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KAZAKHSTAN

DRAFT ADMINISTRATIVE PROCEDURE AND JUSTICE CODE*

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GENERAL PART

SECTION 1

GENERAL PROVISIONS

CHAPTER 1

LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON ADMINISTRATIVE PROCEDURES AND ADMINISTRATIVE COURT PROCEEDINGS

Article 1. Legislation of the Republic of Kazakhstan on Administrative Procedures and Administrative Court Proceedings

1. Legislation of the Republic of Kazakhstan on Administrative Procedures of the Republic of Kazakhstan is based upon the Constitution of the Republic of Kazakhstan and consists of this Code and other regulatory legal acts of the Republic of Kazakhstan.

2. The procedure of administrative court proceedings within the territory of the Republic of Kazakhstan is determined by the Constitution of the Republic of Kazakhstan, constitutional laws and this Code.

The provisions of the Civil Procedural Code of the Republic of Kazakhstan are applied in administrative proceedings, if they do not comply with the procedural principles set by this Code. The provisions of other laws governing administrative proceedings are to be included in this Code.

3. This Code is based on the Constitution of the Republic of Kazakhstan, generally acknowledged principles and norms of international law.

4. Treaties and other obligations of the Republic of Kazakhstan, as well as normative resolutions of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan, constitute an element of the legislation on administrative procedures and administrative court proceedings.

Article 2. Application of prevailing norms in administrative procedure and administrative court proceedings

1. The Constitution of the Republic of Kazakhstan has supreme legal force and direct effect within entire territory of the Republic. In case of conflict between the provisions of this Code and the Constitution of the Republic of Kazakhstan, the Constitution provisions will prevail.

2. Peculiarities of conducting administrative procedures are set out in regulatory legal acts of the Republic of Kazakhstan. This Code governs relations arising from the performance of administrative procedures to that are not regulated by regulatory legal acts of the Republic of Kazakhstan.

3. In case of conflict between provisions of this Code and the constitutional law of the Republic of Kazakhstan as it pertains to administrative court proceedings, the constitutional law provisions shall prevail.

In case of conflict between provisions of this Code and other laws of the Republic of Kazakhstan, the provisions of this Code shall apply to administrative proceedings.

4. Treaties ratified by the Republic of Kazakhstan have priority over this Code and apply directly, with the exception of cases when a treaty stipulates that a law needs to be adopted in order to apply the treaty. If a treaty ratified by the Republic of Kazakhstan provides rules that do not match

with those provided in the legislation on administrative procedures and administrative court proceedings, the treaty rules will prevail.

Article 3. Relations regulated by the legislation of the Republic of Kazakhstan on administrative procedures and administrative court proceedings

1. This Code establishes the procedure of performance of the activities, functions of state bodies, regulates social relations between administrative bodies, the officials and participants of the administrative procedure with respect to the acceptance and enforcement of administrative acts, performance of administrative action, appealing against administrative act, refusal from the acceptance of administrative act, administrative action, also establishes the procedure of administrative court proceedings on the hearing and adjudication of administrative cases involving disputes arising from public and legal relations.

2. The following is not handled in administrative court proceedings:

1) legal acts whose verification is in the exclusive competence of the Constitutional Council of the Republic of Kazakhstan;

2) cases whose proceedings are governed by the legislation of the Republic of Kazakhstan on administrative offences, criminal procedure and civil procedure legislation;

3) disputes on the issues of competence between state bodies of the Republic of Kazakhstan, other administrative disputes falling within the competence of other courts.

3. This Code applies to relations arising out of the performance of administrative procedures, except:

1) relations regulated by criminal procedure, civil procedure legislation and legislation on administrative offences;

2) relations regulated by the legislation on constitutional council, high judicial council;

3) relations regulated by the legislation on the procedure of state and budgetary types of planning;

4) relations associated with the procedure of preparing regulatory legal acts;

5) relations regulated by the legislation on the operative investigation activities;

6) relations regulated by the legislation on intelligence, counterintelligence, operative-search activity, as well as on provision of the security of protected persons and objects and the conduct of security measures.

4. This Code with regard to the regulation of administrative procedures, with the exception of Chapters 14, 15, 16, 17, does not apply to relations regulated by legislation on special state bodies.

3. Rules of internal administrative procedures provided by this Code and falling outside of the scope of legislative acts apply to the activities of:

1) the President of the Republic of Kazakhstan, state bodies and public officials supporting the activities of the head of state;

2) offices of the Parliament chambers, the Central Election Commission of the Republic of Kazakhstan;

3) offices of the Constitutional Council, the Supreme Court and offices of courts of the Republic of Kazakhstan;

4) Government, Office of the Prime Minister, central executive bodies of the Republic of Kazakhstan;

5) the office of local representative bodies of the Republic of Kazakhstan;

6) local executive bodies of the Republic of Kazakhstan.

Article 4. Force of the legislation of the Republic of Kazakhstan on administrative procedures and administrative court proceedings

1. An administrative procedure is conducted in the manner prescribed by the normative legal acts at the time of the initiation of the administrative procedure. A normative legal act may extend to the relations that arose before its introduction into action, if it is directly provided in it.

2. Administrative court proceedings are conducted in accordance with the law on administrative court proceedings enacted by the time the procedural action or a procedural decision is made.

3. A law that imposes new obligations, vacates or diminishes rights of the participants of an administrative case or limits their use with additional conditions, is not retroactive.

4. Admissibility of evidence is determined in accordance with the law that was active at the time of their receipt.

Article 5. Main definitions used in the Code

1. This Code utilises the following main concepts:

1) administrative case - the requirement for the administrative body, the official, court to resolve a legal dispute between subjects of public legal relations, as well as materials related to this dispute; as well as other materials that record the implementation of the administrative procedure;

2) administrative act – an imperative measure of influence taken by an administrative body, an official in public law relations for the resolution of a specific case and establishing (providing, certifying, confirming, registering, providing), changing or terminating the rights and obligations of participants in the administrative procedure.

Administrative acts do not include:

- the decisions of the administrative body, the official, taken in civil legal relations;
- decisions of the administrative body, the official, taken during the implementation of the internal administrative procedure;
- decisions on cases, the procedure for the production of which is provided for by criminal procedural, civil procedural legislation and legislation on administrative violations

3) administrative claim (legal action) – a demand lodged with the court with a view to protect and restore violated or contested rights, liberties or legally protected interests arising out of public legal relations;

4) administrative procedure - the actions of the administrative body, the official on consideration of the administrative case, the adoption and execution of the administrative act made on the basis of the request or by its own initiative, other actions carried out in the simplified administrative procedure, as well as appealing against the administrative act, the adoption of an administrative act, administrative action in an administrative (pre-trial) order;

5) internal administrative procedure – sole administrative activity of an official or the activity of a collegiate body related to the organization of a state body and internal order, as well as the consideration, passage of official documents and internal control over their execution, and the procedure governing information exchange between state bodies, their subdivisions and officials;

6) presiding judge – a judge solely presiding over a panel hearing of an administrative case or hearing of administrative case;

7) favourable administrative act – act affording a participant of an administrative procedure new rights or terminating an obligation imposed upon the participant, or otherwise improving the participant's condition;

8) administrative body's discretion – an administrative bodies' right granted by laws of the Republic of Kazakhstan to adopt or not to adopt an administrative act; possibility to choose the type of such an act and its content, as well as right to perform an administrative act;

9) restricting administrative act – an act denying an administrative procedure participant's exercise of his rights, limiting his right or imposing upon him a certain obligation, or otherwise worsening his situation;

10) state body – organization of state power, exercising on behalf of the state on the basis of the Constitution of the Republic of Kazakhstan, laws and other normative legal acts following functions:

- adoption of acts that determine generally binding rules of conduct;

- management and regulation of socially significant public relations;

- the monitoring of compliance with the generally binding rules of conduct established by the state.

The competence, powers, functions and tasks of the state body are established in the Constitution, laws and other normative legal acts adopted by the President, the Government, the higher central state body.

In property and other civil law relations, the state body acts in the organizational and legal form of a state institution.

11) internal information – information that is created, processed and transmitted in the process of the performance of state functions, with the state being its owner or user.

12) internal supervision (control) – supervision conducted by a state body in order to determine whether or not its structural and territorial subdivisions, subordinate state bodies and organizations and officials comply with the state-body-rendered decisions, as well as requirements provided for by the legislation of the Republic of Kazakhstan.

13) competence of the state body – the complex of the established powers of the state body that determine the subject of activities of the body or an official;

14) tasks of the state body - main directions of activity of the state body;

15) function of the state body - the exercise by the state body of activities within its competence;

16) administrative actions - legally significant action (omissions) committed by an administrative body, an official in public law relations, which are not administrative acts;

17) communication - notification of violation of laws and other regulatory legal acts, shortcomings in the work of state bodies, local governments, legal entities with 100% participation of the state and their officials;

18) application - application of a participant in the administrative procedure for assistance in the exercise of his rights and freedoms or the rights and freedoms of others;

18-1) videoconference - a communication service using information and communication technologies for interactive interaction of several remote subscribers in real time with the possibility of exchanging audio and video information;

18-2) video message - an individual or collective proposal sent to the administrative body, an official; an application, complaint, request, message or response in the video format carried out by the State Corporation "Government for Citizens";

19) anonymous appeal - an appeal for which it is impossible to establish authorship, as there is no signature, including an electronic digital signature, the postal address of the applicant;

20) appeal - addressed to the administrative body, the official individual or collective written, oral, as well as in the form of an electronic document, videoconference, video calls received through the State Corporation "Government for Citizens", the National Postal Operator, mobile applications and other information systems relevant requirements of the legislation of the Republic of Kazakhstan on electronic document and electronic digital signature, proposal, application, complaint, request, report or response;

21) record of the appeals - recording information on the reception and consideration of appeals and their reflection in state legal statistical reporting;

22) receipt of the appeal - the action of the administrative body, the official on acceptance of the appeal of the participants of the administrative procedure;

23) consideration of the appeal - the acceptance of decision by the administrative body, the official within the limits of its competence on the registered appeal in accordance with the legislation of the Republic of Kazakhstan;

24) request - the request of the participant of the administrative procedure for the provision of information on the issues of personal or public interest;

25) proposal - the recommendation of the participant of the administrative procedure for the improvement of laws and other regulatory legal acts, the activities of state bodies, the development of public relations, the improvement of socio-economic and other spheres of activity of the state and society;

26) response - the expression by the participant of the administrative procedure of its attitude towards state domestic and foreign policies, as well as towards the events and phenomena of a public nature;

27) complaint - a requirement of a participant of the administrative procedure to restore or protect the rights, freedoms or legitimate interests of his or other persons that have been violated by an administrative act, refusal to adopt an administrative act, administrative action.

2. Other special definitions and terms are used in the context stated in the corresponding articles of this Code, as well as in other legislative acts of the Republic of Kazakhstan.

CHAPTER 2
PRIMARY OBJECTIVES AND PRINCIPLES OF THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON ADMINISTRATIVE PROCEDURES AND ADMINISTRATIVE COURT PROCEEDINGS

Article 6. Objectives of the legislation of the Republic of Kazakhstan on administrative procedures and administrative court proceedings

Objectives of the legislation on administrative procedures and administrative court proceedings consist in the protection and restoration of violated or contested rights, liberties and lawful interests of individuals and legal entities by means of a just, objective and timely hearing of administrative case, observance of legality in public legal relations, the improvement of the arrangement of managerial activities, the ensuring of the functioning of the officials and state bodies.

Article 7. Meaning of principles of the legislation of the Republic of Kazakhstan on administrative procedures and administrative court proceedings

1. Principles of administrative procedures and administrative court proceedings are interlinked and form their own system. Each of the principles is implemented in conjunction with other principles of administrative procedures and administrative court proceedings.

2. The principles established in this chapter are not exhaustive and cannot be an obstacle to the application of other principles of law.

3. Violation of the principles depending on their nature and importance, entails the rendering of decisions, actions (inactions) as illegal ones.

Article 8. Principle of legality and justice

1. The administrative body, the official shall carry out administrative procedures within the limits of their competence and in accordance with the Constitution of the Republic of Kazakhstan, this Code and other regulatory legal acts of the Republic of Kazakhstan specified in Article 1 of this Code.

2. When reviewing and resolving administrative cases the court must strictly observe the requirements of the Constitution of the Republic of Kazakhstan, constitutional laws, this Code, other normative legal acts subject to the application of international treaties of the Republic of Kazakhstan.

3. The courts shall not be entitled to apply laws and other normative legal acts that infringe the rights and freedoms of a person and citizen enshrined in the Constitution of the Republic of Kazakhstan. If the court finds that the law or other normative legal act which are to be applied infringe the rights and freedoms of a person and citizen enshrined in the Constitution, it must suspend the proceedings on an administrative case and apply to the Constitutional Council of the Republic of Kazakhstan with the notion of recognizing this act as unconstitutional. Upon receipt by the court of a decision of the Constitutional Council, the proceedings shall be resumed.

4. Decisions of courts authorized to consider administrative cases based on a law or other normative legal act which were recognized as unconstitutional shall not be enforceable.

5. In the absence of the rules of law governing disputable legal relations, the court shall apply the rules of law governing similar relations, and in the absence of such norms, settle the dispute on the basis of the general principles and meaning of the legislation of the Republic of Kazakhstan.

6. If the law or agreement of the parties of the dispute provides for the resolution of the relevant issues by a court, the court must resolve these issues on the basis of the criteria of fairness and reasonableness.

Article 9. Right for a legal recourse

1. Any person is entitled to recourse to a court, under the procedure established by this Code, to seek a remedy for violated or disputed rights, liberties and lawful interests.

2. State bodies within their competence, individuals and legal entities are entitled to recourse to a court with an application for a remedy for violated or disputed lawful interests of other persons or unspecified group of persons.

Prosecutor has the right to bring a claim (lodge an application) with a view to fulfil his duties and protect the right of citizens and legal entities, civil and state interests.

3. If the legislation provides for a pre-trial procedure, then appealing is possible only in case of compliance with such procedure.

