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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**(VENICE COMMISSION)**

**KAZAKHSTAN**

**THE DRAFT LAW**

**«ON ADMINISTRATIVE PROCEDURES»  
(NEW EDITION)\***

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\* Prepared by the Venice Commission Secretariat.

**The Law of the Republic of Kazakhstan  
«On Administrative Procedures» (new edition)**

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This law is oriented to establishment of administrative procedures and principles of activities of administrative authorities in mutual relationship with individuals and legal entities in realization and protection of their rights and freedoms.

**Chapter 1. General provisions**

**Article 1. Basic definitions, used in this Law**

1. The following basic definitions are used in this Law:

1) an administrative procedure - activities of administrative authorities which have externalities in adoption, execution, amendment or cancellation of administrative act on grounds of claims by individuals or legal entities or by administrative authorities on its own motion, and activities of administrative authorities on administration of complaints, conducted by competent administrative authorities within the ambit of procedural rules established in this Law;

2) administrative authorities - the executive authorities and local self-government authorities, including collegial bodies, individual and legal entities, authorized by law to address administrative cases and enact the administrative acts;

3) an administrative act - order, decision or other legal act of individual application with external consequences adopted by an administrative authority in the field of public law in order to address the specific case and the legal effects for a particular person or a particular group of people.

4) administrative appeal - a written request from the addressee of the act or the person concerned in administrative authority to an accepted administrative act or omission of an administrative authority in order to protect their rights and interests protected by law;

5) favorable administrative act - the act providing new rights to the addressee of the act or proving his right or removing his obligation (obligations), and otherwise improving his legal status;

6) the discretionary power (optional) – possibility of discretion provided by law of the administrative authority whether or not to make a decision, either by choosing option solutions, its type and content;

7) the addressee of an administrative act - the person who asked for the adoption of an administrative act (applicant) or a person in relation to whom the administrative authority on its own initiative intends to take or has taken an administrative act;

8) the person concerned - the person whose rights or legally protected interests are affected or likely to be affected by the adoption of an administrative act or the act received;

9) the person - the addressee of an administrative act and stakeholders;

10) burdening administrative act - the act, refusing to grant the right to act addressee, depriving his rights or restricts his right or imposing on it a certain obligation (obligations), as well as otherwise worsen his legal position.

2. Other definitions of the legislation on administrative procedures of the Republic of Kazakhstan have the meanings defined in the relevant articles of this Law.

**Article 2. Legislation of the Republic of Kazakhstan on administrative procedures**

1. Legislation of the Republic of Kazakhstan on administrative procedures based on the Constitution of the Republic of Kazakhstan and consists of this Law and other normative legal acts of the Republic of Kazakhstan.

2. Where the international agreement ratified by the Republic of Kazakhstan sets other rules than those laid down by this Law the rules of such international agreement shall be applied.

**Article 3. Scope of this Law**

1. This law has general nature and applies to the activities of administrative authorities, which adopts of administrative acts, as well as the actual actions of administrative authorities.

2. This Act shall not apply to the relations arising in the implementation of administrative activities on:

1) consideration of appeals of individuals and legal entities, containing proposals for a request or response;

2) consideration of cases stipulated by the legislation of the Republic of Kazakhstan on administrative offenses, criminal procedure and civil procedure legislation.

**Article 4. Territorial Jurisdiction**

1. The decision of cases concerning immovable property refers to the administrative authority in whose territory the immovable property located.

2. The decision of cases relating to individual entrepreneurs and legal entities falls within the competence of the administrative authority on whose territory individual entrepreneur or the legal entity is registered.

3. The decision of cases involving individuals refers to the competence of the administrative authority where the person is registered or registered at the place of temporary residence.

4. If the decision of a case concerns competence of two or more administrative authorities, it refers to the administrative authority to whom requested person, or on whose initiative the case must be decided.

5. If other laws establish other procedure of territorial jurisdiction, it applies the procedure set out in these laws.

**Article 5. Changes of circumstances that are the basis for resolving the issue of jurisdiction**

If during the administrative procedure circumstances have changed that are grounds for resolving the issue of jurisdiction, competent administrative authority may continue administrative procedure in the interest of the participants if there is the consent of administrative authority.

**Article 6. Verification of jurisdiction**

1. Administrative authority is obliged to check its competence to address issues identified in the request or complaint of a person.

2. If administrative authority determined that decision of a case is not within its competence, it refuses considering it in writing and without delay sends it to the relevant authority by notifying the person.

3. Disputes between administrative authorities on the jurisdiction are resolved by the commission established by superior administrative bodies or the Government of the Republic of Kazakhstan.

**Article 7 Use of electronic forms**

Documents can be submitted in electronic format, unless otherwise specified. The electronic document must comply with the requirements of the Law of the Republic of Kazakhstan «On Electronic Document and Electronic Digital Signature».

**Article 8. The duty of mutual assistance of administrative authorities**

1. The administrative authorities are obliged within their powers and capabilities to provide mutual assistance on grounds of appeal.

2. Where mutual assistance can have several administrative authorities, the requesting administrative authority must apply to the administrative authority, which is able to provide necessary mutual assistance.

3. If requested mutual assistance is not included in the competence of administrative authority, it shall forward the request to an appropriate administrative authority.

4. Mutual assistance by administrative authorities that are in a relationship of subordination is not the provision.

**Article 9. Conditions of mutual assistance administrative authorities**

The administrative authority may request mutual assistance in the following cases:

1) inability to perform some action for legal or factual reasons independently;

2) requesting facts unknown to administrative authority in dealing with a particular issue and are not able to be defined independently;

3) finding necessary documents or evidence available to the administrative authority which was requested on mutual assistance;

4) If expenses required for independent decision of a certain issue exceeds expenses of the issue of another administrative authority in the procedure of mutual assistance.

**Article 10. Grounds for refusal of mutual assistance**

1. The administrative authority shall refuse to provide mutual assistance if:

1) implementation of requested measures against legislation;

2) implementation of requested actions is not in its competence;

3) documents (information) necessary for mutual assistance belong to a legally protected secrets and its provision to the administrative authority shall be prohibited by law.

