation, analysis and evaluation of information related to the effectiveness of the anti-corruption policy, the state of law enforcement practice in the field of combating corruption, as well as perception and assessment of the corruption level by the society.

2. The goal of anti-corruption monitoring is the assessment of law enforcement practices in the field of combating corruption.

3. Sources of anti-corruption monitoring are legal statistics and communications of individuals and legal entities, information from non-governmental and international organizations, data from sociological surveys and publications in the media, as well as other sources of information not prohibited by law.

4. The results of anti-corruption monitoring may be a ground to conduct the analysis of corruption risks and also improve measures aimed at fostering an anti-corruption culture.

5. The provisions of this article shall not apply to the activity of special state bodies.

Article 8. Analysis of corruption risks

1. Analysis (external and internal) of corruption risks is identification and study of causes and conditions facilitating the commission of corruption offences.

2. An external analysis of corruption risks is carried out by the authorized body for combating corruption according to the procedure set forth by the Government of the Republic of Kazakhstan in coordination with the Administration of the President of the Republic of Kazakhstan in such directions as:

1) identification of corruption risks in regulatory legal acts affecting the activity of state bodies and organizations, quasi-public entities;

2) identification of corruption risks in organizational-and-management activity of state bodies and organizations, quasi-public entities.

The authorized body for combating corruption is entitled to involve specialists and (or) experts from other anti-corruption entities for the conduct of an external analysis of corruption risks.

Based on the results of an external analysis of corruption risks, state bodies, organizations and quasi-public entities take measures to eliminate causes of and conditions for the emergence of corruption.

3. Paragraph 2 of this article does not apply to relations in the areas of:

1) supreme supervision exercised by the prosecutor's office;

2) pre-trial proceedings in criminal cases;

3) proceedings in cases for administrative offences;

4) justice;

5) operational- investigation activity;

6) criminal executive activity;

7) control over compliance with the requirements of the legislation of the Republic of Kazakhstan on state secrets.

4. The provisions of paragraph 2 of this article do not apply to the activity of special state bodies.

5. State bodies, organizations and quasi-public entities shall conduct an internal analysis of corruption risks and pursuant to it, take measures to eliminate causes and conditions facilitating the commission of corruption offences.

The standard procedure for conducting an internal analysis of corruption risks is established by the authorized body for combating corruption.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 03.07.2017 № 86-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 9. Fostering an anti-corruption culture

1. Fostering an anti-corruption culture is the activity carried out by anti-corruption agencies, within their competence, on the preservation and promotion of the set of values reflecting intolerance to corruption in the society.

2. An anti-corruption culture is fostered through a set of educational, information and organizational measures.

3. Anti-corruption education is a continuous process of upbringing and training aiming at moral, intellectual, cultural development and to foster an active anti-corruption attitude in a person.

4. Awareness-raising and organizational activity is performed through explanatory work by the mass media, arrangement of socially significant events, state social order in accordance with the legislation of the Republic of Kazakhstan and other measures provided for by the legislation of the Republic of Kazakhstan.

Article 10. Anti-corruption standards

1. Anti-corruption standards are a set of recommendations for a separate area of social relations aimed at preventing corruption.

2. Anti-corruption standards are developed by state bodies, organizations and quasi-public entities with the involvement of the public and are taken into account in the development of the legislation and in law enforcement practice.

Note by RCLII!

The order of enforcement Article 11 see Art. 27 of the Law of the Republic of Kazakhstan dated 18.11.2015 № 410-V.

Note by RCLII!

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 11. Measures of financial control

1. To implement financial control measures, persons specified in this article shall submit declarations for individuals such as:

- 1) a declaration of assets and liabilities;
- 2) an asset and income declaration.

2. A declaration of assets and liabilities shall be submitted by presidential candidates of the Republic of Kazakhstan, members of the Parliament of the Republic of Kazakhstan and deputies of maslikhats, akims of towns of district significance, rural settlements, villages,

rural districts, as well as members of local self-government elected bodies and their spouses - before registering as a candidate.