4. Foreigners, stateless persons and foreign legal entities enjoy the same right of judicial protection in the Republic of Kazakhstan as individuals and legal persons of the Republic of Kazakhstan, and also perform procedural duties on an equal footing with citizens of the Republic of Kazakhstan, with the exception of cases provided for by law. Legislation may impose restrictions on foreigners of those states where restrictions on the procedural rights of citizens of the Republic of Kazakhstan are allowed.

5. No one's jurisdiction provided for by law can be changed without this person's consent.

6. Coercion to give up the right to recourse in court is illegal and entails liability prescribed by the legislation.

7. Abandonment of the right to recourse to a court is voided.

Article 10. Active role of the court

1. Administrative court proceedings are conducted on the basis of the active role of the court.

2. The court within the conduction of the legal process does not limit itself to explanations, declarations and plea of the participants of proceedings, arguments and evidence provided by the parties, but uses the materials of the proceedings to examines all factual circumstances relevant to the resolution of the dispute.

Within the consideration of the administrative case the judge has the right to express his preliminary legal opinion on any legal grounds connected with the actual and (or) legal aspects of the case in question.

3. The court must on its own initiative or upon a substantiated request lodged by participants of the administrative court proceedings collect additional evidence for purposes of a complete and impartial examination of all factual circumstances of the administrative case.

4. The court may request additional information and evidence from the participants of the administrative proceedings.

Administrative proceedings participants must assist the court in examining factual circumstances of the administrative case and collecting evidence.

Article 11. Observance of a reasonable term

1. Court proceedings in courts of first instance, appeals and cassations are conducted within reasonable time.

2. Factors that need to be taken into account in determining a reasonable term include legal and factual complexity of an administrative case, behaviour of persons participating in the administrative process revealing in the degree of use of procedural rights and fulfilment of procedural obligations,

procedural sufficiency and efficacy of the court's actions towards prompt hearing of an administrative case.

Article 12. Independence of judges

1. Within the administration of justice the judge is independent and subject only to the Constitution of the Republic of Kazakhstan and the law.

2. Judges consider and resolve administrative cases in conditions that exclude any extraneous influence on them. Any interference with the activities of judges in the administration of justice is prohibited and entails the statutory responsibility. In specific cases, judges are not accountable.

3. Guarantees of the independence of judges are established by the Constitution of the Republic of Kazakhstan and the law.

Article 13. Equality of all before the law and the court

1. Justice in administrative cases is based on the equality of all before the law and the court.

2. In the course of administrative proceedings:

None of the individuals can be given preference, none of them can be discriminated on grounds of origin, social, official and property status, sex, race, nationality, language, attitude to religion, beliefs, place of residence or any other circumstances;

None of state bodies, legal entities can be given preference and none of them can be discriminated on the grounds of their location, organizational and legal form, subordination, ownership and other circumstances.

Article 14. Publicity of a trial

1. The examination of administrative cases in all courts is open. Judicial acts are announced publicly.

2. In accordance with the law, administrative cases containing information on state secrets or other secrets protected by law are considered and resolved, including the announcement of a decision, in a closed court session.

3. Personal correspondence and other personal communications may be announced in open court session only with the consent of the persons between whom this correspondence took place and persons which these personal communications concern. In the absence of such consent, correspondence and communications are disclosed and investigated in a closed court session. These rules apply to the study of audio, video, photo and filming materials and other materials on electronic, digital and other media containing personal information.

4. Persons under the age of sixteen years are not admitted to the courtroom unless they are

5. The participants in the administrative process and other persons, including representatives of the mass media, who present at the open hearing, are eligible to take notes during the court session, record it with audio and digital media from their seats. Filming and photography, video recording, direct radio and television broadcasting, video broadcasting in the information and communication Internet network are allowed in the courtroom with the permission of the court taking into account the opinion of the participants in the administrative process. This is indicated in the ruling of the court, which is recorded in the record of the court session. These actions should not interfere with the normal course of the court session and may be limited by the court in time.

6. The judicial acts that have entered into force are published on the Internet resource of the court and can be publicly discussed subject to the limitations established by part two of this article and other laws.

7. Information on appeals received by the court on administrative cases in the court proceedings is to be disclosed and communicated to the participants of the process by posting this information on the official Internet resource of the court, , taking into account the restrictions established by part two of this article and other laws..

Article 15. Obligatory nature of judicial acts

1. The court of first instance shall adopt judicial acts on administrative cases in the form of decisions and definitions.

Courts of appeal, courts of cassation adopt judicial acts in the form of decisions and definitions.

2. Entered into legal force judicial acts, orders, demands, instructions, calls, requests and other applications of courts and judges in the administration of justice are mandatory for all public bodies, local government authorities, legal entities, officials, individuals are subject to execution on the whole territory of the Republic of Kazakhstan.

Judicial acts based on a law or other normative legal act that are recognized as unconstitutional acts by the Constitutional Council of the Republic of Kazakhstan shall not be enforced.

3. Failure to comply with judicial acts, as well as requirements of court other entails the execution of enforcement measures provided by this Code.

4. The obligation of a judicial act does not deprive interested persons who did not participate in the administrative process of the opportunity to apply to the court for the protection of violated or contested rights, freedoms and legitimate interests.

5. Judicial acts are sent to the participants of the administrative process by the court within three working days from the day of final adoption.

Article 16. Freedom to appeal against judicial acts

Judicial acts may be appealed in accordance with the procedure established by this Code, by participants of the administrative process, as well as by persons whose rights and duties of are effected by the judicial acts issued by court.

Article 17. Principle of proportionality

1. Measures restricting the rights, freedoms and legitimate interests of participants of the administrative procedure should be proportionate, that is, be suitable, necessary and proportionate.

2. A measure is considered suitable if it is aimed at achieving the goal established by the Constitution of the Republic of Kazakhstan and laws.

A measure is considered necessary if it minimizes the rights and freedoms of participants of the administrative procedure to the least extent.

A measure is considered proportional if the public good obtained as a result of restrictions on the rights and freedoms of participants in the administrative procedure is considered greater than the harm caused by these restrictions.

Article 18. Principle of the prohibition of abuse of formal requirements

The administrative body, the official is prohibited to impose upon the participants of the administrative procedure the obligations or to refuse to exercise any right solely for the purpose of satisfying formal requirements, including intra-organizational ones, which are not provided for by the legislation of the Republic of Kazakhstan.

Article 19. Principle of the protection of the right to trust

1.Trust of participants of administrative procedure to the administrative act is protected by law.

2. Administrative acts, administrative actions are presumed to be legitimate and justified.

Losses incurred by bona fide participants of an administrative procedure as a result of the cancellation of an administrative act are subject to reimbursement in accordance with the provisions of this Code and the provisions of civil legislation.

3. The right to trust cannot be considered as a justification for illegal actions.

Article 20. Principle of uniform application of law

1. The administrative body, the official in the exercise of administrative discretion are prohibited to adopt administrative acts, perform administrative actions that result in different legal consequences arise, in administrative cases having similar material factual circumstances.

The administrative body, the official in the exercise of administrative discretion are prohibited to accept administrative acts, to perform administrative actions, from which similar legal consequences follow, in administrative cases having different material factual circumstances.

Essential factual circumstances - facts and phenomena of reality that form the actual basis and condition for the adoption of an administrative act, the commission of an administrative action.

2. The administrative body, the official in the exercise of administrative discretion should adhere to uniform practice.

Deviation from uniform practice is possible only if its observance can lead to violation of the rights, freedoms and legitimate interests of participants in the administrative procedure, and in the future the administrative body, the official intend to adhere to the newly formed practice.

Article 21. Principle of reliability

1. Within the implementation of the administrative procedure, materials, objects, documents and information provided by the participants in the administrative procedure (hereinafter referred to as documents and other information) are considered reliable until the administrative body, the official establishes otherwise.

2. The administrative body, the official are prohibited to demand documents and other information, unless otherwise provided by the legislation of the Republic of Kazakhstan.

3. If there are reasonable doubts in the authenticity of the documents and other information provided by the participants of the administrative procedure, the administrative body, the official, must independently and at their own expense verify their authenticity.

Article 22. Principle of priority of rights

All irremovable doubts, contradictions and ambiguities that arise during the implementation of the administrative procedure are interpreted in the applicant's favor, if this does not affect the interests of other participants in the administrative procedure.

Article 23. Administrative discretionary procedure

1. The administrative body, the official are obliged to exercise administrative discretion within the limits established by the legislation of the Republic of Kazakhstan.

2. Adoption of administrative acts and committing actions (inaction) on the basis of administrative discretion must be consistent with the purpose of this authority.

Article 24. The language of administrative procedures and administrative court proceedings

1. Administrative procedures and administrative court proceedings in the Republic of Kazakhstan are conducted in Kazakh; on equal terms with the Kazakh language, the Russian language is officially used. When expressly specified by the laws, other languages can be used as well.

2. When applying in the administrative procedure in another language, translation of application in Kazakh or Russian is attached.

If an appeal filed in another language is the basis for initiating an administrative procedure, the duration of the administrative procedure begins from the moment the administrative authority or the official submits the translation into Kazakh or Russian.

3. The language of court proceedings is established by the court.

4. Participants of the administrative process and other persons participating in an administrative case who do not know or do not know enough the language in which the proceedings are conducted in the administrative case are explained and are guaranteed the right to make statements, give explanations and testimony, file petitions, file complaints, challenge judicial acts , get acquainted with the materials of the administrative case, speak in court in their native language or another language they speak; use the services of an interpreter free of charge in accordance with the procedure established by this Code.

5. In administrative proceedings persons who do not speak the language of the court proceedings are provided with a free translation of necessary materials of the administrative case which they need by virtue of law.

Participants of the administrative process and other persons participating in the administrative case shall be provided by the court with free of charge translation into the language of the court proceedings of that part of the negotiation that takes place in another language.

CHAPTER 3
TERMS

Article 25. Computation of terms

1. A term is defined by a calendar date and a reference to an event occurrence of which is inevitable. Term can also be set as a time period computed in years, quarters, months, weeks, 24-hour days, days (calendar or business days) or hours.

2. The term computed in years starts from a calendar date or on the day the event takes place, which are meant to designate the term's beginning, and expires in the corresponding month and day of the final year of the period. If the term finishes in the month that does not have the corresponding day, then the time period will expire in the final day of said month.

The term computed in months starts from a calendar date or on the day the event takes place, which are meant to designate the period's beginning, and expires on the corresponding day (date) of the final month of the period. If a time period finishes on a month that does not have the corresponding day, then the time period will expire in the final day of said month.

The term computed in weeks starts from a calendar date or on the day the event takes place, which are meant to designate the period's beginning, and expires on the corresponding day of the final week of the period.

The term computed in days (24-hour days) starts from the day following the calendar date or on the day (24-h day) of the event occurrence of which defines the period's beginning, with the exception of constitutional terms that start on the day of the event occurrence, as specified in the Constitution of the Republic of Kazakhstan, and expires on the final day (final 24-hour day) of the specified period.

The term computed in hours starts from the minute the event occurs, designating the start of the period, and expires on the final minute of the specified period.

3. The running of term defined by a time period starts from the day following the calendar date or from the day of the event occurrence that define the period's beginning, with the exception of constitutional terms that start from the day of the event occurrence, as specified in the Constitution of the Republic of Kazakhstan.

If the last day of term is not a working day, the day of the expiry of term is the closest subsequent working day.

Article 26. Observance of the term and the procedure of its recovery

1. If the other is nor provided by this Code term is not considered missed if a claim, application, complaint, motion or other document is submitted prior to the expiry of time via mail, handed over or lodged with the person authorized to receive it. Time of submission of a complaint or other documents by mail is indicated by the post stamp, while the time of the submission to the person authorized to receive it – by the mark imprinted by the clerical office or officials of these organizations, unless legislative acts provide otherwise.

2. Observance of the specified time limit is acknowledged by the corresponding instruction in documents.

3. By motion of a person, the time limit missed with good reasons can be restored by administrative body, the official or a court. The time is restored for the person who missed it, but not for any other persons, unless otherwise specified in the corresponding act of administrative body, the official or a court.

4. The appeal and cassation, private complaints that have been submitted to the court after the entry of the decision, rulings into force, are not accepted by the court. The deadline for filing such complaints is considered to be omitted and cannot be restored.

5. Refusal to restore the term can be appealed against under the appellate and cassation procedure.

SECTION 2
COURT, ADMINISTRATIVE BODY, THE OFFICIALS AND PARTICIPANTS OF THE ADMINISTRATIVE CASE

CHAPTER 4
COURT

Article 27. Court composition

1. Administrative cases in the court of first instance shall be examined and resolved by the sole judge acting on behalf of the court.

2. Administrative cases in the court of appeal are considered by three judges at least, one of whom is the presiding judge. Private complaints about the rulings adopted by administrative courts or district courts and courts equivalent to them are examined by the sole judge.

3. Administrative cases in the court of cassation are considered by at least three judges under the chairmanship, as a rule, of the chairman of the board.

4. In cases provided by this Code administrative cases are considered in the Supreme Court of the Republic of Kazakhstan according to the rules of the court of the first instance by at least three judges under the chairmanship, as a rule, of the chairman of the board.

5. The court composition for hearing an administrative case is formed taking into account the load and specialization of judges under a procedure that precludes any influence on the composition from persons interested in the outcome of the court proceedings, which includes the use of an automated information system.

Article 28. Procedure of trial by judicial panel. Dissenting opinion

1. All judges exercise equal rights during the hearing and resolving administrative cases in judicial panel. All issues arising during the hearing and resolving administrative cases by judicial panel are resolved by the majority vote of the judges. None of the judges has the right to abstain from voting. The chair votes last.

2. A judge who opposes the majority opinion of the judges voting for rendering a judicial act, or who voted for the rendered judicial act, but was left in the minority when voting on another matter, or on the motivation of the rendered judicial act, must sign the judicial act and is entitled to share in writing his/her dissenting opinion.

3. The judge must express his/her dissenting opinion in term that does not exceed ten days from the day the decision was made on the administrative case. A judge's dissenting opinion is added to the materials of the administrative case, but is not read during the declaration of the decision made on the administrative case, and is not published.

CHAPTER 5
ADMINISTRATIVE BODY, THE OFFICIALS AND PARTICIPANTS OF THE ADMINISTRATIVE CASE

Article 29. Legal capacity and dispositive capacity in the administrative procedures

1. Capacity to have rights and obligations in administrative procedures is recognized equally for all administrative bodies, officials, as well as individuals and legal entities.