2. The requested administrative authority has the right to refuse in providing mutual assistance if:

1) other administrative authority is able to provide mutual assistance with significantly less effort;

2) it is necessary to apply a disproportionately large effort to provide mutual assistance;

3) mutual assistance may significantly impede their own powers.

3. Administrative authority has no right to refuse in mutual assistance on grounds not provided in paragraphs 1 and 2 of this article.

4. In case of refusal of administrative authority on mutual assistance, it shall inform administrative authority about it, not later than three working days from the date of receipt.

5. The refusal of the administrative authority for mutual assistance may be challenged by a higher administrative authority, which within three working days from receipt of documents adopts relevant decision. In case of recognition the refusal groundless higher administrative authority entrusts immediately the administrative authority with mutual assistance.

**Article 11. Official certification of copies of documents**

1. An administrative authority may certify copies of administrative acts or other documents received by it or of its subordinate authority, except the cases when the law provides the exclusive authority of other administrative authorities on official certification of copies of documents.

2. Certified copies of administrative acts or other documents adopted in an appropriate manner by the administrative authority have official power.

3. Copies of documents cannot be officially certified if its actual content is changed and (or) integrity is breached.

4. A copy of the document shall be certified officially by putting on every page of document the signature of official, seal, and the inscription on the last page with the following information:

- 1) name of the document with certified copy of the document;
- 2) confirmation of compliance of the copy to the original.

## **Article 12. Assistance between administrative authorities of the Member States of the Eurasian Economic Union**

Assistance between administrative authorities of the Member States of the Eurasian Economic Union is exercised according to the rules established by the international treaties ratified by the Republic of Kazakhstan.

## **Chapter 2. Principles of administrative procedures**

### **Article 13. The principle of legality**

1. Administrative authorities may not be engaged in the activities contrary to the laws and subordinate acts.

2. Adoption administrative act limiting the rights and freedoms of persons is allowed only on the basis of laws.

### **Article 14. The principle of equality**

1. All persons are equal before the law and the administrative authority.

2. The rights of participants of administrative procedures cannot be restricted on grounds of origin, social, official or property status, race, nationality, creed, sex, language, religion and nature of occupation, place of residence, membership of public associations, as well as any other circumstances and legal persons regardless of their legal form of organization, forms of property, subordination and location.

3. The administrative authority shall be prohibited to take different decisions in different cases that have the same essential factual circumstances.

4. The administrative authority is forbidden to take the same decisions on various cases with different essential factual circumstances.

5. If administrative authority exercised its discretion power in a certain way, it is obliged to exercise its discretion in the same way in future.

Administrative authority may refuse from self-restraint only if any essential circumstances related to the case, and in the future authority intends continuously take another discretionary decision.

6. In order to ensure principle of equality the administrative authority has the right to take Instructions on the exercise of discretion.

### **Article 15. The principle of prohibition of abuse of formal requirements**

1. Administrative authorities may not be burdening individual duties or reject granting any right just to meet the formal requirements, except as provided by law.

2. Violation of the requirements of forms by the person should not seek harm, if his responsibilities are executed in a meaningful sense.

### **Article 16. The principle of protection of the right to trust**

1. Trust of individuals or legal entities to the administrative practice of administrative authorities protected by law.

2. The administrative authority is obliged to act in accordance with the current administrative practices. Current administrative practice may be replaced by the new

practice only when public interest requires it. New administrative practices should be consistent and be general.

3. Trust of individuals or legal entities to written promises, declarations of administrative authorities in connection with subsequent adoption or failure to take the appropriate administrative act is protected by law.

4. Trust of individuals or legal entities may not justify illegal activities.

**Article 17. The principle of prohibition of refusal of application of law**

The administrative authority obliged to apply any legal provision in respect of individual or legal entity is required to apply this provision at the request of a person or on its own initiative in cases arising out of his official position.

**Article 18. The principle of proportionality**

Measures providing any limitation of the rights and freedoms of individuals or legal entities should be based on the Constitution and laws of the Republic of Kazakhstan and must be proportionate to achieve this objective in terms of its content, location, time and number of persons covered.

**Article 19. The principle of the presumption of authenticity**

1. The administrative authority reviewing data and information on the factual circumstances believed to be accurate as long as the administrative authority failed to substantiate the opposite.

2. It is prohibited to require from persons to provide documents or additional information certifying their data and information, if this requirement is not provided by law.

3. If the administrative authority has a reasonable suspicion on the authenticity of the data and information, it is obliged to take steps to verify their authenticity independently and at their own expense.

4. Persons shall be responsible for providing to the administrative authorities of false data and information.

**Article 20. The principle of «greater includes the lesser»**

1. Administrative authorities have no right to require from the persons committing acts that were committed from these persons within other activities.

2. If the documents (information) submitted by the administrative authorities in a meaningful sense include content of other documents, the latter may no longer be requested in addition or separately.

3. If approval provided by administrative authorities include a meaningful sense other authorization, it is believed that they were also provided.

**Article 21. The principle of simplicity, efficiency and effectiveness**

The administrative authority shall organize the review of administrative cases so as to use minimum necessary means and ways to resolve the case, to ensure the most effective use of property funds without damaging their powers.

**Article 22. Application of other principles**

Principles of administrative procedures established in this Chapter are not exhaustive and may not be an impediment to the application of other principles.

**Chapter 3. Main procedural provisions**

**Article 23. Participants of the administrative procedure**

1. Participants in the administrative procedure are:

- 1) an addressee of the administrative act;
- 2) the administrative authority competent to take administrative act;

3) persons concerned involved by administrative authority to the administrative procedure as participants.

2. Persons concerned are involved in the administrative procedure based on the statement or on the initiative of the administrative authority, when the alleged administrative act may have a direct impact on the rights and legally protected interests.

**Article 24. Other persons involved in the administrative procedure**

Other persons engaged in the administrative procedure are witnesses, experts, interpreters and other persons contributing to the proper review and resolution of the administrative case.