3. An asset and income declaration shall be submitted by:

- 1) persons holding a responsible civil service position and their spouses;
- 2) persons authorized to perform public functions and their spouses;
- 3) officials and their spouses;
- 4) persons equated to persons authorized to perform public functions and their spouses.

4. If property specified in the tax legislation of the Republic of Kazakhstan has been acquired during a natural business year, the persons specified in paragraph 3 of this article shall disclose information on the sources of covering expenses for the acquisition of the said property in their asset and income declaration.

5. A declaration of assets and liabilities shall be drawn up in accordance with the tax legislation of the Republic of Kazakhstan and shall be submitted in the form and manner specified in the tax legislation of the Republic of Kazakhstan.

6. An asset and income declaration shall be drawn up in accordance with the tax legislation of the Republic of Kazakhstan and shall be submitted in the form, in the manner and within the timeframe specified in the tax legislation of the Republic of Kazakhstan.

7. Information on the submission of a declaration of assets and liabilities or an asset and income declaration by individuals specified in paragraphs 2 and 3 of this article shall be posted on the official Internet resource of the state body in charge of collecting taxes and other mandatory payments to the budget, according to the procedure provided for by the tax legislation of the Republic of Kazakhstan.

8. Failure to submit a declaration of assets and liabilities and (or) an asset and income declaration or submission of incomplete, unreliable information in such declarations, if the committed action does not contain elements of a criminal offence:

by the persons specified in paragraph 2 of this article is a ground to refuse to register or cancel decisions on registration;

by the persons specified in paragraph 3 of this article shall entail liability provided for by the Code of the Republic of Kazakhstan on Administrative Offences.

9. Information disclosed in declarations for individuals shall be subject to publication not later than December 31 of the year following a natural business year, if they are submitted by the persons (and their spouses) who:

- 1) hold political civil service positions;
- 2) hold corps "A" administrative civil service positions;
- 3) are members of the Parliament of the Republic of Kazakhstan;
- 4) are judges of the Republic of Kazakhstan;
- 5) execute managerial functions in quasi-public entities.

The list of information subject to publication is determined by the authorized body for combating corruption.

The information specified in part two of this paragraph shall be posted by the personnel management services (personnel departments) of state bodies, organizations, the Parliament of the Republic of Kazakhstan and the Supreme Court of the Republic of Kazakhstan on their official Internet resources.

10. The requirements of paragraph 7 and subparagraphs 1) and 2) of paragraph 9 of this article do not apply to state classified information.

11. Individuals and legal entities involved in the management of state property shall submit reports on all property transactions and financial activity relating to state property to a state body exercising proprietary rights over state property, in the manner and within the timeframe established by the Government of the Republic of Kazakhstan.

12. Information referred to in this article, received by state revenue bodies, is a secret protected by law in accordance with the legislation of the Republic of Kazakhstan. Its disclosure entails liability in accordance with the laws of the Republic of Kazakhstan.

13. The information constituting an official and tax secret shall be submitted to the authorized body for financial monitoring for the purposes and in the manner provided for by the Law of the Republic of Kazakhstan “On Countering the Legalization (Laundering) of Criminally Obtained Incomes and the Financing of Terrorism”.

Notes.

1. This article defines persons executing managerial functions in quasi-public entities as those who perform organizational-and-managerial, administrative-and-economic functions in specified organizations permanently, temporarily or by special authority.

2. In this article, organizational-and-managerial functions mean the activity of persons exercising powers of the executive body of an organization as provided for by the legislation and constituent documents. These functions include general management of the team, placement and selection of personnel, organization and control of subordinates' work, maintenance of discipline, which results in the use of incentive measures and imposition of disciplinary sanctions.

3. In this article, administrative-and-economic functions mean the exercise by persons with full financial responsibility of the activity within the granted powers to manage and dispose of property, including money on the balance sheet and in bank accounts of the organization.