2. Capacity to exercise rights and obligations through own actions within an administrative procedure is equally recognized for all administrative bodies, officials, individuals and legal entities in accordance with the legislation of the Republic of Kazakhstan.

Article 30. Administrative body, the official

1. An administrative body is a public body, a local authority, as well as other organizations which are authorized under the laws of the Republic of Kazakhstan to perform activities in the sphere of state governance of aimed at ensuring the interests of state and public (public functions).

An official (authority) is a person who performs public functions permanently, temporarily or by special authority or performs organizative/dispositive or administrative/economical functions in administrative bodies.

2. An administrative body, an official has the authority to:

1) deny the exercise of the rights of the participants of administrative procedure in cases and on grounds established under this Code;

2) lodge a request to administrative bodies, the officials for information required to perform an administrative procedure.

3) involve in an administrative procedure an interpreter, a specialist.

3. An administrative body, an official must:

1) explain to the participants of administrative procedure their rights and obligations with respect to issues associated with the performance of the administrative procedure;

2) hear the participants of administrative procedure prior to rendering an decision on administrative procedure, with the exception of cases specified in this Code;

3) familiarize the participants with the materials of the administrative procedure in cases provided by this Code, make copies and statements from them;

4) receive and register appeals, assist in their formalization, as well as any documents annexed thereto, give the possibility for elimination formal errors and complement the appended documents;

5) inform in advance participants of the administrative procedure on the venue and time of the administrative procedure session;

6) notify participants of the administrative procedure or their representatives of the administrative act under the procedure established by this Code;

7) assist administrative bodies, the officials in instances provided for in this Code within their scope of competence;

8) perform other actions provided by the legislation of the Republic of Kazakhstan.

Article 31. Personal reception of individuals and representatives of legal entities

1. Heads of state bodies, local self-government bodies and their deputies are obliged to conduct a personal reception of citizens and representatives of legal entities, including employees of these bodies, at least once a month according to the schedule of admission approved by the head of the relevant state body.

2. Reception must be conducted at the place of work in the days and hours specified and communicated to individuals and legal entities.

3. If the appeal cannot be resolved by an official at the time of reception, it is stated in writing. The work with this appeal is carried out in the manner as it is a written appeal.

Article 32. Participants in the administrative procedure

1. The applicant and interested party shall be recognized as participants of the administrative procedure.

2. Legal succession is carried out in accordance with the procedure established by civil law.

Article 33. Applicant

1. The applicant in the administrative procedure is the person who submitted the application to the administrative authority, the official for the implementation of the administrative procedure.

For the purposes of this Code, the applicant is recognized as a person in respect of whom an administrative act is accepted, an administrative action (addressee of an administrative act) is made, unless otherwise established by this Code.

2. An appeal can be lodged with an administrative body, an official by multiple persons (collective application).

If an administrative procedure is initiated by means of the lodging of an appeal, then interested parties are entitled to engage into already initiated administrative procedure. In this case, there is no need for initiating a separate administrative procedure for the appeal of each of these persons.

3. The applicant is entitled to:

1) receive from administrative body, the official explanations on the applicant's rights and obligations with respect to the issues associated with the execution of the administrative procedure;

2) be heard prior to rendering decision on administrative procedure, with the exception of cases specified in this Code;

3) familiarize oneself with the materials of the administrative procedure pertaining to the applicant's rights and obligations, make extracts and copies;

4) lodge motions, eliminate formality errors;

5) lodge complaints against an administrative act, refusal to adopt administrative act as well as against administrative action;

6) lodge repeat applications, motions, complaints in respect of an issue already heard by the administrative body, the official under the procedure established in this Code.

7) during the appeal, file motions and participate in their examination, which includes explanations, provide material evidence and other documents;

8) discontinue the administrative procedure if said procedure was initiated via appeal from the person;

9) argue in the administrative procedure in native language or a language that the applicant has a command of; use the services of an interpreter;

10) move to disqualify in cases provided for in this Code;

11) have representation;

12) demand the payment of a compensation in cases provided for in this Code;

13) exercise other rights granted by this Code and other laws of the Republic of Kazakhstan.

4. Foreign nationals, stateless persons and foreign legal persons have the rights and bear obligations on equal terms with the citizens and legal persons of the Republic of Kazakhstan, unless otherwise provided by the laws of the Republic of Kazakhstan.

Article 34. Interested party

1. An interested party is recognized as a person whose rights, liberties and legally protected interests are affected or can be affected by administrative act, administrative procedure.

2. An interested party is entitled to exercise rights and bears obligations provided for by article 33 of this Code, with the exception of paragraph 8).

CHAPTER 6
PARTICIPANTS OF THE ADMINISTRATIVE PROCEEDINGS

Article 35. Participants of the administrative proceedings

The plaintiff, the defendant, the interested party, the public prosecutor are considered to be participants of the administrative proceedings.

Article 36. Legal capacity and dispositive capacity

1. The capacity to have procedural rights and bear procedural obligations in administrative proceedings (administrative procedural legal capacity) is equally recognized for all individuals and legal entities, state bodies and local authorities, if, according to the Code, they have the right to legal protection of their rights, liberties and lawful interested.

2. The capacity to exercise procedural rights by own actions, which includes delegating the conducting of an administrative case to a representative and perform procedural obligations in administrative proceedings (administrative procedural dispositive capacity) belongs to individuals of the age of 18 and not deemed incapacitated, as well as to legal entities, state bodies and local authorities.

3. Minors emancipated on grounds provided for by the law personally exercise their procedural rights and procedural obligations from the moment of emancipation.

4. In cases specified in the law in matters arising from public legal relations, minors at the ages of fourteen to eighteen, have the right of personal defence of their rights, liberties and lawful interests. The court has the right to summon legal guardians of a minor to participate in such administrative cases.

5. Rights, liberties and lawful interests of a minor aged fourteen to eighteen, as well as a citizen deemed partially incapacitated, are protected in court by their legal representatives; however, the court has the authority to involve such minors or partially incapacitated citizens themselves in the court proceedings, as well as the prosecutor.

6. Rights, liberties and lawful interests of a minor under the age of fourteen, as well as a citizen deemed incapacitated, are protected in court by their legal representatives or the prosecutor.

Article 37. Plaintiff

1. The plaintiff is a person who has appealed to court to protect his rights, liberties, lawful interests, or a person on behalf of whom the filing was made by a prosecutor or another party thus legally authorized.

2. The plaintiff is entitled to:

1) provide evidence and participate in its examination;

2) give explanations in regard to the claim filed;

3) file motions and challenges, give testimony, explain and argue on all issues arising during the administrative case in the plaintiff's native language or a language the plaintiff has a command of;

4) use free-of-charge assistance of an interpreter, have a representative;

5) be aware of any decisions made that affect the plaintiff's interests, and receive copies of procedural decisions pertaining to the claim filed;

6) participate in the hearing of the administrative case in any court instance;

7) challenge any motions or arguments of other participants of the administrative proceedings;

8) participate in court arguments, present complaints against actions (inactions) and decisions of the court;

8) familiarize with the court transcript and file comments regarding the transcript;

9) be aware of any complaints, motions presented by the prosecutor and protests in respect of the case and present objections against them;

10) participate in the court proceedings of the complaints, motions of the prosecutor and protests presented.

3. The plaintiff must inform the court on actual circumstances of the administrative case in fully and in truthfully, speak up or present to the court any written documents to challenge the facts presented by other participants of the administrative proceedings. Failure of the plaintiff to perform procedural obligations entails procedural consequences provided for by this Code.

Article 38. Defendant

1. A defendant is an administrative body or an official, to whom the claim is brought in court.

2. In order to defend his interests in connection with filed action, the defendant has the right to:

1) be aware of the nature of the administrative claim;

2) challenge the claim;

3) file motions and challenges, give testimony, explain and argue on all issues arising during the administrative case in the plaintiff's native language or a language the plaintiff has a command of;

4) use the free-of-charge assistance of an interpreter, have a representative;

5) present materials;

6) be aware of any decisions made that affect the defendant's interests, and receive copies of procedural decisions pertaining to the claim filed;

7) participate in the hearing of the administrative case in any court instance;

8) participate in judicial pleadings, present complaints against actions (inactions) and judicial acts;

9) get familiar with the court transcript and file comments regarding the transcript;

10) be aware of any complaints, motions, protests lodged by the prosecutor in respect of the case and present objections against them;

11) participate in judicial inquiry of complaints, protests.

3. The defendant must inform the court on actual circumstances of the administrative case fully and truthfully, speak or present to the court any written documents to challenge allegations presented by other participants of the administrative proceedings. Failure of the defendant to perform procedural obligations entails procedural consequences provided for by this Code.

4. Replacement of the defendant is admissible prior to the commencement of the hearing and resolving of the administrative case on the merits. If the court finds out that the claim had been lodged against the wrong person, the court shall summon the plaintiff, explain the consequences of bringing a legal action against the wrong defendant, and, with the plaintiff's consent, commence the replacement of the wrong defendant with the adequate one.

5. If the plaintiff opposes the replacement of the defendant with another person, the court may without the plaintiff's consent involve such another person as the second defendant.

6. The defendant also has other rights and bears other obligations imposed by the laws of the Republic of Kazakhstan.

Article 39. Participation of multiple administrative plaintiffs or administrative defendants

1. A claim can be brought collectively by multiple plaintiffs or against multiple defendants. Each of the plaintiffs or defendants in the administrative proceedings side acts independently towards

the other party. Accomplices can agree that in court they will be represented by one or several of them, or by one or several of their representatives. The agreement is documented under the procedure established by the legislation of the Republic of Kazakhstan.

2. Participation of multiple plaintiffs or defendants in a legal case is admissible if:

1) the subject of dispute is common rights and obligations of multiple plaintiffs and multiple defendants;

2) rights and obligations of multiple plaintiffs and multiple defendants have the same grounds;

3) congeneric (similar) rights and obligations of multiple plaintiffs and multiple defendants constitute the subject of dispute.

Article 40. Legal succession

1. In case of withdrawal of the plaintiff or the defendant in a contentious or court-decided legal relation (death of a person, reorganization or liquidation of an organization), the court may replace this party with its legal successor, if legal succession is admissible. The court issues the corresponding interim order. Legal succession is possible at any stage of the proceedings prior to the delivery of the judgement by the court.

2. All actions performed prior to the legal successor's inclusion in the administrative proceedings, are considered mandatory for said successor to the extent to which they would have been mandatory for the person the successor had replaced.

3. When the plaintiff or defendant leaves the cassation review stage of judicial acts, their complaint is subject to return. The complaint can be re-filed by the legal successor.

Article 41. Interested party

1. An interested party is a person whose rights and obligations are affected or can be affected by the outcome of the administrative case.

2. Prior to the execution of the judicial act in conclusion of the hearing of the administrative case in a court of first instance an interested party on his own initiative is eligible to join the administrative proceedings on the side of the plaintiff or the defendant, if this judicial act can affect their rights and obligations. Interested parties can be summoned to the administrative proceedings on the initiative of the court or upon the motion lodged by the participants of the administrative proceedings.

3. Interested parties enjoy the procedural rights and are incumbent with the procedural obligations of the plaintiff or the defendant, with the exception of the right to change the cause of action or the subject matter of the claim, abandon the claim, admit the claim, settle or conclude a conciliation or mediation agreement.

CHAPTER 7.
OTHER PARTICIPANTS IN THE ADMINISTRATIVE CASE

Article 42. Other participants in the administrative case

Witness, expert, specialist, interpreter, as well as other persons contributing to the adequate hearing and resolution of the administrative case are considered to be the other persons participating in the administrative proceedings are a.

Article 43. Witness

1. A witness is a person who can have information regarding factual circumstances pertinent to the hearing and adjudication of the administrative case, and who has been subpoenaed to the administrative body, the official, the court to give testimony.

2. The following persons cannot be interrogated as a witness:

1) judge, jury member – on the case particulars that they have become aware of as a result of participating in the criminal proceedings, as well as through the discussion in the jury involving issues arising out of the rendition of a court decision;

2) arbiter – on circumstances that the arbiter has become aware of as a result of performing the arbiter duties;

3) representatives in a civil case or representatives, defenders in a criminal case, administrative offence case – on circumstances that they have become aware of as a result of performing their duties as representatives or defenders;

4) clergyman – on circumstances that they have become aware of through a confession

5) person who on account of minor age or psychiatric or physical disability is unable to correctly interpret circumstances pertinent to the administrative case and testify to such circumstances;

6) mediator – on circumstances that the mediator has become aware of as a result of mediating, with the exception of cases provided for by the law;

7) participants of the national preventive mechanism – on circumstances that they have become aware of as a result of engaging in their activities, with the exception of cases posing a national security threat;

8) other persons specified in the law.

3. A witness is entitled to:

1) refuse to give testimony that could render the witness him/herself, his/her spouse or close relatives liable to prosecution for the commission of a criminal act or an administrative offence;

2) give testimony in own native language or in a language that the witness has a command of;

3) use the free-of-charge assistance of an interpreter in the administrative court proceedings;

4) move to disqualify an interpreter participating in the witness examination;

5) personally write testimony in the examination transcript;

6) lodge complaints against actions (inactions) of administrative body, the official, court pertaining to the witness' rights and lawful interests.

4. A witness must:

1) appear in court;

2) earnestly relay all the information pertinent to the administrative case and answer any questions asked;

3) observe the established procedure during the court hearing, hearing of administrative procedure.

5. When it is impossible for a witness to appear on the administrative procedure session, the administrative body, the official have the right to permit an explanation in writing. In this case, the witness must certify each page with his/her own signature. The explanation certified by the witness' signature is then certified by the signature of the administrative body, the official specifying the date of signing.

6. A person subpoenaed as a witness must appear in court at the time specified except in the instance provided for by part seven of this article, communicate information on the merits of the administrative case heard, if he/she is aware of this information personally, answer any additional questions of the court and the participants of the administrative proceedings.

Information communicated by the witness will not be considered as evidence if the witness is unable to specify the source of such information.

7. If due to a disease, old age, disability or other justifiable reasons the witness is unable to appear in court when subpoenaed the witness can be examined by the court at the place of current stay.