**Article 25. Legal capacity**

1. Fully capable individuals have the right to participate in the administrative procedure in accordance with the Civil Code of the Republic of Kazakhstan, as well as individuals with limited capacity in accordance with the Civil Code of the Republic of Kazakhstan, if they are legally competent in accordance with the laws of the Republic of Kazakhstan.

2. The rights, freedoms and legally protected interests of minors under the age of eighteen, as well as individuals, recognized as partially capable, are protected in the administrative authority by their legal representatives, but the administrative authority has the right to involve in such cases juveniles or individuals engaged in recognized partial capability.

**Article 26. Representation in the administrative procedure**

1. Individuals or legal entity may participate in the administrative procedure personally or by their representative. The personal involvement does not deprive the person of the right to have a representative. The presence of the representative shall not deprive a person of the right of personal involvement.

2. Representative in the administrative procedure may be any competent person having a duly executed authority in accordance with the Civil Code of the Republic of Kazakhstan.

3. The representative is obliged faithfully defend the interests of the represented person.

4. The administrative authority is represented in the administrative procedure as the head of the body, his deputy or other official designated by the head of the body.

5. Representative of the addressee of an act or the person concerned has no right to be a person who is in the service of this administrative authority or in a subordinated body.

6. Persons referred in Article 24 of this Law participate directly in the administrative procedure.

**Article 27. Appointment of the person authorized to receive documents**

1. A person who participates in an administrative procedure without permanent residence in the Republic of Kazakhstan shall upon request of administrative authority to appoint a legally capable person registered in place of residence in the Republic of Kazakhstan, authorized to receive documents within three calendar days from the date of notification of him by administrative authority. The administrative authority is obliged to send to the authorized person all the documents provided for the person involved in the administrative procedure.

2. If the person involved in the administrative procedure has not complied with the requirement under paragraph 1 of this Article, the administrative authority shall not be responsible for non-receipt or late receipt of documents by the participant.

**Article 28. Circumstances excluding participation in the administrative procedure**

1. An official of the administrative authority, an expert, an interpreter have no right to participate in the administrative procedure, including reviewing and resolving the case on the occurrence of any of the following:

1) if they performed or acted as other participants of the procedure or their representatives;

2) if they are or were close relatives, husband (wife) or in-law of one of the participants in the procedure;

3) if they or any of his close relatives, husband (wife) or connexion are members of management bodies or have shares (authorized capital) of legal entity that is participant to the procedure;

4) if they are personally, directly or indirectly interested in the outcome of the case or there are other circumstances giving rise to doubts about their objectivity and impartiality.

2. The close relatives and in-laws in paragraph 1 of this Article refers to the persons referred to as such in the Code of the Republic of Kazakhstan «On Marriage (Matrimony) and Family».

3. The expert shall not be entitled to participate in the administrative procedure, if he is in the service or other dependence from the participant of the procedure including official of the administrative authority.

#### **Article 29. Disqualification (recusal) of an official of the administrative authority, expert, interpreter**

1. Participants of the administrative procedure have the right to declare in writing on the disqualification of an official of the administrative authority, an expert, an interpreter, if there is one of the grounds provided in Article 28 of this Law.

2. An official of the administrative authority, an expert, an interpreter are required to recuse himself in writing, if there is one of the grounds provided in Article 28 of this Law.

3. Disqualification (recusal) may be claimed until the completion of the administrative procedure immediately when it was revealed grounds set out in Article 28 of this Law.

4. Reapplication for disqualification of the same official of the administrative authority, experts, and interpreters may be considered, if it is given new grounds or new facts.

Decision on the application on disqualification (recusal) is subject to acceptance within one working day following the day of submission of disqualification (recusal).

The decision on the disqualification of the official of the administrative authority accepts the head of the body, in which the administrative procedure is exercised.

The decision on the disqualification of the head of the administrative authority shall be made by higher administrative body, unless the head of the subordinate administrative authority on its own initiative suspended the implementation of administrative procedure.

The decision on the disqualification of expert and interpreter is accepted by an official carrying out this administrative procedure.

5. The participation of an expert or an interpreter earlier in the same administrative procedure as an expert or an interpreter is not the reason for his disqualification (recusal).

6. The reasoned decision on the disqualification (recusal) shall be made in writing. A copy is sent to the participants of the administrative procedure.

7. Disqualification (recusal) is not taken, if there is an objective reason for the impossibility of determining any other official of the administrative authority, expert or interpreter.

#### **Article 30. The language of administrative procedures**

1. Administrative procedures are carried out in the state language and if necessary on a par with the state Russian or other languages used.

2. The participants of the administrative procedures without command or insufficient command of the state language are explained and provided with the right to make statements, give explanations and evidence, submit petitions, bringing the administrative appeal, acquainted with the case, to speak in their native language or any other language, and have own interpreter.



### **Article 31. Recording of administrative procedure**

1. If the implementation of an administrative procedure is conducted in the form of meetings with the persons referred in paragraph 1 of Article 23 and Article 24 of this Law, the administrative authority is obliged to keep protocol of the meeting.

2. Participants of the administrative procedure have the right to get acquainted with the protocol and to submit comments to it. The deviation of the comments is indicated in the protocol.

## **Chapter 4: The procedure for the exercise of administrative procedure**

### **Article 32. Grounds for initiating administrative procedure**

1. The grounds for initiating administrative procedure are:

- 1) a statement of individual or legal entity;
- 2) an initiative of the administrative authority;
- 3) the administrative appeal.

2. In the cases referred in subparagraphs 1) and 3) of paragraph 1 of this Article, the administrative procedure is considered to be initiated from the date of receipt of the relevant statement or appeal to the administrative authority, except in cases where the statement or appeal in accordance with this Law, forwarded to the competent administrative authority.

3. In the case referred to in subparagraph 2) of paragraph 1 of this Article, the administrative procedure is initiated from the start of action (actions), which is aimed at the adoption of the administrative act on the initiative of the administrative authority.

4. In the cases referred in subparagraphs 1) and 2) of paragraph 1 of this Article shall apply the relevant provisions of Chapters 3 and 4 of this Law. In the case stipulated in subparagraph 3) of paragraph 1 of this Article, on a par with the provisions of chapters 3 and 4 shall also apply the provisions of Chapter 6 of this Law.