Article 12. Anti-corruption restrictions

1. To prevent persons holding a responsible civil service position, persons authorized to perform public functions, persons equated to them (except for presidential candidates of the Republic of Kazakhstan, members of the Parliament of the Republic of Kazakhstan or deputies of maslikhats, akims of towns of district significance, rural settlements, villages, rural districts, as well as members of local self-government elected bodies), officials, and also persons who are candidates authorized to perform the said functions from committing actions, which may lead to the use of their powers in personal, group and other non-official interests,

the said persons, with account of peculiarities established by articles 13, 14 and 15 of this Law, assume anti-corruption restrictions on:

- 1) implementation of the activity incompatible with the performance of public functions;
- 2) inadmissibility of performing the service (work) together with close relatives, spouses and in-law relatives;
- 3) the use of official and other information not subject to official dissemination, with a view to obtain or derive material and non-material benefits and advantages;
- 4) acceptance of gifts in connection with the performance of official duties in accordance with the legislation of the Republic of Kazakhstan, with the exception of cases established by the laws of the Republic of Kazakhstan.

2. The laws regulating the procedure for the performance of certain public functions may establish other legal norms providing for restrictions aimed at preventing corruption.

3. The consent of the persons specified in paragraph 1 of this article to accept anti-corruption restrictions is fixed in writing by the personnel management services (personnel departments) of relevant organizations.

4. Non-acceptance of anti-corruption restrictions by the persons specified in paragraph 1 of this article entails refusal to admit to or dismissal from the position (removal from office), non-compliance with them in cases without elements of a criminal offence and administrative offence is a ground for termination of the civil service or other relevant activity.

Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 13. Activity inconsistent with the performance of public functions

1. Persons holding a responsible civil service position, persons authorized to perform public functions (except for deputies of maslikhats conducting their activity not on a permanent or full-time basis), persons equated to persons authorized to perform public functions (except for presidential candidates of the Republic of Kazakhstan, members of the Parliament of the Republic of Kazakhstan or deputies of maslikhats, akims of towns of district significance, rural settlements, villages, rural districts, as well as members of local self-government elected bodies), officials shall be prohibited from:

1) independent managing an economic entity, unless the management or participation in the management of an economic entity is part of their official duties in accordance with the laws of the Republic of Kazakhstan, from facilitating the satisfaction of material interests of organizations or individuals by misusing their official powers with the aim of obtaining material or other benefits;

2) engaging in entrepreneurial activity, except for the acquisition and/or sale of units of open and interval mutual investment funds, bonds in the established securities market, shares of commercial organizations (common shares in the amount not exceeding five percent of the total number of voting shares of organizations) in the established securities market;

3) engaging in other paid activity, except for pedagogical, scientific and other creative activity.

2. is excluded by the Law of the Republic of Kazakhstan dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

3. The persons referred to in paragraph 1 of this article have the right to lease (rent) housing, belonging to them on the basis of the right of ownership and receive income from such lease.

4. The Chairman of the National Bank of the Republic of Kazakhstan and his deputies, the Chairman of the authorized body for regulation, control and supervision of the financial market and financial organizations and his deputies are prohibited from acquiring the shares of investment funds, bonds, shares of commercial organizations.

The Chairman of the National Bank of the Republic of Kazakhstan and his deputies, the Chairman of the authorized body for regulation, control and supervision of the financial market and financial organizations and his deputies, within thirty calendar days from the date of their appointment to positions, are obliged to transfer to trust management in the manner prescribed by the laws of the Republic of Kazakhstan, the owned shares of investment funds, bonds and shares of commercial organizations, acquired prior to their appointment.

Failure by the specified persons to fulfill the obligations provided for in this paragraph is the basis for termination of their respective activities.

5. Persons specified in paragraph 1 of this article, within thirty calendar days from their first day in office, are obliged, according to the procedure provided for by the laws of the Republic of Kazakhstan, to transfer for trust management, for the time of performance of these functions, their property, the use of which entails the receipt of income, except for money, bonds, units of open and interval mutual investment funds legally owned by these persons, as well as property transferred into property lease.

6. A contract of trust property management shall be notarized.

7. In the event of the acquisition of shares (stocks) in the authorized capital of commercial organizations and other property, the use of which entails the receipt of income, with the exception of bonds, shares of open and interval mutual investment funds, the persons specified in paragraph 1 of this article are obliged to transfer them to a trust management within thirty calendar days from the date of acquisition in the manner prescribed by the laws of the Republic of Kazakhstan, and submit a copy of a notarized contract for trust management of property to the personnel management service (HR department) at the place of work within ten working days after the notarization of the contract.