8. If a witness is unable to appear in court when subpoenaed, he/she must in advance give notice to the court, specifying the reasons of the failure to appear.

9. In administrative court proceedings, if a witness perjures him/herself and refuses to testify for reasons that are not provided under the law, he/she will be liable under the Criminal Code of the Republic of Kazakhstan.

10. A witness has the right for reimbursement of costs of being subpoenaed to court, and to a money compensation for the loss of time. The amount of costs and compensation is defined by the legislation.

Article 44. Expert

1. An expert is a person who possesses special knowledge and who, in cases and under the procedure established by this Code, is tasked to conduct an examination and issue an expert opinion

on the issues posed to him/her and requiring special knowledge, for purposes of establishing the circumstances of the administrative case in question.

2. An expert has the right to:

1) familiarize himself with the materials of the administrative case pertaining to the subject matter of the expert examination;

2) to file petitions considering the receiving additional materials necessary for issuing an opinion;

3) participate with the permission of the court in the execution of procedural actions, a court hearing and question/examine participants of the administrative case where pertinent to the subject matter of the expert examination;

4) familiarize oneself with the transcript of the procedure he/she participated in, as well as with the pertinent part of the court proceedings and the administrative procedure session and make comments subject to the inclusion in the transcript regarding the completeness and accuracy of the registering of his/her actions and testimony;

5) give expert opinion on any circumstances established through the forensic examination, where those are pertinent to the administrative case, including circumstances falling outside of the questions posed;

6) give expert opinion and testify in own native language or in a language that the witness has a command of; use free-of-charge assistance of an interpreter in the administrative court proceedings; move to disqualify the interpreter;

7) appeal against persons' actions that violate the procedural rights in the process of expert examination;

8) receive reimbursement for costs incurred in the performance of the expert examination, and remuneration for work conducted if expert examination is not included in his/her official duties.

3. Expert is not eligible to:

1) communicate on the issues of the expertise with the participants of the administrative case;

2) independently collect materials for examination;

3) conduct an examination that could entail full or partial destruction of examined items, or any changes in their appearance or main properties, unless thus expressly permitted by the court.

4. An expert must:

1) appear in court when subpoenaed/summoned;

2) conduct a comprehensive, complete and impartial examination of items provided, present a substantiated and objective written expert opinion on the issues posed;

3) refuse to present an expert opinion and draw up a substantiated written notice on the impossibility of presenting an expert opinion and lodge it with the court;

4) testify on issues associated with the expertise conducted and the opinion given;

5) ensure the integrity of the items submitted for expertise;

6) not disclose information on the circumstances of the administrative case and other information that the expert has become aware of as a result of performing the examination;

7) present to the court, administrative body estimate of costs and cost report on the costs incurred in connection with the expertise.

5. For providing knowingly a false expert opinion, an expert would be criminally liable by the law.

6. An expert who is a forensic examination officer is thus considered by the nature of his/her occupation to be aware of his/her rights and duties and forewarned of the criminal liability for providing knowingly a false expert opinion.

Article 45. Specialist

1. The administrative body, the official, the court can subpoena an adult who is not interested in the outcome of the case and who possesses special knowledge and/or skills in the capacity of a specialist for purposes of participating in a court session or procedural actions in order to assist in the collection, examination and evaluation of evidence by means of the providing consultations (clarifications) and extending assistance in the use of research and technical means.

Administrative body , the official, the court, is entitled to involve specialists, as well as upon a motion from a participant of the administrative case. Administrative case participants can request

administrative body, the official, the court of the involvement a specific person possessing special expertise and/or skills in the capacity of a specialist.

2. A specialist has the right to:

1) familiarize oneself with the materials of the administrative case pertaining to the subject matter of the examination;

2) present a motion to be provided with additional materials necessary for issuing an opinion;

3) be informed about the purpose of the summons;

4) refuse to participate in the administrative case proceedings in the absence of necessary special expertise and skills;

5) by permission of administrative body, the official, the court pose questions to the administrative case participants; bring their attention to circumstances in connection with his/her actions in the process of assisting in the collection, examination and evaluation of evidence and the use of research and technical means, examination of the materials of the administrative case, preparation of the materials for prescribing an expert examination;

6) familiarize oneself with the transcript of the procedure he/she participated in, as well as with the pertinent part of proceedings of the administrative procedure , court session and make comments subject to the inclusion in the transcript regarding the completeness and accuracy of the registering of the course and the results of actions performed with his/her participation;

7) lodge complaints against actions of the administrative body, the official, the court;

8) use free-of-charge assistance of an interpreter in the administrative proceedings;

9) right to enter recusation of an interpreter;

10) receive reimbursement for costs incurred in connection with the participation in performing judicial actions or actions as part of an administrative procedure, and remuneration for work conducted if the participation in case proceedings falls outside of his/her official duties.

3. A specialist is not eligible to:

1) communicate with the participants of the administrative case with respect to issues associated with the examination, without the knowledge of the administrative body, the official, the court;

2) independently collect materials for examination.

4. A specialist must:

1) appear in court when subpoenaed/summoned;

2) participate in the court proceedings using special expertise, skills and research-technical means in order to assist in the collection, examination and evaluation of evidence;

3) offer clarifications with regard to actions performed by him/her;

4) not disclose information on the circumstances of the administrative case and other information that he/she has become aware of as a result of participating in the administrative case;

5) observe the established procedure during the court hearing, administrative procedure.

6) ensure the integrity of the items submitted for examination.

5. For knowingly providing a false opinion in administrative proceedings, a specialist would be criminally liable as per the law.

Article 46. Interpreter

1. Interpreter is a person who is not interested in the administrative case, who is proficient in the language used for the administrative procedure or the administrative proceedings, where the knowledge of said language is necessary for interpreting from one language into another, or a person who is fully proficient in communicating with deaf, mute and deaf and mute individuals.

2. An interpreter has the right to:

1) ask questions all persons present at the hearing in order to clarify the translation;

2) familiarize oneself with the transcript of the procedure he/she participated in, as well as with the pertinent part of the administrative procedure session and court proceedings and make comments subject to the inclusion in the transcript regarding the completeness and accuracy of the translation;

3) refuse from participation in the administrative case if he/she does not possess the expertise required for interpreting;

4) lodge complaints against actions of administrative body, the official. the court,;

5) receive reimbursement for costs incurred in connection with the participation in performing court actions and actions as part of an administrative procedure, and remuneration for work conducted if the participation in case proceedings falls outside of his/her official duties.

3. An interpreter must:

1) appear in court when subpoenaed/summoned;

2) perform his/her interpretation duties accurately and completely;

3) certify the accuracy of the translation by own signature in the documents handed over to the participants of the administrative case after translating them into their native language or a language they have a command of;

4) not disclose any information regarding circumstances of the administrative case and other data that he/she has become aware of as a result of performing his/her duties as an interpreter;

5) observe the established procedure during court hearing and the administrative procedure.

For knowingly providing a false translation in administrative proceedings, an interpreter would be criminally liable as per the law.

CHAPTER 8. REPRESENTATION IN THE ADMINISTRATIVE PROCEDURE

Article 47. Representation in the administrative procedure

1. Individuals are entitled to participate in the administrative procedure personally, via representatives or alongside with them.

2. Representation in the administrative procedure is conducted in accordance with the legislation of the Republic of Kazakhstan.

3. The representative in the administrative procedure is entitled to perform on behalf of the representee all actions associated with the execution of the administrative procedure, unless otherwise provided by the legislation.

4. An official or an employee of the administrative body conducting the administrative procedure cannot be the representative in the administrative procedure.

5. Representatives specified in part 4 of this article are dismissed by the administrative body, the official which is followed by the publication of the corresponding administrative act.

6. When the representative is dismissed from participating, the administrative body, the official delays the performance of the administrative procedure for a term necessary for the formalization of the powers of another representative.

Article 48. Representation in the administrative court proceedings

1. Participants in the administrative proceedings are eligible to conduct their cases in court personally or via representatives. Personal participation of the participant of administrative proceedings does not deprive him/her of the right to have representation on this case.

2. Legal entities' cases are conducted in court by their representatives acting within the limits of authority granted to them by the law, other regulatory legal acts or charters, and/or their representatives. A legal entity's head presents to the court the documents certifying his/her position or authority.

3. The mandated representative in court is entitled to perform on behalf of the representee any procedural actions, except from settling or mediation, full or partial abandonment of the claim or admission of the claim, increasing or decreasing the subject matter of the claim particulars, changing the subject matter of the claim or the cause of action, transferring powers to another person (sub-authorization), appealing a judicial act under an appellate or cassation procedures, lodging a motion to review the judicial act on account of newly discovered circumstances, demanding compulsory enforcement of the judicial act, receipt of the adjudicated property, abandonment of appellation or cassation complaint or motion must be expressly provided for in the power of attorney issued by the representee.

4. The representative's authority to perform each of the procedural actions specified in part three of this article must be expressly provided for in the power of attorney issued by the representee.

5. The following persons can act as representatives in the administrative court proceedings:

1) defence attorneys;

2) legal entities employees – in the cases of these legal entities, in the cases of state bodies – cases involving these state bodies and their regional units;

3) authorized agents of trade unions – in the cases involving workers, clerical workers as well as other persons whose rights and interests are protected by trade unions;

4) authorized agents of organizations who, by virtue of a law, charter or provision, are granted the right to protect rights and interests of the members of said organizations, as well as rights and interests of other persons;

5) one of the joined parties, upon instructions from other joined parties;

6) other persons with a higher legal education who were admitted to the court upon the request of persons involved in the case.

6. Procedural powers of the representative are certified by power of attorney issued in accordance with the legislation.

7. Judges, investigators and members of the Parliament or local representative bodies cannot be representatives in the administrative court proceedings, unless they participate in the administrative proceedings in the capacity of representatives of the corresponding organizations or legal representatives.

Prosecutor has the right to participate in administrative proceedings on the side of the plaintiff, in cases where the administrative act, administrative action may restrict the rights, freedoms and legitimate interests of persons who, due to physical, mental and other circumstances, cannot independently exercise their protection or an indefinite number of persons.

If the plaintiff does not support the claims made by the prosecutor, the court leaves the claim without consideration, unless the rights, freedoms and legitimate interests of the persons concerned are affected.

The public prosecutor who has filed an administrative claim enjoys all the procedural rights and duties of the plaintiff's representative, except for the right to enter into a mediation agreement or reconciliation agreement. The recall by the prosecutor of a claim filed in defense of the interests of another person does not deprive that person of the right to demand consideration of an administrative matter on the merits after payment of a state fee in accordance with the requirements of the Code of the Republic of Kazakhstan "On taxes and other mandatory payments to the budget" (Tax Code).

The court has the right to bring prosecutor to the participation in the administrative proceedings as plaintiff's representative if it recognizes the existence of a threat of irreversible consequences for the life, health or safety of society and the state.

8. Mandated representation in the administrative proceedings cannot be provided by defence attorneys who have accepted the assignment to render legal assistance in violation of the requirements of the Law of the Republic of Kazakhstan “On advocacy”.

9. A person cannot provide representation in the administrative proceedings if:

1) in the administrative case in question, he/she renders or previously rendered legal assistance to persons whose interests conflict with the interests of the represented person;

2) prior in the hearing and adjudication of the administrative case, he/she has participated as the judge, prosecutor, expert, specialist, interpreter, witness or attesting witness;

3) he/she is closely related (relatives) to the other party or the interested person, judge, prosecutor, expert who gave the opinion on the case, specialist, interpreter, witness, attesting witness;

4) due to the state of psychiatric health or age or other reasons he/she is unable to provide representation on one’s own.

10. Representatives in the administrative court proceedings listed in parts five and seven of this article are dismissed from the administrative case, on which the court issues an interim order that is included in the transcript of the court proceedings.

11. When the representative is dismissed from participating in the administrative proceedings, the administrative body delays the performance of the administrative procedure for a time period necessary for the formalization of the powers of another representative and his/her familiarization with the materials of the administrative case.

Powers of representatives indicated in subparagraphs 5) and 6) of part five of this article may be expressed in power of attorney or in case of personal participation in a court session in an oral statement of the principal entered in the record of the court session. The representative indicated in

subparagraph 6) of part five of this article shall be provided with a certified copy of the diploma of higher legal education.

Article 49. Legal representative

1. Rights, liberties and legal interests of incapable persons, persons under the age of eighteen, and persons judicially deemed of partial active capacity, are defended in administrative procedure, court by their parents, foster parents, guardians, care-givers, foster carers or other persons in their lieu, who provide to the administrative body, the official, court any documents certifying their powers.

2. Legal representatives perform on behalf of their representees any and all actions that the representees are entitled to, with limitations specified by the laws of the Republic of Kazakhstan. Legal representatives may instruct another representative to conduct the administrative case in the administrative procedures and administrative court proceedings.

The legal representative of a person under the age of eighteen, as well as a person deemed of partial active capacity, performs on one's own, in the interests of said person, any in the administrative case proceedings, where the subject of said case are obligations arising out of the amount of the limited rights. With respect to other cases, a person deemed of limited active capacity can perform actions and bears obligations on one's own.

3. Legal representatives and representatives in administrative procedures and administrative proceedings are not entitled to perform actions in their own interests or against the interests of their representee.

CHAPTER 9
CIRCUMSTANCES PRECLUDING THE POSSIBILITY OF PARTICIPATION IN THE ADMINISTRATIVE CASE. CHALLENGES

Article 50. Circumstances precluding the possibility of participation in the administrative case

An official, specialist and interpreter cannot participate in the administrative procedure in the following cases:

1) if they participated in this administrative procedure in the capacity of an official, participants of the administrative procedure or their representatives;

2) if they were or are close relatives, spouses or in-law relatives of the official, participants of the administrative procedure (in relations arising out of kinship, marriage, in-law relationship);

3) if they are in career dependent or otherwise dependent from the official, participants of the administrative procedure;

4) if they are personally, directly or indirectly, interested in the outcome of the administrative case, or if there are other circumstances that put in doubt their impartiality and objectivity.

Article 51. Challenge (self-recusation) of an official, a specialist and an interpreter

1. An official, specialist and interpreter cannot participate in the administrative procedure and are subject to the challenge (disqualification) on the grounds set by the article 51 of this Code.