### **Article 33. General requirements for statement**

1. The statement is submitted to the administrative authority in writing and may include:

- 1) surname, name, paternal name (if any) of applicant - an individual or full name of the applicant - legal entity;
- 2) address of applicant;
- 3) name of administrative authority, in which the statement is submitted;
- 4) summary of requirements;
- 5) date, month and year of submission of the statement;
- 6) signature of the applicant - of an individual or legal entity, signature of the head certified by the seal of the legal entity;
- 7) list of documents attached to the statement, if any.

If law requires payment of state fees or other mandatory payment for obtaining an administrative act, it should be presented a document confirming payment.

If the statement is submitted by a representative, it must be presented a document confirming this authority.

2. The statement may be submitted to the administrative authority verbally, which is reflected in the protocol of the administrative authority. The protocol of the administrative authority may contain the information specified in paragraph 1 of this Article.

3. The statement is sent to the administrative authority personally, by mail or otherwise provided by law.

### **Article 34. Assistance to participants of administrative procedure**

1. The administrative authority is obliged to give explanations to individuals and legal entities about their rights and responsibilities on issues relating to the statement, to promote the registration of the statement and documents attached to it including the opportunity to

eliminate formal errors or amend the list of documents attached, either on its own correct formal errors by notifying the applicant previously or subsequently.

2. The relevant administrative authority is obliged on the ground of statements of individuals and legal entities to give them examples of statements and other related administrative procedure forms (blanks) or forward them by mail or other electronic communication channels.

#### **Article 35. Acceptance of statement**

1. The administrative authority is obliged to accept any statement and register it on the same day.

2. The administrative authority shall within three working days from the date of receipt of the statement to issue or send the applicant a certificate of the date and registration number of the statement.

#### **Article 36. The direction of statement to competent administrative body**

1. If statement has been submitted to incompetent administrative authority, the administrative authority which has received the statement within three working days forwards it to the relevant administrative authority notifying the applicant.

2. If one or more of the requirements provided in the statement is related to the responsibility of another administrative authority, the administrative authority forwards the statement in this part to the competent administrative authority notifying the applicant.

The administrative procedure of the administrative authority on the statement relating to its competence initiated in the procedure of the Article 32 of this Law.

#### **Article 37. Grounds for initiation of administrative procedure on the initiative of administrative authority**

Grounds for initiating the administrative procedure on the initiative of the administrative authority is a legal requirement to adopt an administrative act or discretion conferred by law on the administrative authority.

#### **Article 38 Notice of initiation of an administrative procedure**

The administrative authority within three working days after the initiation of the administrative procedure shall notify participants or their representatives on the initiation of the administrative procedure. The administrative authority shall notify specified persons and if necessary an expert, an interpreter and representatives of other bodies on the activities required for the implementation of procedure.

#### **Article 39. Participation in administrative procedure of addressee of administrative act and persons concerned**

1. The administrative authority is obliged to ensure the participation of the addressee of the administrative act and person concerned or their representatives.

2. Unless otherwise provided by the law, prior to the adoption of an administrative act the administrative authority is obliged to inform addressee and persons concerned or their representatives about its contents, in particular the establishment of facts and the measures stipulated in relation to this case and to hear their views.

3. The administrative authority may refuse to hear addressee and persons concerned or their representatives in the following cases:

1) it is provided the adoption of a favorable administrative act, which does not affect the rights of other persons or addressee does not insist on hearing;

2) in case of necessity of immediate adoption of an administrative act in order to prevent or eliminate the danger, which might harm public or state interests;

3) it is provided the adoption of administrative acts of a general nature or the numerous administrative acts identical to content or administrative acts by means of technical (automatic devices) funds;

4) it is provided the adoption of an interim solution;

5) it is provided the adoption of an administrative act in the oral or tacit form.

**Article 40. Inquiry**

1. The administrative authority shall upon its own initiative comprehensively, completely and objectively investigate all factual circumstances relevant for the resolution of the case.

2. The administrative authority is not bound by the explanations and arguments of members of the administrative procedure and evidence.

3. The administrative authority has no right to refuse to review the circumstances presented by the participants of the administrative procedure.

**Article 41. Familiarization with the documents of administrative procedure**

1. Participants of the administrative procedure have the right to get acquainted with the documents of the administrative procedure during and after completion of the procedure.

2. Familiarization with the documents shall be provided no later than three working days from the date of submission of the statement.

3. When providing materials of the administrative procedure the administrative authority is obliged to ensure the protection of state secrets and other secrets protected by law.

4. In case of refusal in the provision for acquaintance of the document with state secrets or other secrets protected by law, the administrative authority must without causing harm provide to the person full information on the contents of this document.

5. The participants of the administrative procedure have the right to obtain copies of documents and other materials related to the case.

**Article 42. The duty of prompt review of administrative case**

If after the initiation of the administrative procedure documents that are necessary for the adoption of an administrative act are at the disposal of the administrative body was investigated the circumstances of the present case, the administrative authority shall adopt the administrative act as soon as possible without waiting for the expiry of the stipulated period.

**Article 43. Evidence in the administrative procedure**

1. All factual data in the administrative procedure evaluated as evidence in which administrative authority establishes the presence or absence of circumstances relevant to the case, as well as their affordability and need.

2. During the administrative procedure administrative authority may use any evidence relevant to the proper resolution of the case.

3. Evidence obtained in violation of the law is prohibited.

**Article 44. Presentation and vindication of evidence**

1. Persons involved in the administrative procedure are obliged to assist in the establishment of all the factual circumstances to provide the information known facts relevant to the case and to present necessary evidence.

2. In the absence of a person participating in the administrative procedure the possibility of independent obtaining evidence person refers to an administrative authority with a request for reclamation of the evidence. The request indicates the value of the case evidence, its characteristics and location. The administrative authority is obliged to request this evidence and to ensure their presentation.

**Article 45. Testimony**

The witness can testify orally or in writing without appearance before the administrative authority. If required administrative authority may invite the witness and ask him questions.