8. Failure to fulfill the obligations provided for in paragraphs 5 and 7 of this article by the persons specified in paragraph 1 of this article is the basis for termination of their public service or other relevant activities.

Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 22.01.2016 № 446-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020); dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 14. Inadmissibility of performing service (work) together with close relatives, spouses or in-law relatives

1. Persons holding a responsible state position, persons authorized to perform state functions (with the exception of deputies of maslikhats who carry out their activities not on a permanent or vacant basis), and persons equated to persons, authorized to perform state functions (with the exception of candidates for the President of the Republic of Kazakhstan, deputies of the Parliament of the Republic of Kazakhstan or maslikhats, akims of towns of district significance, settlements, villages, rural districts, as well as members of elected bodies of local self-government), officials cannot hold positions that are directly subordinate to the positions held by their close relatives and (or) spouse, as well as in-laws.

2. If persons, violating the requirements of paragraph 1 of this article, fail to voluntarily eliminate them within three months from the moment of detection of the said violation, they are subject to transfer to positions excluding such subordination, and if such transfer is impossible, one of these employees shall be dismissed or otherwise relieved of performing these functions.

Note. In this Law, close relatives are understood to mean parents (parent), children, adoptive parents, adoptive children, full-blooded and half-siblings, grandfather, grandmother, grandchildren, in-law relatives are brothers, sisters, parents and children of the spouse.

Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 15. Conflict of interest

1. Persons holding a responsible civil service position, persons authorized to perform public functions, persons equated to persons authorized to perform public functions, officials are prohibited from exercising official duties if there is a conflict of interest.

2. The persons specified in paragraph 1 of this article must take measures to prevent and resolve conflicts of interest.

3. The persons specified in paragraph 1 of this article are obliged to notify in writing the direct supervisor or the management of an organization they work for, of a conflict of interest or its possible emergence, as soon as they become aware of it.

Pursuant to applications of the persons specified in paragraph 1 of this article or having received information from other sources, the direct supervisor or the management of an organization are obliged to take timely measures to prevent and resolve conflicts of interest, such as:

1) suspension of the persons specified in paragraph 1 of this article from performing official duties and assigning the performance of official duties with regard to the issue in connection with which a conflict of interest has arisen or may arise to another person;

2) change of official duties;

3) taking other measures to eliminate the conflict of interest.

Article 16. Anti-corruption measures in the area of entrepreneurship

1. Conducting their activity, business entities take measures to prevent corruption and also to minimize causes and conditions facilitating the commission of corruption offences, by way of:

1) the establishment of organizational and legal mechanisms ensuring accountability, controllability and transparency of decision-making procedures;

2) the observance of the principles of fair competition;

3) preventing conflicts of interest;

4) the adoption of and compliance with business ethics standards;

5) taking measures to foster an anti-corruption culture;

6) cooperation with state bodies and other organizations on the issues of corruption prevention.

2. Standards for the prevention of corruption for business entities may be developed and adopted by alliances (associations, unions) of business entities.

Article 17. National report on combating corruption

1. National report on combating corruption is a document containing analysis and assessment of the state and trends of the spread of corruption at international and national levels, proposals for the development, implementation and improvement of the anti-corruption policy.

2. The authorized anti-corruption body annually prepares the National Anti-Corruption Report and submits it to the President of the Republic of Kazakhstan.

3. The National report on combating corruption shall be developed on the basis of the performance results of the authorized body for combating corruption and activities of state bodies, individuals and legal entities on anti-corruption issues.

4. The procedure for developing and submitting the National report on combating corruption to the President of the Republic of Kazakhstan and its publication is approved by the President of the Republic of Kazakhstan.

Footnote. Article 17 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 484-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 3. ANTI-CORRUPTION AGENCIES AND THEIR POWERS

Article 18. Anti-corruption agencies

Anti-corruption agencies are:

- 1) the authorized body for combating corruption;
- 2) other entities of combating corruption - state bodies, quasi-public entities, public associations, as well as other individuals and legal entities.