2.Repeat disqualification lodged against the same official, specialist or interpreter may be considered if it presents new grounds or new facts.

3. The decision on the challenge (self-recusation) of a specialist and the interpreter is taken be the official.

4. The decision on the challenge (self-recusation) of an official is taken by an official of higher rank, and if the administrative procedure is conducted by a collegial body – by simple majority vote. In this case, the member of the collegial body who was moved to be disqualified does not participate in the vote.

5. The decision on the challenge (self-recusation) of the head of the administrative body is taken by the superior administrative body.

6. The decision on the challenge (self-recusation) of the head of the administrative body, the official in cases where such body or official do not have a superior administrative body, is taken by the person specified in the law. If the law does not specify the corresponding person, then the administrative procedure will be conducted by the deputy chief executive of the administrative body,

the official who have initiated the self-disqualification, and where the latter is unavailable – by another authorized person.

7. Should the challenge (self-recusation) of the head of the administrative body be approved, the administrative procedure will be conducted by a person specified in the law. If the law does not refer to the person concerned - the deputy of the head of the administrative body, and in the absence of the latter, another official.

8. The decision on the claimed challenge (self-recusation) is subject to acceptance within three working days from the date of filing the challenge (self-recusation).

9. The previous participation of specialist or interpreter in the same administrative procedure in the capacity of specialist or interpreter does not constitute grounds for his/her disqualification (self-recusation).

10. Substantiated decision on the disqualification (self-recusation) must be formalized in writing. A copy of the decision will be sent to the participants of the administrative procedure. Decision on the disqualification (self-recusation) cannot be appealed.

Article 52. Grounds for the challenge (self-recusation) of the judge

1. The judge cannot participate in the hearing and adjudication of the administrative case and is subject to disqualification (recusal) if he/she:

1) participated in a prior hearing of this administrative case in the capacity of the judge conducting mediation, witness, expert, specialist, interpreter, representative of a party or an interested person, courtroom reporter, enforcement agent;

2) is a relative, spouse or by-law of any one of the participants of the administrative procedure or their representatives;

3) was previously a representative of the person whose interests have been affected in the administrative proceedings;

4) is personally, directly or indirectly, interested in the outcome of the administrative case, or if there are other circumstances raising doubts over their impartiality and objectivity.

2. The judge is disqualified in presence of circumstances specified in the part one of this article.

3. The judicial panel hearing the administrative case cannot have judges who are related, married or in a by-law relationship with one another.

4. Judge’s previously expressed legal opinion on some legal grounds, connected with the actual and (or) legal aspects of the case in question cannot be accepted as grounds for disqualification or self-recusation of the judge.

Article 53.Inadmissibility of repeated participation of the judge in the hearing and adjudication of an administrative case

1. The judge who participated in the hearing and adjudication of the administrative case in the court of first instance cannot participate in the hearing of this case again in the court of first instance, as well as courts of appeal and courts of cassation, and neither can he participate in a new hearing of the administrative case in the event of the reversal of the decision made with his participation.

2. The judge who participated in the hearing of the administrative case in the court of appeal may not participate in the hearing of this administrative case in the court of first instance and court of cassation, and neither can he participate in a new hearing of the case in the court of appeal in the event of the reversal of the judicial act made with his participation.

3. The judge who participated in the hearing of the administrative case in the court of cassation cannot participate in the hearing of this administrative case in the court of first instance and the court of appeal, and neither may he participate in a new hearing of the administrative case in the court of cassation in the event of the reversal of the judicial act made with his participation.

Article 54. Grounds for the challenge (self-recusation) of the public prosecutor, the court reporter, an expert, a specialist, an interpreter in the court.

1. The prosecutor, court reporter, expert, specialist, interpreter cannot participate in the hearing of the administrative case and are subject to disqualification on the grounds provided for by subparagraphs 2-4) of the first part of Article 52 of this Code.

2. Expert and specialist also cannot participate in the hearing of the administrative case if they were or are occupationally or otherwise dependent on participants of the administrative procedure in the court, or their representatives.

3. Participation of the prosecutor, court reporter, expert, specialist, interpreter in a previous hearing of this administrative case in court in the capacity of, respectively, the prosecutor, court reporter, expert, specialist, interpreter, does not constitute grounds for their disqualification.

Article 55. Application for the challenge (self-recusation)

1. Where there are circumstances provided for in articles 52-54 of this Code, the judge, the prosecutor, the court reporter, an expert, a specialist, an interpreter must recuse him/herself. On the same grounds, motion to challenge can be made by the participants of the administrative court proceedings or other persons participating in the administrative case, or the disqualification can be considered on the initiative of the court.

2. Challenge (self-recusation) must be substantiated and lodged in writing prior to the hearing of the case on its merits. In the hearing of the case on its merits, motion to disqualify (self-recusation) is admissible if the grounds for disqualification (recusal) has become known to the person moving for disqualification (recusal) or the court following the commencement of the hearing of the case on its merits.

3. If a motion to disqualify was denied, another motion to disqualify would be inadmissible if it is made by the same person and on the same grounds.

Article 56. Procedure of ruling on the application for the challenge (self-recusation)

1. A motion for a challenge (self-recuse) of the prosecutor, the court reporter, an expert, a specialist, an interpreter is considered and ruled by the court in which the motion to challenge (self-recuse) is made.

2. A motion for a challenge (self-recuse) of the judge of a court of first instance is considered and ruled on by the presiding judge or another judge of the same court, notifying the parties no later than the next working day. In case of the absence of such judges a motion for a challenge is considered and ruled by the judge of the corresponding oblast (province) and equivalent court, in the specified time from the moment the administrative case entered the court.

3. A motion for a challenge (self-recuse) of the judge of the court of appeal is considered and ruled on by the presiding judge of the appellate judicial panel on civil cases of the corresponding oblast (province) and equivalent court, no later than the following working day of the filing of the motion, and where such judge is unavailable – another judge of the same court.

4. Where the administrative case is heard by the judicial panel, the motion for a challenge (self-recuse) of one of the judges is considered by other judges of the panel. Regarding the motion to challenge, the court hears the opinions of persons participating in the case, the opinion of the judge who is the target of the motion, if he/she wishes to explain him/herself. A motion for a challenge (self-recuse) is adjudicated without the participation of the judge against whom the motion for a challenge (self-recuse) was lodged. Where equal votes have been cast both in favour and against the motion for a challenge (self-recuse), the motion for a challenge (self-recuse) is considered granted.

5. A motion for a challenge (self-recuse) of two or more judges or all judges of the judicial panel hearing the administrative case in court is adjudicated by the same court *in banc* by a simple majority vote.

6. In the event of a denial of the motion for a challenge (self-recuse), the hearing and adjudication of the administrative case resumes in the same court session and by the same judicial panel.

7. In the event of a granting of the motion for a challenge (self-recuse), the hearing of the administrative case is postponed. The time and venue of the hearing of the administrative case in a new judicial session will be communicated to the participants of the administrative procedure and their representatives.

8. The court's ruling following the adjudication of the motion for a challenge (self-recuse) is not subject to appeal or protest. Arguments against the ruling can be included in the appellate, cassation complaints or a protest.

Article 57. Consequences of approval of motion for the challenge

1. In the event of the granting of the motion for a challenge (self-recuse) of the judge, or several judges, or the entire judicial panel, the administrative case will be heard in the same court by another judge or another bench.

2. If as a result of the granting of the motion for a challenge the judge, several judges, the bench, or due to the reasons specified in article 52of this Code, it is impossible to form a new bench to hear this administrative case in the same court, the administrative case will be moved to a superior court under the procedure established in article 122 of this Code.

PART II. ADMINISTRATIVE PROCEDURES

Chapter 10. Internal administrative procedure

Article 58. Conditions of the performance of internal administrative procedures

Internal administrative procedures provided for by this Code are performed under the following conditions:

1) subordination of inferior state bodies and public officials to superior ones, except for the state electoral bodies;

2) mutual responsibility and the balance of interests of the individual, the society and the state;

3) clear delineation of competence and coordinated functioning of all state bodies and public officials of the state;

4) clear delineation of competence and coordinated functioning of all state bodies and public officials of the state.

Article 59. Organization and supervision of the enforcement of the legal act of individual application

1. The organization of the execution of a legal act of individual application consists in the development and adoption of measures by the official of the relevant state body directed at timely and comprehensive implementation of the decision.

2. If necessary for the ensurance of the execution of a legal act of individual application, the authorized state body (an official) shall develop and approve a plan of organizational measures for its implementation. This plan is brought to the direct executors.

3. If the legal act of individual application does not specify the specific terms of its execution and direct executors, then they are established by the state executing agency or higher body. Direct executors are to be immediately notified about this.

4. For a timely and comprehensive implementation of decisions taken, a state body or an official should monitor their implementation.

Article 60. Procedure of the performance of internal supervision of the enforcement of a legal act of individual application by the state body, orders of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan

1. Internal supervision is subdivided into the control over the enforcement of:

1) legal acts (measures implementation of which is provided for by legal acts for individual use). In this case, all legal acts, which contain measures subject to implementation, are put under control;

2) orders of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan and senior officials of the state body, provided for by other official documents.

2. Internal control is conducted by means of:

1) ordering to obtain the necessary information;

2) hearing and discussing performance reports;

3) auditing and other forms of document checks;

4) audits with site visits;

5) other methods not prohibited under the legislation of the Republic of Kazakhstan.

3. Internal control is conducted using the following parameters:

1) conformity of the activities of structural, territorial units, subordinate state bodies and organizations and their officials with the objectives assigned to them;

2) timeliness and completeness of the execution;

3) compliance with the requirements provided for by the legislation of the Republic of Kazakhstan during execution.

4. A public official, or a corresponding structural unit of a state body, authorized to execute control over the enforcement of an active legal act, or orders of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan and senior public officials of the state body, provided for by other official documents, develops control measures if needed.

While doing so, the public official, or a corresponding structural unit of a state body authorized to execute control, analyses the incoming information regarding its enforcement, in order to establish:

1) the degree and quality of the enforcement of the legal act;

2) existence of deviations in the enforcement of the legal act, establishing their causes and possible measures to rectify these deviations;

3) the possibility of release from control or the extension of the enforcement time;

4) responsibility of specific public officials for non-enforcement or inadequate enforcement of the legal act.

Based on the results of the information analysis proposals are reported to the administration of the state body for the making of corresponding decision. The decision made is then communicated to the state body's officials who were responsible for the information analysis.

5.The release from the control and the extension of the time limits for the enforcement of the measures provided for by the legal act are conducted by the administration of the state body.

The release from the control of the orders of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan is performed under the procedure established by the legislation of the Republic of Kazakhstan.

6.Prior to the expiry of the enforcement time specified in the legal act control service of a superior state body or the enforcement body sends to the executive person the corresponding written reminder, following the procedure established by the internal regulation of the state body.

Additional matters of arranging and executing internal control can be determined by the state body itself, or its superior state body.

This paragraph does not apply to the internal control executed by the body authorized by the Government of the Republic of Kazakhstan to conduct internal control in accordance with the Budget Code of the Republic of Kazakhstan.

Article 61. Planning of state bodies activity

1. State bodies engage in their activities in accordance with strategic and operational plans, and, as needed, with work plans prepared for a quarter, year and long-term time frame.

2. State bodies that do not develop the strategic plans engage in their activities in accordance with work plans prepared for a quarter, year and long-term time frame.

3. Work plans of state bodies are prepared in advance on the grounds of proposals submitted by structural units of the body and for the purposes of implementation of legal and normative legal acts.

Structural units of a state body prepare their own work plans that base on the state body's work plan.

Article 62. Regulation, provision on a state body and a structural unit of the state body

1. With respect to the matters of the organization and internal procedure of its activities, a state body enacts the internal regulation.

2. The state body's status and powers are defined in the provision on the state body.

Instructions on the development and approval of the provision on the state body are approved by the Government of the Republic of Kazakhstan.

Standard provision on the state body is approved by the Government of the Republic of Kazakhstan upon coordination with the Administration of the President of the Republic of Kazakhstan.

3. A provision is instituted on the matters regarding the determination of the status and powers of a structural unit of the state body.

Procedure of the development and approval of the provision on a structural unit of the state body is approved by the Government of the Republic of Kazakhstan.

Article 63. State body functions

1. State body functions are divided into strategic, regulatory, implementation and control functions:

strategic functions are those functions that are related to the development, adoption of plan documents, designation of the state planning system, maintaining international relations, national security and defence capacity;

regulatory functions are those functions that involve normative legal support for the implementation of state functions, registration and running of the analysis of normative legal act enforcement, coordination of the activities of state bodies, managing state assets;

implementation functions are those functions that are aimed at the implementation of plan documents, regulatory legal acts, achievement of aims and objectives provided for by plan documents of the state body, provision of public services, including the issuance, extension, reissuance, renewal and the performance of other actions provided under the legislation of the Republic of Kazakhstan with respect to permits, as well as their annexes;

control functions are those functions that are related to the auditing and monitoring done to determine whether natural and legal persons, including state institutions, act in accordance with the requirements established by regulatory legal acts, and in cases provided for by laws of the Republic of Kazakhstan, also requirements provided for by laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan and resolutions of the Government of the Republic of Kazakhstan.

Separation of functions intro the strategic, regulatory, implementation and control types within the structure of state bodies subordinate to the President of the Republic of Kazakhstan is defined by the President of the Republic of Kazakhstan, and within the structure of central executive bodies – by the Government of the Republic of Kazakhstan.

2. State bodies are not permitted to perform functions that are not provided for them under the legislation of the Republic of Kazakhstan.

Article 64. Sole administrative activity

1. Sole administrative activity - activity carried out by officials in state bodies, which consists in the sole signing of legal acts of individual application by the officials, giving instructions and instructions to subordinate employees, solely accepting other organizational and administrative measures to implement state functions.

2. The head of the state body (with the exception of the collegiate state bodies) exercises the leadership of the entrusted body by means of individual administrative activities and bears personal responsibility for the legality of the decisions made.

3. During the sole administrative activity subordinate officials carry out their actions in strict accordance with the decisions of a higher-ranking official. If state functions are carried out exclusively through individual administrative activities, then the task of subordinate officials will be to maintain such activity of an official.