**Article 46. Assignment of expertise**

1. The expertise is assigned in cases when the circumstances relevant to the case can be established as a result of investigation of documents of the case, held by an expert on the basis of scientific expertise.

2. The administrative authority shall appoint the examination at the request of participants of administrative procedure, or on its own initiative.

3. The person not concerned with special scientific knowledge can be called as an expert. Production of expertise may be delegated to:

- 1) employees of forensic agencies;
- 2) persons engaged in forensic activities;
- 3) other persons in accordance with the law.

4. Each person who participates in the administrative procedure has the right to submit to the administrative authority issues that shall be delivered to the expert. Finally, the administrative authority determines range of questions on which the expert gives a conclusion.

5. At the request of the administrative authority the expert should provide further clarification on the expert opinion.

**Article 47. The revision**

If necessary, the administrative authority may appoint inspection area, some object or subject. Participants of the procedure are entitled to attend on the inspection according to the decision of the administrative authority.

**Article 48. The term of administrative procedure**

1. The term of administrative procedure is thirty calendar days, unless otherwise provided by the legislation of the Republic of Kazakhstan.

2. Administrative procedure starts from the date of registration of the statement to the administrative authority or from the date of the action on the initiative of administrative authority.

3. If it is required longer term to establish essential circumstances, the period of the administrative procedure may be extended by the administrative authority twice for thirty days each time. The administrative authority provides information on the extension term to the person.

4. The circumstances which are grounds for the extension provided in paragraph 3 of this Article subject to the justification by the administrative authority in the administrative act.

**Article 49. Calculation of terms**

1. The term is determined by a calendar date or a reference to an event that must inevitably occur. The term can also be set as a time period, which is calculated in years, quarters, months, weeks, days (calendar or work) or hours.

2. The term calculated in years begins with the calendar date or from the date occurrence of the event, which is defined by its start and expires on the corresponding month and date of the last year of the term. If the end of the term falls on a month in which there is no corresponding date, the term shall expire on the last day of that month.

3. The term calculated in months begins with the calendar date or from the date occurrence of the event, which is determined by its beginning, and will expire on the corresponding day of the last month of the period. If the end of the term falls on a month in which there is no corresponding date, the term shall expire on the last day of that month.

4. The term calculated in weeks begins with the calendar date or from the date occurrence of the event, which is defined by its start and expires on the corresponding day of the last week of the term.

5. The term calculated in days begins with the calendar date or from the date occurrence of the event, which is defined by its start and expires on the last day of a specified period.

If the last day of the term falls on a non-working day, the end of the term is considered to be the closest to the next working day.

6. Term calculated in hours begins with a moment occurrence of the event, which is defined by its start and expires at the last minute of a specified period.

#### **Article 50. Consequences of non-acceptance of an administrative act within the period of administrative procedure**

If during the term of the administrative procedure initiated on the basis of the statement, the administrative act is not accepted, the person has the right to apply directly to the court.

#### **Article 51. Restoration of terms**

1. In the case of recognition of the reasons of non-claim reasonable, the administrative authority shall recover expired term at the request of the person.

2. A person applies to the administrative authority with a written request for restoration no later than ten calendar days from the date of elimination of the reasons specified in paragraph 1 of this Article. Documents confirming a good reason of non-claim attached to the application.

3. The administrative authority within five working days reviews an application for restoration of non-claim.

4. Action, the period of which is missed, performed together with the submission of application on deadline restoration.

5. In the cases directly prohibited by the law, deadline restoration is not allowed.

#### **Article 52. Notification of administrative procedure**

1. The administrative authority is obliged to inform about the place and the time of the meeting of persons involved in the administrative procedure and if necessary other persons specified in Article 24 of this Law.

2. The administrative authority may use a variety of means of communication in order to bring relevant information to the persons specified in paragraph 1 of this Article.

3. Persons involved in the case should be enough time to attend the meeting related to the administrative procedure and the preparation of the case.

### **Chapter 5. Administrative act**

#### **Article 53. Forms of administrative acts**

1. An administrative act may be accepted in written, electronic, verbal or tacit form (in the form of light, sound signals and signs, images or other forms).

2. Administrative acts adopted in the electronic, oral or tacit form, shall be subject according to the requirements of addressee of act at the request of the recipient written registration within five working days.

3. In the cases provided in paragraph 2 of this article shall comply with requirements of this law to the written administrative act.

#### **Article 54. General requirements for administrative act**

1. The administrative act shall be adopted in accordance with the Constitution of the Republic of Kazakhstan, this Law and other regulations.

2. The administrative act shall state individual or legal entities to whom they are addressed, regulated or issues resolved.

3. An administrative act must be clear and understandable what right is granted, limited or what obligation is imposed on him.

#### **Article 55. Requirements for written administrative act**

1. A written administrative act reflects the following information:

- 1) name of administrative authority, surname, name, paternal name (if any) of an official who accepted the administrative act;
  - 2) surname, first name, paternal name (if any) and address of the individual or the name and address of the legal entity to whom the administrative act is addressed;
  - 3) name an administrative act, date and place of acceptance, registration number;
  - 4) description of the issue being addressed and rationale for adoption of the act (descriptive-motivation part);
  - 5) statement of the decision (resolution part);
  - 6) term of the act of action, if the act is adopted at a specific time;
  - 7) term of appeal of the act and the authority where this act may be appealed.
2. An administrative act may contain applications and other supporting documents, the effect of which cannot exceed the validity of an administrative act. Applications and other additional documents are not considered as independent administrative acts, they are part of an administrative act and effective as long as the administrative act itself does.

#### **Article 56 Conditional administrative act**

1. Administrative acts may provide additional conditions stipulated by law.
2. Administrative acts adopted by the administrative authority on the basis of discretionary powers may include the following:
  - 1) effective date or loss of force to any benefits or obligation(s) provided by this act, or the period of its being in force;
  - 2) dependence of the entry into force or is invalidated by any privileges or obligation(s) from the occurrence of any event in the future;
  - 3) marks of retention of the right on cancellation of this act;
  - 4) additional provisions that establish conditions for the change relating to certain actions and the assumption of certain actions or refraining from certain actions of a person (terms of an obligation), or add new conditions.
3. Additional conditions must be consistent with the objectives of an administrative act. Additional conditions may be appealed only together with the administrative act.