Article 19. The anti-corruption service

1. The anti-corruption service consists of operational-investigation units of the authorized body for combating corruption which carries out the activity aimed at preventing, detecting, suppressing, solving and investigating corruption crimes.

2. Employees of the anti-corruption service have the powers provided for by the Law of the Republic of Kazakhstan “On Law Enforcement Service” and other legislative acts of the Republic of Kazakhstan to perform their official duties.

Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 484-V (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 20. Competence of the authorized body for combating corruption

The authorized body for combating corruption performs functions such as:

1) the development of proposals for the improvement of the regulatory and legal framework in the field of combating corruption, within its competence, as well as adoption of regulatory legal acts according to the procedure provided for by the legislation of the Republic of Kazakhstan;

2) identification of causes and conditions facilitating the commission of corruption offences in the activity of state bodies, organizations and quasi-public entities in accordance with this Law;

3) submission to the Government of the Republic of Kazakhstan of recommendations on minimizing and eliminating causes and conditions of emergence of corruption in the activity of state bodies, organizations and quasi-public entities for its consideration;

4) annual submission to the President of the Republic of Kazakhstan of the National Anti-Corruption Report;

4-1) formation and coordination of anti-corruption policy, coordination of the activities of state bodies, organizations in prevention of corruption issues, minimization of the causes and conditions conducive to the commission of corruption offenses;

4-2) assessment of the level of corruption and the conduct of sociological research necessary to determine the level of corruption in the public and private sectors;

5) monitoring of implementation by state bodies, organizations, quasi-public entities of recommendations on eliminating causes and conditions facilitating the commission of corruption offences made as a result of external analysis of corruption risks;

6) monitoring the sale of property confiscated in criminal cases of corruption offences and acquired for funds obtained through criminal means, as a rule, with subsequent publication of information on its conversion into state revenue;

7) study and dissemination of positive anti-corruption experience;

8) development of proposals for the improvement of educational programs in the field of fostering an anti-corruption culture;

9) assistance and rendering methodical assistance to anti-corruption agencies in implementation of educational programs on anti-corruption training and upbringing, information and awareness-raising activities, execution of the state social order aimed at fostering an anti-corruption culture;

10) cooperation with other state bodies, individuals and legal entities in the main areas of activity of the authorized body for combating corruption;

11) participation in the drafting of international treaties on combating corruption, anti-corruption cooperation with relevant foreign bodies, participation, within their powers, in the activity of international organizations;

12) other functions assigned by the laws of the Republic of Kazakhstan, as well as acts of the President of the Republic of Kazakhstan.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 484-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 21. Powers of the authorized body for combating corruption

1. Performing functions assigned to it, the authorized body for combating corruption:

1) requests information and materials from government bodies, organizations, subjects of quasi-public sector and officials in the manner prescribed by the legislation of the Republic of Kazakhstan;

2) in cases of revealing a violation of the legislation of the Republic of Kazakhstan on combating corruption, takes measures according to the procedure provided for by legislation for their elimination;

3) determines the procedure for conducting anti-corruption monitoring;

3-1) draws up protocols and reviews cases for administrative offences according to the procedure provided for by the Code of the Republic of Kazakhstan on Administrative Offences;

4) exercises other rights conferred by the laws of the Republic of Kazakhstan, as well as acts of the President of the Republic of Kazakhstan.

2. The anti-corruption service of the authorized body for combating corruption is entitled, within its powers, to:

1) analyze the practice of operational-investigation and investigative activity, pre-trial investigation of corruption crimes;