Article 65. Collegial state body

1. Collegial state bodies are state bodies whose decisions are made by the majority vote of their members. Responsibility for the legality of decisions made by the collegial body is borne by all members of the collegial body who have participated in the voting, with the exception of those who have voted on the decision against.

2. The main form of activities of collegial bodies is their meetings, during which these bodies make their decisions.

3. During preparation and holding of meetings, collegial state bodies (by their structural units and public officials) resolve the following issues:

1) meeting planning – a plan for holding such meetings is developed and approved. This plan is developed correspondingly for a period of a quarter and a year, and approved by the head of the collegial body, or the head of a body maintaining the activities of the collegial body, after its

coordination. The approved plan is communicated to the interested bodies and officials;

2) preparation of issues brought to a meeting of the collegial administrative body, other efforts to arrange the meeting are performed by its corresponding structural units or the body responsible for the maintenance of the activities of the collegial body.

4. Procedure of holding meetings is defined by the internal regulations of collegial state bodies.

5. The meeting of the collegial body is recorded.

6. Decisions made on the meeting are drawn up in the form of provisions in accordance with the internal regulation of the collegial state body and communicated to the executing parties. If necessary, an action plan for the implementation of the decisions is developed and approved, and the implementation control is set.

Article 66. Consideration and passing of official documents within state bodies

1. Official documents directed at the state body or directly to the management of said body, following their arrival and registration by the record-keeping service, are handed over to the management that considers them and prepares orders (resolutions) on their basis.

2. When admitting an issue for consideration, an official of the state body must ascertain that the decision on the issue at hand falls within the competence of said body or said official.

3. Where an issue falls outside of the established competence, an authorized official decides to direct the petition to the competent state body or official, making certain to notify the applicant within no later than three working days.

4. Documents on behalf of the state body are signed by its head, a person substituting him (in accordance with the distribution of official duties established for this body), or another authorized official of this body.

5. Where a submitted document requires its return to the state body, the document is stamped with a mark concerning the need to return it to this state body.

6. The time allotted for the consideration of documents at state bodies must not exceed one month, unless otherwise is provided by the legislation.

Article 67. Requirements for the exchange of information

1. Information exchange is the sending and receipt of information by public officials of state bodies in the performance of their official duties under the procedure established by the legislation.

2. Procedures governing information exchange must contribute to:

1) uninterrupted functioning of the single information space of Kazakhstan, its accession to the global system of communications and informatics;

2) reinforcement of the national system for information protection, including state information resources.

Decision making done by state bodies and public officials of the Republic of Kazakhstan must be based upon objective and anticipatory information.

3. Information exchange between state bodies and their units is based on the minimum required volume of mutual information flows, on the unacceptability of redundancy of the management information.

4. Information procedures should not allow the disclosure of information constituting state secrets, official information of limited dissemination and other information protected by law, and should ensure that access to information related to the interests of the state of intelligence, counterintelligence, operative-search activity and security measures for the protection of protected persons and objects.

Restricted-use official information is marked as “For official use only”.

The rules of classifying information as restricted-use official information and its handling are established by the Government of the Republic of Kazakhstan.

Public officials are granted access to official information only for purposes of performing their official duties. This information may not be used for non-official purposes.

5. State bodies conduct integration of information systems following the procedure and time frames established by the authorized body in the area of informatization, with the exception of information systems containing information classified as state secrets in accordance with the legislation of the Republic of Kazakhstan on state secrets.

6. State bodies take measures to reduce (eliminate) the use of documents in hard copy form, as well as any regulations prescribing the provision of such documents when performing state functions and rendering public services.

Where documents in hard copy form are used during the performance of administrative procedures, state bodies take measures to convert hard-copy documents into digital form.

Article 68. Internal supervision of the enforcement of official documents

1. Internal control over the enforcement of instructions of the head of the state body or other superior official, where such instructions are not linked with acts issued by these officials, falls within the scope of duties of the corresponding units of such state body.

2. Internal control over the time allotted for the enforcement of instructions provided for by official documents is performed by the record-keeping service of the state body.

3. Enforcement of instructions issued to multiple executing persons is coordinated by the public official specified first in the instructions.

4. Record-keeping service will in advance prior to the expiry of time allotted to the execution of the control instructions, send to the relevant unit such a notification.

5. If additional time is needed for the execution of the instructions, the executing party petitions in writing to the official who has issued the instruction to extend the time of the execution. Additional time for the execution of the instruction is established by the head who has given the instruction.

6. Executed documents are released from control by the public official who has issued the instruction, or another authorized public official.

SECTION 3.
ADMINISTRATIVE PROCEDURE

CHAPTER 11.
INITIATION OF ADMINISTRATIVE PROCEDURE

Article 69. Subordination of administrative procedures

1. The administrative body, the official shall carry out administrative procedures at the place of residence of individuals and the location of legal entities, with the exception of the administrative procedures specified in part two of this article.

2. The administrative body, the official shall carry out administrative procedures with respect to immovable property at the location of the immovable property.

3. Legislation of the Republic of Kazakhstan may establish other rules for the jurisdiction of administrative procedures.

Article 70. Grounds for instituting an administrative procedure

1. The grounds for initiating an administrative procedure are:

1) application, complaint;

2) proposal, message, request, response;

3) initiative of the administrative body, official.

2. In the case provided for in subparagraph 1) of part one of this article, the administrative procedure shall be deemed to have been initiated from the moment of receipt of the application, complaint by the administrative body, the official, except in cases where the application, complaint in accordance with this Code is redirected to the authorized administrative body, face.

3. In the case provided for in subparagraph 2) of part one of this article, a simplified administrative procedure shall be instituted.

A simplified administrative procedure is considered to be initiated from the moment the proposal, message, request, response is received by the state body, local government, legal entity with 100% state participation, except when the proposal, message, request, response in accordance with this Code is redirected to the authorized state body, body of local self-government, legal entity with 100% state participation.

4. The basis for initiating an administrative procedure under subparagraph 3) of part one of this article is the requirement of a law on the implementation of an administrative procedure or administrative discretion.

In the case provided for by subparagraph 3) of the first part of this article, the administrative procedure is considered commenced from the date of sending by the administrative body, the official of the notification (notification) to the addressee.

Article 71. Record-keeping of administrative cases

1. From the moment of the initiation of an administrative procedure, the administrative body starts an administrative case file in hard copy and/or digital form, which contains documents necessary for the execution of the administrative procedure, including the administrative act.

2. Record-keeping of cases, its logbooks is conducted by the administrative body on the basis of the Model rules for documenting and managing documentation in state and non-governmental organizations approved by the Government of the Republic of Kazakhstan.

3. Administrative cases are stored in accordance with the record-keeping rules established by the legislation, and are subject to transfer to archive under the procedure provided for by the law.

4. Registration, record keeping of applications submitted to state bodies, local self-government bodies, legal entities with 100% state participation, as well as the procedure for maintaining the analytical information system "Electronic appeals (communications)" shall be carried out in accordance with the procedure established by the state body carrying out statistical activities within its competence the field of legal statistics and special accounts.

Proposals containing advertisements, appeals received on issues of rendering public services, except for those referred to in subparagraph 3) of paragraph 1 of Article 4 of the Law of the Republic of Kazakhstan "On state services" are not subject to registration.

Article 72. General requirements for application

1. An application must meet the following requirements:

1) last name, first name, patronymic (if applicable) of the individual or the full name of a legal entity;

2) actual residential address of the individual or the location of the legal entity;

3) name of the administrative body whom the application is submitted to;

4) short summary of the claim;

5) day, month, year, and in cases provided for by the law – time of the application submission;

6) verification of the applicant;

7) list of documents appended to the application, if applicable;

8) any other information prescribed by the law.

A petition submitted by a representative must be accompanied by a power of attorney or other document certifying the authority of the representative.

2. If payment of a mandatory payment is foreseen for the implementation of the administrative procedure by the laws of the Republic of Kazakhstan, the applicant must submit a document confirming payment.

3. When applying in another language, the application is accompanied by a translation into Kazakh or Russian.

Article 73. Reception, registration, return and withdrawal of the application

1. Appeal filed in accordance with the procedure established by this Code shall be subject to mandatory reception, registration, accounting and review.

Refusal to accept treatment is prohibited.

In the cases provided for by the legislation of the Republic of Kazakhstan, the applicant is given a coupon containing a unique number, indicating the date and time, the surname and initials, the position of the person who accepted the appeal.

2. The administrative body, the official are obliged to explain to the applicant his rights and obligations on issues related to his appeal, to facilitate the filing of the appeal and the documents attached to it.

3. The application is registered on the day of its receipt.

If the application is received on a non-working day, then it is registered on the next working day.

4. Appeals received on publicly accessible information systems and corresponding to the requirements of the legislation of the Republic of Kazakhstan on electronic document and electronic digital signature are subject to review in the manner established by this Code.

5. The procedure for applying through a videoconference or video message to participants in an administrative procedure to heads of state bodies and their deputies is determined by the authorized body in the field of information.

6. If the appeal does not meet the requirements established by Article 72 of this Code, then the administrative body, the official return the appeal to the applicant, indicate which requirements do not comply with the application, designate a reasonable time for making corrections and explain the legal consequences of non-compliance.

Administrative body, official does not have the right to demand the submission of documents not directly provided for by the legislation of the Republic of Kazakhstan.

If the documents (information) submitted by the administrative body, the official confirm the contents of other necessary documents, the latter cannot be claimed additionally or separately.

7. The administrative body, the official return the appeal, if the applicant has not made corrections to the appeal within the time period established by the administrative body, the official.

8. Return of the appeal does not prevent from the repeated appeal.

9. The applicant, on the basis of his written application, may withdraw the appeal before decision on the administrative matter is made.

The withdrawal of the appeal does not deprive the applicant of the right to file a repeated appeal, provided that the terms are observed, unless otherwise provided by the laws of the Republic of Kazakhstan.

Article 74. Redirection of an appeal to an authorized administrative body, an official

1. An appeal received by an administrative body or an official whose mandate does not include the consideration of this appeal shall be forwarded to the authorized administrative body, the official with simultaneous notification (notification) of the applicant, within three working days from the day of its receipt.

2. One or several motions, demands, notifications, recommendations, requests contained in the appeal received by the administrative body, an official whose authority does not include their consideration, shall be forwarded to the authorized administrative body within three working days from the date of receipt of the appeal, an official with simultaneous notification (notification) of the applicant.

3. The authorized administrative body, official shall initiate an administrative procedure on the redirected appeal or its part in the manner established by this Code.

Article 75. Notifications (notifications)

1. The administrative body, the official shall notify (inform) the addressee and, if necessary, other persons participating in the administrative case, to initiate an administrative procedure on their own initiative within three working days from the date of the decision about this, unless otherwise provided by the laws of the Republic Kazakhstan.

2. Participants of the administrative procedure are notified (notified) about the time and place of the meeting of the administrative procedure or other activities which are necessary for the implementation of administrative procedure.

3. Notifications (notices) shall be sent by registered mail with notification of its delivery, by telephone message or by telegram, by text message on the subscriber number of the cellular communication or by e-mail or using other means of communication that ensure the recording of the notification or call.

4. If the participant of the administrative procedure does not actually live at the specified address, notifications (notices) can be sent to the legal address or the place of his work.

Notifications (notices) addressed to a legal entity are sent to the place of its location.

5. The participant of the administrative procedure confirms by his signature that the address of the place of residence (location), place of work, subscriber number of the cellular communication, e-mail address indicated by him are reliable, and the notification (notification) directed to the specified contacts will be considered proper and sufficient.

6. If the participant of the administrative procedure refuses to accept the notice (notification), the person delivering or handing it makes a corresponding note on the notice (notice), which is returned to the administrative authority, the official.

Article 76. Termination of the administrative procedure

1. The administrative body, the official shall terminate the administrative procedure instituted on the basis of the appeal, if:

1) there is a decision on the administrative case against the applicant on the same subject matter and on the same grounds indicated in the appeal;

2) the administrative body, the official return the appeal;

3) the administrative body, the official have accepted the withdrawal of the appeal from the applicant;

4) there are other grounds provided for by the laws of the Republic of Kazakhstan.

2. The administrative body or the official may terminate an administrative procedure initiated on their own initiative if the administrative procedure has ceased to be necessary in connection with a change in circumstances that served as the basis for instituting an administrative procedure or on other grounds provided for by the laws of the Republic of Kazakhstan.

3. The administrative body, the official, terminating the administrative procedure, shall take a decision which the participants of the administrative procedure are notified (notified) about.

4. A decision on termination of the administrative procedure may be lodged with a complaint in the manner established by this Code.

5. The applicant shall have the right to apply again to the administrative authority, to the official after the circumstances have been removed, which served as the basis for the termination of the administrative procedure.

6. The applicant has the right to file a repeated appeal on the matter already considered in the manner established by this Code, if there are new arguments or newly discovered circumstances.

CHAPTER 12.
CONSIDERATION OF THE ADMINISTRATIVE CASE

Article 77. Sole and collegial examination of administrative case

The administrative case is considered by the official solely, and in cases provided by the legislation of the Republic of Kazakhstan, or by decision of the administrative body - by collegial body.

Article 78. Mutual Assistance

The administrative body, the official within the limits of their powers have the right to apply to other administrative bodies, other officials for the information necessary for the implementation of the administrative procedure, including through information systems.

Article 79. Evidence in the administrative procedure

1. In the administrative procedure any factual data, on the basis of which the administrative authority, the official establish the presence or absence of circumstances relevant to the administrative case, is used as the evidence.

The provisions established by Chapter 24 of this Code shall apply to the evidence, taking into account the specifics of the examination of the administrative case in the implementation of the administrative procedure.

Article 80. Examination of the circumstances of the administrative case

1. The administrative body, the official are obliged to examine comprehensively, completely and objectively all the actual circumstances that are important for the proper consideration of the administrative case.

2. The subject and scope of the examination are determined by the administrative body, the official.

The administrative body, the official are not bound by arguments and information about the factual data submitted by participants of the administrative procedure.

3. The administrative body, the official, collect evidence for the proper consideration of the administrative case on their own initiative.