#### **Article 57. Justification of administrative act**

1. Written administrative act shall contain rationale, which should include all the essential factual and legal facts of the case, the evidence confirming or denying the given circumstances, as well as normative legal acts.
2. In the case of adopting an administrative act within the framework of discretionary powers, the administrative authority must accurately and clearly justify the reasons on the basis of which administrative authority chose exactly this solution.
3. Justification of an administrative act is not required in the following cases:
  - 1) adopting favorable administrative act without affecting the interests of other persons;
  - 2) adopting administrative authority similar administrative acts in large quantity or adopting administrative acts by means of technical (automatic devices) means and without the need to justify individually each such administrative act;
  - 3) other cases provided by the laws of the Republic of Kazakhstan.

#### **Article 58. Announcement of administrative act**

1. The administrative authority is obliged to announce an administrative act to the participants of administrative procedure or their representatives.
2. Written administrative act is declared by awarding administrative act to the participants of the administrative procedure, either by publication.
3. Oral administrative act is declared to the person by oral message.
4. Conclusive administrative act is declared by bringing to the attention of the person, making it immediately visible, perceived, or in any other way accessible to perception.
5. A written administrative act is given to participants of the administrative procedure in the following ways:

- 1) transfer directly to the person;
- 2) by registered mail with acknowledgment of receipt;
- 3) by e-mail, if the person gave written consent to this method of delivery.

An administrative act sent by the methods specified in subparagraphs 2) and 3) of paragraph 5 of this Article, deemed to be delivered to the person on the fifth day from the date of submission to the post office or the day after its sending electronically.

6. If the person claims of not receiving handed over means of an administrative act or delays in its delivery stipulated in subparagraphs 2) and 3) of paragraph 5 of this Article, the obligation to prove the fact and date of submission an act to him is assigned to administrative authority.

7. Written administrative act shall be published, if the administrative authority is unknown about the persons who are directly affected by this act, as well as in other cases stipulated by law. An administrative act is considered to be declared within ten calendar days after its publication.

8. The publication includes resolution part of an administrative act, as well as time for appeal and authority, where the act may be appealed. The publication should be given a place where you can get acquainted with the administrative act completely including its rationale.

9. Publication of an administrative act is determined by the Government of the Republic of Kazakhstan.

#### **Article 59 Correction of obvious errors in administrative act**

1. An administrative authority may correct typographical or other obvious errors in the received administrative act on its own initiative or on the basis of an application of a member of the administrative procedure.

2. The administrative authority may request the document required for correction.

3. Corrections in the administrative act are confirmed by the signature of the appropriate official of administrative authority.

4. The administrative authority is obliged to provide participants with information on the administrative procedure in the administrative act and corrections to the procedure stipulated by Article 58 of this Law.

#### **Article 60. Operation of law of administrative act**

1. An administrative act shall come into force from the moment of its announcement to the person to whom it is addressed, or to a person whose interests are affected, in accordance with the procedure established by Article 58 of this Act, or from the time when these individuals become aware of it. The administrative act shall take effect and shall be valid in the content that it was declared.

2. Administrative act retains its legal force and shall be considered valid until it is repealed, is not changed, is not passed its expiry date or until is declared invalid for other reasons.

3. Invalid administrative act has no legal force.

#### **Article 61 Nullity of administrative act**

1. The administrative act shall be deemed null in whole or in part, if it contains a particularly significant lack (mistake), which is at a reasonable assessment of all the circumstances is clear.

2. The administrative act is also null if:

- 1) it is not clear which administrative authority accepted act;
- 2) act adopted by the administrative authority without relevant powers;
- 3) it is not clear to whom act is addressed;
- 3) act requires the wrongful act that entails criminal or administrative liability;
- 4) act cannot be performed on the actual causes;
- 5) act which can only be accepted in some form, but does not meet this requirement.

3. Null administrative act is invalid and has no legal force since the adoption of the act and not enforceable.

4. The administrative authority adopted the null administrative act shall on its own initiative or at the request of the person whose rights have been affected immediately confirm the nullity of the act.

#### **Article 62. Cancellation of illegal administrative act**

1. An administrative act adopted by the administrative authority as a result of a violation or improper application of the law is illegal.

2. The illegal administrative act may be canceled in whole or partially by the administrative authority that adopted the act or the higher administrative authority or court.

3. Illegal burdening administrative act subject to mandatory cancellation. If the relevant laws of the Republic of Kazakhstan does not provide otherwise, the cancellation of illegal burdening administrative act shall entail the elimination of legal consequences arising from the entry into force of this Act.

4. Illegal favorable administrative act may be withdrawn within the limits provided by this Article.

5. It is not allowed cancellation of illegal favorable administrative act if the trust of participant of the administrative procedure subject to protection, if it does not cause any damage to the rights of the legally protected interests of other persons, the state or the public interest, provides single current cash or property obligations or is the cause of such obligations. If a participant of the administrative procedure has expended the money or used the property and therefore is unable to return them or if return shall bear considerable damage, the person exempted from the obligation to return them, because his trust is subject to legal protection.

6. Participant of the administrative procedure cannot refer to the right to protection of trust in the following cases:

1) if he has adopted administrative act by intentionally false information, bribery, threats or fraud;

2) if he was aware of the illegality of administrative act or do not know this because of gross negligence.

7. In the cases referred in paragraph 6 of this Article, illegal favorable administrative act must be canceled. Cancellation of the act eliminates the legal consequences arisen from its entry into force. In this case the person concerned is required to reimburse the money spent or used property. The amount of compensation is determined in accordance with the provisions of the Civil Code of the Republic of Kazakhstan relating to unjust enrichment.

8. Illegal favorable administrative act that causes harm to the rights or legally protected interests of other persons, state or public interest, subject to cancellation. Cancellation of the act eliminates the legal consequences arising from its entry into force.

9. In the case of protection of the law of trust to the participant of the administrative procedure, this person shall be paid compensation for the material damage because of its confidence to the administrative act, canceled pursuant to paragraph 8 of this Article.