- 2) bring to court persons, evading compulsory appearance, for criminal proceedings;
- 3) take out or seize documents, goods, things or other property according to the criminal procedure legislation of the Republic of Kazakhstan and (or) the legislation of the Republic of Kazakhstan on administrative offences;
- 4) use temporary detention facilities, pretrial detention centers according to the procedure provided for by the legislation of the Republic of Kazakhstan;
- 5) submit recommendations to state bodies, organizations or persons executing managerial functions in them on taking measures to eliminate circumstances or other violations of the law according to the procedure provided for by the criminal procedure legislation of the Republic of Kazakhstan;
- 6) excluded by the Law of the Republic of Kazakhstan № 484-V as of 6 April 2016 (shall take effect 10 days after the day of its first official publication);
- 7) require that authorized bodies and officials conduct checks, tax and other inspections, audits and assessments in cases provided for by the legislation of the Republic of Kazakhstan;
- 8) improve the forms and methods of combating corruption crimes, to determine the strategy and tactics of operational-investigation activity, to develop and implement measures to improve its effectiveness;
- 9) in accordance with the legislation of the Republic of Kazakhstan, create and use information systems ensuring the performance of tasks assigned to it, to organize research during pre-trial investigation, proceedings on administrative offences according to the procedure provided for by the law;
- 10) convoy detainees and persons in custody;
- 11) exercise other powers conferred by the laws of the Republic of Kazakhstan, as well as acts of the President of the Republic of Kazakhstan.

Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 484-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 22. Powers of state bodies, organizations, quasi-public entities and officials in combating corruption

1. All state bodies, organizations, quasi-public entities and officials are obliged to combat corruption within their competence.

1-1. Heads of state bodies, organizations, subjects of quasi-public sector bear disciplinary responsibility in accordance with the laws of the Republic of Kazakhstan for non-fulfillment or improper fulfillment of official duties to prevent the commission of corruption offenses by subordinate employees.

2. The Authorities of Prosecution, National Security, Internal Affairs, Military Police, Economic Investigation Service, the Border Service of the National Security Committee of

the Republic of Kazakhstan shall detect, suppress, clear up, investigate and prevent corruption offences and bring persons guilty of committing them to liability, within their competence.

Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 28.12.2018 No. 210-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 26.11.2019 No. 273-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 23. Public participation in combating corruption

Combating corruption, individuals, public associations and other legal entities shall apply measures such as:

- 1) reporting committed corruption offences known to them according to the procedure provided for by the legislation of the Republic of Kazakhstan;
- 2) coming up with proposals on improving the legislation and law enforcement practices in terms of combating corruption;
- 3) involvement in fostering an anti-corruption culture;
- 4) cooperation with other anti-corruption agencies and the authorized body for combating corruption;
- 5) requesting and receiving information on the anti-corruption activity from state bodies, according to the procedure provided for by the legislation of the Republic of Kazakhstan;
- 6) conduct of research, including scientific and sociological one, on anti-corruption issues ;
- 7) awareness-raising work in the mass media and arrangement of socially significant anti-corruption events.

Article 24. Reporting corruption offences

1. A person who has information on a corruption offence informs the management of a state body or organization who employs him/her, or the authorized body for combating corruption.

2. The management of the state body, organization, authorized body for combating corruption are obliged to take measures on the reported case of a corruption offence in accordance with the law.

3. A person, who reported a fact of a corruption offence or who otherwise renders assistance in combating corruption, is protected by the state and encouraged according to the procedure provided for by the Government of the Republic of Kazakhstan.

Provisions of this paragraph do not apply to persons who reported knowingly false information on the fact of a corruption offence and are liable under the law.

4. Information on a person rendering assistance in combating corruption is a state secret and is provided according to the procedure established by the law. Disclosure of this information entails liability established by the law.

Chapter 4. ELIMINATION OF EFFECT OF CORRUPTION OFFENCES

Article 25. The recovery (return) of illegally obtained property or the value of illegally provided services

1. In the cases of refusal to voluntarily surrender illegally obtained property or pay the state its cost or the cost of illegally obtained services as a result of corruption offences, they shall be recovered by an enforceable court ruling at the suit of a prosecutor, state revenue bodies or other state bodies and officials so authorized by the law. The said bodies take measures to protect the property belonging to the offender until the court makes a decision.

2. In cases specified in paragraph 1 of this article, a prosecutor, state revenue bodies or other state bodies and officials so authorized by the law file a lawsuit to convert illegally obtained property and (or) collect the value of illegally obtained services into the state income within the timeframe established by the law.

3. If illegally obtained property or the value of illegally provided services has not been recovered from a person holding a responsible civil service position, a person authorized to perform public functions and a person equated to persons authorized to perform public functions and an official at the time of their dismissal, any other release from performing respective functions, an official or authority in making a decision on such a release shall notify the state revenue bodies at the place of residence of illegal proceeds of the offender.