Article 81. Hearing

1. A participant of an administrative procedure has the right to be heard.

An administrative body, the official must explain to the participant of the administrative procedure his/her rights and obligations, as well as provide the opportunity to express his/her own position on factual circumstances considered in the process of the administrative procedure, and provide additional (new) arguments and information on the factual data (factual data).

Hearing may not be commenced if:

1) rendering of a favourable administrative act is involved, which does not affect the rights of other persons;

2) if a need arises to immediately render an administrative act in order to prevent or eliminate a threat that could disrupt the public order in the Republic of Kazakhstan;

3) the administrative procedure is terminated;

4) after advance notification (notification) of the time and place of the meeting of the administrative procedure to which the participant of the administrative procedure has not come, and this may cause the deadline for the implementation of the administrative procedure to be missed;5) simplified administrative procedure is applied.

5) a simplified administrative procedure is carried out.

3. The administrative case can be considered without hearing the participant of the administrative procedure and in other cases provided for by the laws of the Republic of Kazakhstan.

Article 82. Familiarization with the materials of an administrative procedure

1. A participant of an administrative procedure, following the completion of the procedure, is entitled to familiarize oneself with the administrative procedure's materials that affect his/her rights and obligations.

2. The opportunity to familiarize oneself with the materials of the administrative procedure must be given no later than three working days from the date of the petition receipt.

3. When the administrative body, the official provides the materials of the administrative procedure it must ensure that the legislation of the Republic of Kazakhstan on state secrets and other legally protected secrets are observed.

4. In case of denial of the request for familiarization with the document containing state secrets or other legally protected secrets, the administrative body, the official must, without infringing upon the legally protected interests, provide the person with as much information as permissible regarding the contents of this document, provided that the requirements of the legislation of the Republic of Kazakhstan are observed.

Article 83. Taking of minutes of an administrative procedure session

1. The administrative body, the official if an administrative procedure is conducted in the form of a meeting session with the participants of the administrative procedure and other persons involved in the administrative case.

The administrative body, the official must take minutes if during the consideration of the administrative case the participants of the administrative procedure or other persons participating in the administrative case are present.

2. Minutes must contain the following information:

1) name of the administrative body conducting the administrative procedure, and other required information;

2) venue and date of the administrative procedure session;

3) first and last names and the status of the participants of the administrative procedure and/or other persons participating in the administrative case;

4) subject matter;

5) short summary of the arguments of the participants of the administrative procedure and/or other persons participating in the administrative case;

6) decision made as a result of the session.

Minutes can contain other additional information.

3. Participants of the administrative procedure and other persons participating in the administrative case have the right to familiarize themselves with the minutes of the session and provide their comments with respect to the minutes. Minutes will reflect any rejection of comments.

Article 84. Terms of administrative procedure

1. The time period of an administrative procedure is fifteen calendar days, unless otherwise provided by the legislation of the Republic of Kazakhstan.

2. Administrative procedure starts from the day of its institution.

3. If a large period of time is required in order for circumstances of significance for the administrative procedure to be established, then the time period of the administrative procedure can be extended by the administrative body, the official two times, by thirty calendar days each time. The administrative body, the official provide notice of the time extension to the person within three working days.

4. Circumstances constituting grounds for extending the time specified in the paragraph 3 of this article are subject to substantiation by the administrative body, the official in the administrative act.

Article 85. Types of decisions based on the results of administrative proceedings

Having considered the administrative case, the administrative body, the official shall take one of the following decisions:

1) on the adoption of an administrative act;

2) on termination of the administrative procedure.

CHAPTER 13
ADMINISTRATIVE ACT

Article 86. Forms of administrative acts

1. An administrative act is adopted in written and (or) digital form unless otherwise provided by the laws of the Republic of Kazakhstan.

2. The administrative act can be adopted in written and (or) digital form if the administrative procedure was initiated on the grounds of an appeal.

An administrative act is adopted in oral or other form if:

1) a need arises to immediately adopt the administrative act in order to prevent or eliminate a threat that could disrupt the state and public interests;

2) adoption of the administrative act in the corresponding form is prescribed by the laws of the Republic of Kazakhstan.

3. An administrative act adopted in oral or other form is subject to written and (or) digital drawing up upon a request of a participant of the administrative procedure.

4. An administrative act or part thereof are deemed adopted provided that the emergence of rights or obligations is contingent upon circumstances that are determined by the administrative body, the official.

Article 87. General requirements for administrative acts

1. An administrative act must be legal and substantiated.

2. An administrative act must comprehensively explore the subject of regulation, while its contents must ensure clear understanding and uniformity of application, comprehensively define the persons who are subject to the effect of the administrative act and/or who are responsible for its

implementation in the allotted terms.

Article 88. The content of the administrative act adopted in written and (or) digital form

1. An administrative act adopted in written and (or) digital form must contain:

1) name of the administrative body, the official that have adopted the administrative act;

2) information about the participants of the administrative procedure (last name, first name, patronymic (if applicable) and the address of the individual or the name and legal address of the legal entity who are the target of the administrative act);

3) name of the administrative act, date and place of its adoption, registration number;

4) description of the matter and the substantiation of the rendering of the administrative act (narrative/reasoning part), namely, circumstances established by the administrative body, the official; evidence that the administrative body's, the official's conclusions on the rights and obligations are based on; arguments that the administrative body, the official use to reject any evidence, as well as references to regulatory legal acts that the administrative body, the official used as grounds;

5) statement of the decision made (operative part);

6) validity duration of the administrative act, if such act is adopted for a limited time frame;

7) term for an appeal and the location of the body where the complaint can be send to;

8) signature of the official.

2. Substantiation (reasoning) of the administrative act adopter in written and (or) digital form is not required if:

1) administrative body, the official adopt a favourable administrative act that does not affect the rights of other persons;

2) administrative body, the official adopt similar administrative acts on the same subject matter numbering over 5 acts within thirty consecutive calendar days, or publishes administrative acts mass media, as well as on the Internet resource (if available) and there is no need to substantiate each particular case;

3) in other cases expressly provided for by the laws of the Republic of Kazakhstan.

3. An administrative act adopted in written and (or) digital form may contain annexes and other additional documents which validity terms may not exceed than that of the administrative act. Annexes and other additional documents are not standalone administrative acts, they constitute an integral part of the act and are valid for as long as the administrative act is.

Article 89. Communication of an administrative act

1. An administrative act, adopted in oral form, is communicated by means of oral notification of the participant of the administrative procedure.

2. An administrative act adopted in written form is communicated in accordance with Article 75 of this Code.

3. The administrative act adopted in electronic form is communicated in accordance with the legislation of the Republic of Kazakhstan.

4. An administrative act adopted in a different form is communicated by providing it directly visible, perceived or otherwise accessible to perception.

5. The administrative act is subject to posting on the Internet resource of the administrative body, the official, if the information about the addressee is not known, as well as in other cases

provided for by the laws of the Republic of Kazakhstan.

Placement of an administrative act on the Internet resource is not allowed if it contradicts the interests of protection of state secrets or other secrets protected by law.

Article 90. Correction of mistakes, spelling and arithmetical errors

1. An administrative body, the official has the right on its own initiative or by the petition of administrative procedure participants to correct slips, spelling and arithmetical mistakes made in the administrative act, without modifying the contents of the administrative act.

2. The administrative body, the official can request the document for correction.

3. Corrections in the administrative act are certified by the signature of the official.

4. In case of impossibility of correction, the administrative body, the official shall adopt a new administrative act without changing the content.

5. The administrative body, the official must notify the participants of the administrative procedure on the corrections made in the administrative act.

Article 91. Entry into force and termination of an administrative act

1. An administrative act enters into force at the moment of its notification to the participants of the administrative procedure, in accordance with the procedure provided for by article 89 of this Code.

2. Conditional administrative act or its part enters into force when the circumstances specified by this administrative act occur, with the exception of cases where the administrative act or the laws of the Republic of Kazakhstan provide otherwise.

3. The administrative act ceases to have effect when it is annulled, terms are expired, onset of the events or fulfilment of requirements provided by the administrative act.

4. A null-and-void administrative act has no legal force from the moment of its adoption and it is not subject to execution and application.

Article 92. Null-and-void administrative act

1. An administrative act is deemed null and void if it contains an obvious error which, under a reasonable examination of all pertinent circumstances, enables one to conclude that the enforcement of the administrative act is impossible for one of the following reasons:

1) the administrative act does not clarify which administrative body has adopted it;

2) the administrative act is adopted by an administrative body, the official that do not have the corresponding powers;

3) the administrative act does not clarify its addressee;

4) the administrative act demands the commission of an act, performance of which contradicts the legislation of the Republic of Kazakhstan;

5) the administrative act, which is according to the legislation of the Republic of Kazakhstan, must be adopted in a specific form only, but it does not meet this requirement.

Article 93. Annulment of the unlawful administrative act

1. An administrative act adopted in violation of the legislation is deemed unlawful.

2. An illegal administrative act can be annulled in full or in part.

3. An illegal restricting administrative act is subject to mandatory annulment.

4. It is not permitted to annul an unlawful favourable administrative act in case that the administrative procedure's participant's right to trust is to be protected, with the exception of cases provided for by part five of this article.

5. An unlawful favourable administrative act is subject to mandatory annulment if:

1) the addressee has achieved the adoption of the administrative act by knowingly giving false information, coercion, threats or other illicit actions established in the court's sentence.

2) administrative act affects state or public interests. In this case, the participant of the administrative procedure is reimbursed for losses due to his trust in the administrative act. The extent of losses is defined in accordance with the civil legislation of the Republic of Kazakhstan. The participant of the administrative procedure may claim reimbursement of the losses within one year from the moment of the participant's notification of the annulment of unlawful administrative act.

6. An unlawful favourable act can be annulled on the grounds established under part four of this article, for the duration of one year from the day the grounds for the annulment of this act have become known.

7. The administrative body, the official must notify (notify) the participants of the administrative procedure about the annulment of the unlawful administrative act within three working days from the moment of the decision on cancellation.

Article 94. Annulment of the lawful administrative act

1. The administrative act, adopted on the basis and in accordance with the legislation of the Republic of Kazakhstan, is considered lawful.

2. A lawful administrative act may be annulled completely or in part.

3. The lawful burdensome administrative act can be canceled by an administrative body, an official, except for cases when the cancellation of this act is expressly prohibited by the laws of the Republic of Kazakhstan.

4. A lawful favorable administrative act may be annulled if:

1) the laws of the Republic of Kazakhstan allow the cancellation of an administrative act, and the cancellation is provided for in this administrative act;

2) the administrative act is issued with a different condition, and this condition is not fulfilled or performed in an improper way;

5. An unlawful favorable act can be canceled within one year from the day when the grounds for the annulment of this act became known.

6. The administrative body, the official shall be obliged to notify the participants of the administrative procedure about the annulment of the lawful administrative act within three working days from the moment of the decision on annulment.

CHAPTER 14
SIMPLIFIED ADMINISTRATIVE PROCEDURE

Article 95. Features of a simplified administrative procedure

1. A simplified administrative procedure shall be carried out by a state body, a local government body, a legal entity with 100% state participation and their officials in the manner defined by this section, with the features established by this chapter.

2. For the purposes of this chapter, an appeal shall mean a legal entity with a 100% state participation (hereinafter referred to as the entity considering the appeal) and a written, oral or electronic proposal sent to the state body, local government body, message, request, response.

Article 96. Discontinuation of a simplified administrative procedure

1. A simplified administrative procedure shall be discontinued if:

1) repeated appeals do not contain new arguments or newly discovered circumstances, and there are exhaustive materials of inspections in the materials of the previous appeal and the applicant gave answers in due course;

2) anonymous appeal was filed, except for cases when such an appeal contains information

about criminal offenses being prepared or committed, or about a threat to state or public security and that is subject to immediate redirection to state bodies in accordance with their competence;

3) an appeal has been submitted, in which the essence of the matter is not stated.

2. The decision on discontinuation of consideration of appeals shall be made by the head of the entity considering the appeals, or his deputy.

3. A decision on discontinuation of a simplified administrative procedure may be lodged with a complaint in the procedure established by this Code.

4. The applicant has the right to apply again after the circumstances that served as the basis for discontinuation of the simplified administrative procedure have been eliminated.

Article 97. Term of simplified administrative procedure

1. The term of the simplified administrative procedure is fifteen working days, unless administrative information is required to receive information.

2. A simplified administrative procedure shall be carried out within thirty working days if information is required to consider an administrative matter.

In cases where further study is necessary, the term of the simplified administrative procedure is extended for no more than thirty working days, which is notified (notified) to the applicant within three working days from the date of the extension of the period.

3. The term of the simplified administrative procedure shall be extended by the head of the entity considering the appeals, or by his deputy.

4. If the consideration of an administrative matter requires a long period, the administrative procedure is placed on additional control until the final implementation, which is notified (notified) to the applicant within three working days from the date of the decision.

Article 98. Types of decisions based on the results of administrative proceedings in a simplified administrative procedure.

1. Having examined the administrative case in a simplified administrative procedure, a state body, a local government body, a legal entity with 100% state participation and their officials shall make one of the following decisions:

1) to give explanations on the substance of the appeal;

2) to take to the notion;

3) to discontinue the simplified administrative procedure.

2. Responses to the appeal must be substantiated and motivated in the state language or language of the appeal with reference to the legislation of the Republic of Kazakhstan, contain specific facts that refute or confirm the arguments of the applicant with an explanation of his right to file a complaint against the decision.

3. In the absence of any recommendations, messages, requests, the appeal is taken into consideration and written off to the case by the head of the entity considering the appeals or his deputy.

4. The entities considering appeals and their officials are obliged to notify the applicant about the results of the examination of the administrative case and the measures taken.

CHAPTER 15
THE PROCEDURE FOR APPEALING. FILING A COMPLAINT

Article 99. Procedure for filing of an appeal

1. Participants of the administrative procedure are entitled to appeal against an administrative act, refusal to adopt an administrative act, administrative actions in an administrative (pre-trial) order.

Violation of the period established by this Code by an administrative authority or an official for the adoption of an administrative act is considered a refusal to adopt an administrative act and is appealed in accordance with the procedure established by this Code.

2. In the administrative (pre-judicial) order, the complaint is forwarded to a higher administrative body, an official (hereinafter - the body considering the complaint).