10. The amount of compensation payable to the participant of the administrative procedure determined by an administrative authority, which canceled an illegal administrative act, and should correspond to the size of the actual damage caused to the individual.

11. Participant of an administrative procedure has the right to claim compensation within one year. Term starts from the day in accordance with this Law order to the person of information on cancellation of illegal administrative act.

12. The illegal administrative act may be withdrawn within six months from the day when it became known all the circumstances, causing the cancellation of this act.

#### **Article 63. Cancellation of an administrative act**

1. The administrative act adopted by the administrative authority in accordance with the legal provisions is considered legal.



2. The legal administrative act may be canceled in whole or partially by the administrative authority that adopted the act, or higher administrative authority or court.

3. Legal unfavorable administrative act may be withdrawn by the body which accepted it, except when the cancellation of this act expressly prohibited by law.

4. Legal favorable administrative act may be canceled only in the following cases:

1) if the cancellation of the administrative act is expressly provided by law or there is a corresponding mark;

2) if the person has not used or is not exercised in proper order rights and terms established by administrative act;

3) If this act in force may cause harm to the state or the public interest due to the emerged circumstances after the adoption of the administrative act;

4) if the administrative authority has the right not to accept the administrative act due to changes in legal regulations, which served as grounds for its adoption and the person has not used the established rights of administrative act or guaranteed by it in its relation to the not fulfilled obligations or if the preservation of this act in force may cause harm to state or public interests.

5. Cancellation of the legal administrative act eliminates the legal consequences arising from its entry into force.

6. The legal administrative act may be withdrawn within six months from the day when it became known all the circumstances, causing the cancellation of the act.

7. In the case of protection of the trust of the participant of administrative procedure, this person shall be paid compensation for the material damage due to his trust to administrative act, canceled pursuant to subparagraphs 3) and 4) of paragraph 4 of this Article.

8. The amount of compensation to be paid to the participant of the administrative procedure defined by an administrative authority and should correspond to the size of the actual damage caused to the individual.

#### **Article 64. Return of documents and things**

Documents or things, granted on the grounds of an administrative act to confirm or exercise any right may be demanded by relevant administrative authority after recognition of the administrative act null or canceled. A person who is the actual owner of these documents and things is obliged to return them.

### **Chapter 6. Administrative appeal procedure**

#### **Article 65. The right to appeal the administrative act**

The addressee of act and the person concerned shall have the right to appeal against an administrative act or omission of an administrative authority.

#### **Article 66. Procedure for appealing**

1. An administrative act or omission on the adoption of an administrative act shall be appealed in the administrative (pre-trial) order, and in the future - through the courts, except in cases provided in Article 50 of this Law.

2. Complaint under administrative procedure is applied to a higher administrative authority, except as provided in paragraph 3 of this Article.

3. Complaint to the administrative act of administrative authority without superior body applied to the authority that adopted the act.

4. Commission for reviewing of administrative complaints at administrative authorities can be created with participation of representatives of public associations and other entities under procedure outlined in special laws of the Republic of Kazakhstan.

#### **Article 67. Terms of the appeal**

1. The administrative complaint may be submitted within one month:

1) from the date administrative act entered into force;

2) omission of the administrative authority after the expiration of the period provided by law for the adoption of an administrative act.

2. If the administrative act does not specify the term of appeal and the authority, where this act may be appealed, the complaint may be submitted within six months from the date of entry into force of act.

#### **Article 68. Requirements for administrative complaint**

1. Administrative complaint shall be in writing and may include the following information:

- 1) The name of administrative authority to which the complaint is applied;
- 2) the surname, first name, paternal name (if any) of the person making the complaint, his address (name and address of the legal entity);
- 3) the administrative act or omission on the adoption of an administrative act, which are appealed;
- 4) requirements of the person filing the complaint;
- 5) the date of the complaint;
- 6) the signature of the person filing the complaint.

2. If the administrative complaint does not meet prescribed formal requirements in this Article, the administrative authority shall appoint time for bringing a complaint in accordance with these requirements and clarifies to the complainant the legal consequences of non-compliance.

#### **Article 69. The legal consequences of filing an administrative complaint**

1. Submission of an administrative complaint suspends the execution of the appealed administrative act before the entry into force of the decision of the administrative authority on the administrative complaint, except for:

- 1) requesting taxes and other obligatory payments to the budget;
- 2) urgent orders and the measures taken by members of internal affairs agencies in accordance with the Law of the Republic of Kazakhstan «On internal affairs agencies of the Republic of Kazakhstan»;
- 3) when immediate enforcement is necessary in the public interest;
- 4) provided by other laws in cases of immediate enforcement of an administrative act.

#### **Article 70. The procedure and the limits of review of administrative complaints**

1. Review of administrative complaint implemented in accordance with provisions prescribed in Chapters 3 and 4 of this Law, unless this Chapter provides otherwise.

2. Administrative complaint is considered as a matter of legality of complained act, and in the case of execution of discretionary powers (discretion) as a matter of expediency.

3. Administrative authority is guided by both current and submitted additional evidence when considering the administrative complaint.

#### **Article 71. The term of consideration of administrative complaints**

1. The administrative complaint shall be considered within one month from the date of its receipt.

2. If the administrative authority reviewing the complaint has not made any decision or in case of disagreement with the decision adopted, the person may apply to the court.

#### **Article 72. Decision on the administrative complaint**

1. After reviewing the administrative complaint administrative authority may:

- 1) leave the complaint and an administrative act without change;
- 2) settle the complaint in whole or partially canceling completely or partially the administrative act and adopt new administrative act;

2. Adoption of an administrative act exacerbating the legal status of a person is not permitted after reviewing the administrative complaint.

3. After reviewing the administrative complaint on the omission of the administrative authority, administrative act by one of the following decisions adopted:

- 1) satisfy the complaint in whole or partially;
- 2) leave the complaint.

## **Chapter 7. Execution proceedings of administrative act**

### **Article 73. Obligation of administrative act**

1. An administrative act become enforceable by administrative authority that adopted it, unless otherwise provided by law.