4. The return, accounting, storage, valuation and sale of the surrendered property shall be carried out according to the procedure established by the Government of the Republic of Kazakhstan.

Article 26. Invalidity of transactions, contracts entered into, acts adopted and actions committed as a result of corruption offences

1. Transactions, contracts entered into as a result of corruption offences, are recognized as invalid by court according to the procedure provided for by the law of the Republic of Kazakhstan at the suit of authorized state bodies, interested persons or a prosecutor.

2. The adoption of acts and commission of actions as a result of corruption offences are grounds for their annulment (invalidation) either by persons authorized to annul (terminate) respective acts or in a judicial procedure at the suit of interested persons or a prosecutor.

Chapter 5. FINAL PROVISIONS

Article 27. Procedure for the enactment of this Law

1. shall take effect on 1 January 2016, except for:

1) Article 11, which comes into force on January 1, 2021;

2) is excluded by the Law of the Republic of Kazakhstan dated 30.11.2016 № 26-VI (shall be enforced from 01.01.2017).

2. is excluded by the Law of the Republic of Kazakhstan dated 30.11.2016 № 26-VI (shall be enforced from 01.01.2017).

3. To establish that from the date of entry into force of this Law until January 1, 2021, Article 11 shall be effective as follows:

Article 11. Measures of financial control

1. Persons applying for a civil service position or a position connected with the performance of public or equated functions submit to the state revenue body at the place of residence:

a declaration of asset and income that is subject to taxation, including that located outside the Republic of Kazakhstan, and indicate the location of the said assets;

information on:

deposits with banking institutions and securities, including those outside the Republic of Kazakhstan, indicating the banking institution, as well as on the financial assets, which these persons are entitled to dispose of personally or jointly with other persons;

their participation as a shareholder or founder (participant) of legal entities with indication of the share of participation in the authorized capital and complete banking or other details of the said organizations;

trusts and states where they are registered, indicating relevant bank account numbers, if the person or his/her spouse is the beneficiary of these trusts;

names and details of other organizations having with a person contractual relations, agreements and obligations (including oral ones) for the maintenance or temporary storage of material and financial assets belonging to the person or his/her spouse and exceeding the thousand fold amount of the monthly calculation index.

2. Persons holding a civil service position submit to the state revenue body at the place of residence a declaration of asset and income that is subject to taxation and located both in the Republic of Kazakhstan and outside it on an annual basis during their tenure of office according to the procedure provided for by the tax legislation of the Republic of Kazakhstan.

3. Persons dismissed from civil service for negative cause, within three years after dismissal shall submit to the State Revenue Authority at the place of residence, an asset and income declaration that is subject to taxation and located both in the Republic of Kazakhstan and outside it according to the procedure provided for by the tax legislation of the Republic of Kazakhstan.

4. The spouse of the person specified in paragraph 1 of this article submits to the state revenue body at the place of residence:

a declaration of asset and income that is subject to taxation and located both in the Republic of Kazakhstan and outside it, indicating the location of the said assets;

information on:

deposits with banking institutions and securities, including those outside the Republic of Kazakhstan, indicating the banking institution, as well as on the financial assets, which these persons are entitled to dispose of personally or jointly with other persons;

his/her participation as a shareholder or founder (participant) of legal entities with indication of the share of participation in the authorized capital and full banking or other details of the said organizations;

trusts and states where they are registered, indicating relevant bank account numbers, if the person or his/her spouse is the beneficiary of these trusts;

names and details of other organizations that have with the person contractual relations, agreements and obligations (including oral ones) for the maintenance or temporary storage of material and financial assets belonging to the person or his/her spouse and exceeding the thousand fold amount of the monthly calculation index.

5. The spouse of the person specified in paragraphs 2 and 3 of this article submits to the state revenue body at the place of residence a declaration of asset and income that is subject to taxation and located both in the Republic of Kazakhstan and outside it;

6. Family members of a person applying for service in a special state body submit to the state revenue body at the place of residence the declaration and information specified in paragraph 4 of this article.