2. The administrative authority is obliged to determine exactly what actions should be taken the person regarding the implementation of an administrative act.

### **Article 74. Enforcement of administrative acts that force to perform, undergo or to refrain from certain actions**

1. The administrative act which forces to perform certain actions, undergo certain actions or to refrain from certain actions, not implemented voluntarily, performed by enforcement with the following coercive measures:

- 1) implementation of the action by the addressee of act;
- 2) monetary enforcement;
- 3) direct enforcement.

2. Enforcement measure must be proportionate to its purpose. Enforcement measure should be chosen so that the losses of the obliged person and the society were minimal.

3. Addressee of act should be warned in advance by administrative authority on the application of enforcement measures. In the cases expressly provided by the legislation of the Republic of Kazakhstan, as well as in urgent cases related to the prevention or elimination of dangers capable of causing harm to state or public interests, addressee of act cannot be warned about the enforcement measures in advance.

4. Warning shall be in writing and formally submitted to the addressee of act under the procedure established by this Act.

5. The warning shall specify the period fixed for the implementation of the administrative act voluntary, and the appropriate type of enforcement measures provided for application upon completion of this period. Only one enforcement measure may be provided in the warning. If previously chosen measure by enforcement has not given results, it is allowed to use other measures of enforcement. Enforcement measures may be repeated or changed.

6. The warning refers to the administrative act to be executed and indicates grounds of enforcement measures.

7. In the case of execution by the person of an administrative act enforcement measures ceases immediately.

### **Article 75. Implementation of actions on account of the addressee**

1. If provided by administrative act the obligation of execution of any action imposed on the addressee of act is not executed, but its implementation is possible by another person, the administrative authority has the right to appoint another person for the execution of this action on account of the addressee of act.

2. The administrative authority has a right to perform itself the action on account of the addressee of act, unless otherwise provided by law.

### **Article 76. The monetary enforcement**

1. Monetary enforcement - is a coercive measure imposed by the administrative authority in money for non-fulfillment of an administrative act on the act of addressee.

2. In cases provided in this Article a monetary enforcement is imposed in the amount of five monthly calculation indices for individuals and up to forty monthly calculation indices for legal entities.

3. In the case of non-payment of monetary enforcement by the addressee of act, administrative authority refers to the bailiffs.

#### **Article 77. The direct enforcement**

1. If implementation of action on account of addressee of act or monetary enforcement cannot lead to the target or on objective circumstances cannot be implemented, the relevant administrative authority has the right directly enforce the obligated person to perform the appropriate action or to prohibit specific action.

2. The direct enforcement may be used by measures provided by the Law of the Republic of Kazakhstan «On internal affairs agencies of the Republic of Kazakhstan».

#### **Article 78. Execution of monetary claims**

1. The monetary claim is the amount of money subject to a mandatory payment to the state budget in accordance with the law and on grounds of administrative acts.

2. Monetary claims expected to be paid according to the Law of the Republic of Kazakhstan «On Enforcement Proceedings and the Status of Enforcement Agents».

### **Chapter 8. Administrative expenses**

#### **Article 79 Administrative expenses**

The administrative expenses include state duty paid under administrative procedure and the amount established by the Code of the Republic of Kazakhstan «On Taxes And Other Obligatory Payments Into The Budget (Tax Code)» as well as other expenses specified in this Chapter.

#### **Article 80. Other expenses during the administrative procedure**

1. Other expenses during the administrative procedures imposed on the authority responsible for administrative procedure, except in the cases specified in paragraph 2 of this Article.

2. Expenses associated with making copies and extracts from the documents of the administrative procedure in the amount of fifty or more pages, shall bear a person who has applied such claim. In this case, the expenses should not exceed the actual expenses of the administrative authority.

If an expert or an interpreter were invited from the side of any participant of the administrative procedure, the participant bears relevant costs.

#### **Article 81. Expenses of mutual assistance of administrative authorities**

The expenses associated with the implementation of mutual assistance shall bear administrative authority providing mutual assistance.

### **Chapter 9. Responsibility of administrative authorities**

#### **Article 82. Responsibility of administrative authorities**

The responsibility for the damages caused by administrative authorities to individuals and legal entities in the implementation of administrative procedures determined in accordance with the Civil Code of the Republic of Kazakhstan.

#### **Article 83. Appeal**

Participants of the administrative procedure may appeal to the relevant court of the administrative authority's decision on refusal to compensation for damages or its amount.

#### **Article 84. Responsibility of officials of administrative authorities**

1. Officials of the administrative authorities shall bear disciplinary, administrative or criminal liability for violation of the provisions of this Law in accordance with the laws of the Republic of Kazakhstan

2. In compensation for damages for participant of the administrative procedure caused due to the fault of the official, that is as a result of gross negligence or intent, this official may be brought by the administrative authority to financial responsibility under the procedure of regress suit.

## **Chapter 10. Transitional and concluding provisions**

### **Article 85. Implementation of the Law**

This Law enters into force upon the expiry of six months after its first official publication.

### **Article 86. Transitional provisions**

1. Administrative acts adopted before the entry into force of this Law, shall not be brought into conformity with this Law.

2. Administrative procedures initiated but not completed before the entry into force of this Law, shall be implemented in accordance with this Law.

### **Article 87. Final Provisions**

The Law of the Republic of Kazakhstan «On administrative procedures» on November 27, 2000 shall be terminated (Bulletin of the Parliament of the Republic of Kazakhstan, 2000, № 20, Article 379; 2004, № 5, Article 29; 2007, № 12, Article 86; № 19, Article 147; 2008, № 21, Article 97; 2009, № 15-16, Article 74; № 18, Article 84; 2010, № 5, Article 23; № 7, Article 29; № 17-18, Article 111; 2011, № 1, Article 2; № 7, Article 54; № 11, Article 102; № 12, Article 111; № 15, Article 118; 2012, № 8, Article 64; № 13, Article 91; № 15, Article 97; 2013, № 1, Article 3; № 5-6, Article 30; № 14, Article 72; 2014, № 10, Article 52; № 19-I, 19-II, Article 96; № 24, Article 144).