Note. In this paragraph, family members of a person applying for service in a special state body are recognized to be a spouse, adult children and persons dependent on him/her and permanently residing with him/her.

7. The persons specified in paragraphs 1 and 2 of this article submit a statement issued by the state revenue body on the receipt of declarations and information listed in paragraphs 1 or 5 of this article to the body, in which they claim a position, or at the place of work.

8. Failure to submit or submission of incomplete, unreliable declarations and information listed in this article by the persons specified in paragraphs 1 and 2 of this article (except for persons dismissed from the civil service for negative cause), if the action does not contain elements of a criminal offence, is a ground to refuse to grant appropriate powers to the person or entails disciplinary liability according to the procedure provided for by the law.

9. The acts specified in paragraph 8 of this article, which were committed intentionally, as well as those committed repeatedly, entail administrative liability imposed according to the procedure provided for by the law.

10. The actions specified in paragraph 8 of this article, committed for the first time within three years after the release of persons from performing public or equated functions, as well as the repeated commission of such actions entail administrative liability established by the law.

11. According to the procedure provided for by the law, information on the amounts and sources of income of officials holding responsible civil service positions, as well as

information on incomes of candidates for elected civil service positions during their nomination, may be published.

12. Persons authorized to perform public functions and persons equated to them are prohibited from entering into civil transactions without using their own names, i.e. on behalf of straw men, anonymously, under a pseudonym, etc. These transactions are considered invalid according to the procedure provided for by the law.

13. Individuals and legal entities, participating in the performance of functions for the state property management, submit, in the order and within the timeframe established by the Government of the Republic of Kazakhstan, reports on all transactions of material nature and financial activity relating to state property to the state body exercising proprietary rights over the state property.

14. Information specified in this article and received by the state revenue bodies is an official secret. Its disclosure, if the action does not contain elements of a criminal offence, leads to the dismissal of an offender. Such information is submitted only upon the request of the authorized body for combating corruption, prosecutors' offices, the bodies of national security, internal affairs, state revenues, military police, the anti-corruption service, the Border Guard Service of the National Security Committee of the Republic of Kazakhstan, as well as in a judicial procedure established by the law.

Information constituting an official secret shall be submitted to the authorized body for financial monitoring for the purposes and in the manner provided for by the legislation of the Republic of Kazakhstan on combating the legalization (laundering) of proceeds from crime and financing of terrorism.

15. The financial control measures provided for in this article do not apply to legal relations associated with the acquisition of a dwelling and building materials for the construction of dwelling places in the Republic of Kazakhstan. The financial control over the acquisition of dwelling places and building materials for their construction is carried out according to the legislation of the Republic of Kazakhstan."

4. The Law of the Republic of Kazakhstan dated 2 July, 1998 "On the fight against corruption " shall be considered to have lost force (Bulletin of the Parliament of the Republic of Kazakhstan, 1998, № 15, art. 209; 1999, № 21, art. 774; 2000, № 5, art. 116; 2001, № 13-14, art. 172; № 17-18, art. 241; 2002, № 17, art. 155; 2003, № 18, art. 142; 2004, № 10, art. 56; 2007, № 17, art. 140; № 19, art. 147; 2008, № 23, art. 114; 2009, № 19, art. 88; № 24, art. 122, 126; 2010, № 24, art. 148; 2011, № 1, art. 2; № 7, art. 54; 2012, № 4, art. 30, 32; № 8, art. 64; № 13, art. 91; № 23-24, art. 125; 2013, № 2, art. 10; № 14, art. 72; 2014, № 11, art. 61; № 14, art. 84; № 16, art. 90; № 21, art. 122; № 22, art. 131; № 23, art. 143).

Footnote. Article 27 as amended by the Law of the Republic of Kazakhstan dated 30.11.2016 № 26-VI (shall be enforced from 01.01.2017); dated 28.12.2018 No. 210-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated

03.07.2019 No. 262-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

The President
of the Republic of Kazakhstan

N. NAZARBAYEV

© 2012. «Institute of legislation and legal information of the Republic of Kazakhstan» of the Ministry of Justice of the Republic of Kazakhstan