For the purposes of this Code, the bodies reviewing the complaint are the administrative body, the official (with the exception of the President, Prime Minister, the Government of the Republic of

Kazakhstan) who are superior in the order of subordination to the administrative body, officials, whose administrative act, administrative action are appealed, and also other administrative body, the official authorized under the law to examine complaints.

The consideration of complaints by the prosecution authorities is carried out on the grounds and within the powers established by the Law "On the prosecutor's office".

3. Appeal in court is exercised after appeal in administrative (pre-judicial) order, unless another procedure for appealing is provided for by the laws of the Republic of Kazakhstan.

In the absence of a higher administrative authority, an administrative act, refusal to adopt an administrative act, administrative actions may be appealed in court.

Article 100. Term for filing a complaint

1. The complaint may be filed with the body considering the complaint within thirty calendar days from the day when the participant of the administrative procedure became aware of the adoption of an administrative act, the refusal to adopt an administrative act, the commission of an administrative action.

2. In case of omission of the term specified in part one of this article for a valid reason, this term may be reinstated by the body considering the complaint by request of the participant in the administrative procedure, unless otherwise provided by the laws of the Republic of Kazakhstan.

3. The term missed for the appeal is not the ground for the refusal to accept the complaint by the body that is considering the complaint. The reasons for missing the term are clarified during the consideration of the complaint and may be one of the reasons for refusing to satisfy the complaint.

Article 101. Form and content of the complaint

1. The complaint shall be submitted in writing and (or) digital form.

2. The complaint must contain:

1) the name of the body considering the complaint;

2) surname, name, patronymic (if any), individual identification number (if any), postal address of the individual; name, postal address, business identification number of the legal entity;

3) the address of the actual residence of the individual and the location of the legal entity;

4) the name of the administrative body, the official, whose administrative act administrative actions are appealed;

5) the circumstances which the participant of the administrative procedure uses as grounds for his claims;

6) the date, month, year, and, in cases provided by law, the time of filing a complaint;

7) signature of the participant of the administrative procedure;

8) the list of documents attached to the complaint, if any;

9) other information stipulated by the laws of the Republic of Kazakhstan.

Article 102. Reception, registration, return and withdrawal of a complaint

1. The reception, registration, recording, return and withdrawal of a complaint are carried out in accordance with the provisions of Article 73 of this Code.

Article 103. Leaving a complaint without consideration

1. The complaint shall be left without consideration if:

1) there is already a decision on the complaint in the body considering the complaint;

2) the body that is considering the complaint returns a complaint;

3) the body that is considering the complaint accepted the withdrawal of the complaint from the applicant.

2. The body considering the complaint notifies (notifies) the participants of the administrative procedure on leaving the complaint without consideration,.

3. The participants of the administrative procedure shall have the right to apply again to the body considering the complaint after the circumstances that served as the basis for leaving the complaint without consideration provided for in subparagraphs 2) and 3) of part one of this article were eliminated.

Article 104. Consequences of filing a complaint

1. The filing of a complaint entails the suspension of the operation of an administrative act pending the adoption of an appropriate decision, except for the cases established by part two of this article.

2. The filing of a complaint does not suspend the operation of an administrative act in the following cases:

1) preventing or eliminating a danger that may cause harm to public or public interests, as well as related to the activities of special state bodies;

2) stipulated by the laws of the Republic of Kazakhstan.

CHAPTER 16
CONSIDERATION OF A COMPLAINT

Article 105. Sole and collegial examination of a complaint

1. The complaint shall be considered by the official solely, and in cases stipulated by the legislation of the Republic of Kazakhstan, or by decision of the administrative body - by collegial body.

The official who accepted the appealed administrative act, refused to accept the administrative act, committed the administrative action complained cannot be admitted to consideration of the complaint, except for the cases when the official is part of the appellate commission of a state body that does not have a higher administrative body.

2. An appellate commission shall be established for the examination of a complaint against an administrative act, refusal to adopt an administrative act by state bodies (other than special state bodies), local self-government bodies, or legal entities with 100% state participation, with the exception of cases established by the laws of the Republic of Kazakhstan.

3. A state body, a local government body, a legal entity with 100% state participation may set up several appellate commissions on various issues of activity.

4. The composition and provisions of the appeal commission are approved by the state body, local self-government body, a legal entity with 100% state participation.

Article 106. General rules for consideration of a complaint

1. The body considering the complaint is obliged to examine comprehensively, fully and objectively all the actual circumstances that are important for the proper consideration of the complaint.

The subject and scope of the examination is determined by the body considering the complaint. The body considering the complaint is not bound by arguments and information about factual data submitted by the administrative body, the official and participants in the administrative procedure.

2. The body considering the complaint is obliged to hear the participants of the administrative procedure and draw up a protocol on this, with the exception of cases provided for in part two and three of Article 82 of this Code.

Article 107. Term for consideration of a complaint

The complaint is considered within fifteen working days from the date of registration of the complaint, unless otherwise provided by the laws of the Republic of Kazakhstan.

CHAPTER 16
DECISION ON THE COMPLAINT

Article 108. Types of decisions based on the results of consideration of a complaint

1. After considering the complaint, the body makes one of the following decisions on:

1) the annulment of the administrative act and the adoption of a new administrative act;

2) on the execution of administrative action;

3) on leaving the administrative act unchanged, and leaving the complaint without satisfaction;

4) on the redirection of the administrative case to the administrative authority, to the official for the repeated execution of the administrative procedure with indication of the violations committed and

proposals for their elimination;

5) on leaving the complaint without consideration.

1. The body considering the complaint revokes the administrative act and adopts a new administrative act, commits administrative action in case the adoption of the relevant act, the commission of administrative action are within the competence of the body considering the complaint.

2. The body considering the complaint sends a complaint to the administrative authority, to the official, whose administrative act, refusal to accept the administrative act are appealed, for the re-execution of the administrative procedure with indication of the violations committed and proposals for their elimination in case that the adoption the corresponding act, the performance of administrative action are not within the competence of the body considering the complaint.

3. The grounds for the annulment of an administrative act and the adoption of a new administrative act, the commission of an administrative action, as well as for sending an administrative case to an administrative authority, to an official for re-execution are:

incorrect definition and clarification of the scope of circumstances that are important for the administrative case;

inconsistency of the contents of the administrative act with the materials of the administrative case;

violation or misuse of law.

4. The decision of the body considering the complaint is mandatory for execution.

Article 109. Form and content of a decision based on the results of a complaint

1. The decision on the results of the examination of the complaint shall contain:

1) date and registration number of the decision;

2) the name of the body considering the complaint;

3) surname, name, patronymic (if any), individual identification number (if any), postal address of the individual who filed the complaint; name, postal address, business identification number of the legal entity that filed the complaint;

4) a summary of the administrative act complained of, administrative action;

5) the essence of the complaint;

6) the justification with reference to the norms of the legislation of the Republic of Kazakhstan, by which the body that considered the complaint was guided in making the decision on the complaint.

2. The decision may include other information provided for by the legislation of the Republic of Kazakhstan and / or relevant to the resolution of the complaint, and also served as the basis for the decision.

3. The body considering the complaints must notify (inform) the results of the examination of the complaint and the measures taken.

CHAPTER 18
EXECUTION OF THE ADMINISTRATIVE ACT

Article 110. Procedure and terms of execution of an administrative act

1. Administrative acts that came into force are obligatory for the execution.

2. The administrative act is brought to execution by the administrative body, the official who adopted it, unless otherwise provided by the laws of the Republic of Kazakhstan.

3. The administrative act is to be executed within five working days, unless otherwise specified in the act itself or by the laws of the Republic of Kazakhstan.

CHAPTER 19.
EXPENSES

Article 111. Expenses related to the implementation of the administrative procedure

1. Fees for the execution of the administrative procedure are paid in the cases and in the manner provided for by the legislation of the Republic of Kazakhstan.

2. The fees for the consideration of a complaint against an administrative act, the refusal to

adopt an administrative act, administrative actions are not charged.

3. Expenses for the services of a specialist, interpreter or other person contributing to the proper consideration of an administrative case shall be borne by the person who initiated their participation in the administrative procedure.

Article 112. Compensation of expenses

The expenses provided for in the third part of Article 111 shall be reimbursed to the participant of the administrative procedure in case of satisfaction of his complaint.

Reimbursement of these costs is carried out in accordance with the procedure provided for by civil law.

CHAPTER 20
RESPONSIBILITY OF THE ADMINISTRATIVE BODY, OFFICIAL

Article 113. Liability of administrative bodies for the losses in administrative procedure

Liability for the losses caused by an administrative authority, an official, participants in administrative procedure in execution of an administrative procedure, is determined in accordance with civil law.

Article 114. Appeal

Participants of the administrative procedure may appeal to the court against an act of the administrative body, an official on refusal to reimburse losses or its amount.

Article 115. Responsibility of officials

Officials in the order established by the laws of the Republic of Kazakhstan shall bear civil, disciplinary, administrative or criminal liability for violation of the provisions of this Code.

PART III. ADMINISTRATIVE COURT PROCEEDINGS

CHAPTER 21
JURISDICTION

Article 116. Jurisdiction of administrative cases

1. Administrative court proceedings are carried out by specialized administrative courts. If a specialized district court and equivalent administrative court is not formed on the territory of the relevant administrative-territorial unit, the cases referred to its jurisdiction are entitled to be considered by the district (city) court in the procedure established by this Code.

2. Administrative courts shall have jurisdiction over all public legal disputes arising out of the relations provided for by part one of Article 3 of this Code.

Public-legal disputes between investors and state bodies related to investor's investment activities are vested in the specialized interdistrict administrative court of the city of Astana.

3. The specialized inter-district administrative court of the city of Astana considers public-law disputes between investors and state bodies related to investor's investment activities, with the participation of:

1) foreign legal entity (its branch, representative office), which carries out entrepreneurial activity in the territory of the Republic of Kazakhstan;

2) a legal entity established with a foreign participation within the procedure set by the legislation of the Republic of Kazakhstan, fifty or more percent of voting shares (interests in the authorized capital) of which belong to a foreign investor;

3) investors who have concluded a contract with the state for investment.

Article 117. Jurisdiction of administrative cases to military courts

Military courts consider administrative cases on claims of servicemen of the Armed Forces, other troops and military formations, citizens undergoing military training, if the defendant is the

bodies of military administration, the military unit, with the exception of cases that are subject to other specialized courts.

Article 118. Administrative cases under the jurisdiction of the regional and equivalent courts

Regional courts and courts equivalent to them consider administrative cases on appeal.

Article 119. Jurisdiction of administrative cases to the Supreme Court of the Republic of Kazakhstan

1. The Supreme Court of the Republic of Kazakhstan considers judicial acts of administrative courts and other courts in cassation.

2. The Supreme Court of the Republic of Kazakhstan, , reviews administrative cases on challenging decisions and actions (inaction) of the Central Election Commission of the Republic of Kazakhstan, decisions and actions (inaction) of the Central Referendum Commission in accordance with the rules of court of the first instance.

Article 120. Territorial jurisdiction of administrative cases

1. Administrative cases are subject to consideration at the place of issuing an administrative act or at the location of the defendant.

2. An administrative act issued outside the Republic of Kazakhstan is subject to review by the specialized inter-district administrative court of the city of Astana.

3. The administrative act issued in the form of a digital document is subject to consideration in the specialized inter-district administrative court of the city of Astana.

4. A claim against an administrative body arising from the activities of its territorial subdivision (branch, representative office) shall be brought to the court at the location of the territorial subdivision.

Article 121. Jurisdiction for communication of cases and at the choice of the parties

1. A claim against several administrative bodies may be brought at the location of one of the defendants. The choice between several courts, which according to this article jurisdiction belongs to, is made by the plaintiff.

2. The parties may by the means of an agreement change the territorial jurisdiction for the case, including cases which are considered in the court proceedings, at the stage of preparing the case for trial.

3. The requirement for compensation of losses caused by the defendant, coupled with an administrative act, is considered by the administrative court.

4. The claim for compensation for non-pecuniary damage is considered in the civil procedure.

5. Several claims can be combined by the plaintiff in one case, if they are presented to one defendant, are related, and their consideration falls within the competence of one court.

6. The combination of several requirements into one proceeding that are subject to consideration in the orders of different types of legal proceedings, unless otherwise established by this Code, is not allowed.

Article 122. Transfer of administrative case on jurisdiction by the court that took the case to the proceedings and transferred the case from the court to which it is subject, to another court

1. An administrative case accepted for the court proceedings with observance of the rules of jurisdiction and appointed for consideration in a court session must be examined by it in substance, even if during its consideration it has become subject to another court.

2. The court shall transfer the administrative case to the consideration of another court if:

1) during examination of the administrative case in this court it was found out that it was taken to the proceedings with violation of the rules of jurisdiction;

2) after the disqualification of one or more judges or for other reasons, the replacement of judges or consideration of administrative cases in this court has become impossible;

3) there are grounds provided for by part two of Article 121 of this Code.

3. On the transfer of the administrative case to another court or on the refusal to transfer the administrative case to another court, a ruling of the court that may be appealed is issued. The transfer of the administrative case to another court is carried out upon the expiration of the appeal term, and in case of filing a complaint, after the court's decision to leave the complaint is dismissed.

PART III. ADMINISTRATIVE COURT PROCEEDINGS

CHAPTER 21
JURISDICTION

Article 116. Jurisdiction of administrative cases

1. Administrative cases within the first-instance are considered by specialized interdistrict administrative courts . If a specialized interdistrict court has not been established in the territory of a corresponding administrative-territorial entity, the cases falling under its jurisdiction may be considered by a district (city) court in accordance with the procedure established by this Code.

2. Administrative courts shall have jurisdiction over all public legal disputes arising out of the relations provided for by part one of Article 3 of this Code. Public-legal disputes between investors and state bodies related to investor's investment activities are subject to the jurisdiction of the specialized interdistrict administrative court of the city of Astana.

3. The specialized inter-district administrative court of the city of Astana considers public-law disputes between investors and state authorities related to investor's investment activities, with the participation of:

1) foreign legal entity (its branch, representative office), which carries out entrepreneurial activity in the territory of the Republic of Kazakhstan;

2) a legal entity established with foreign participation in the procedure established by the legislation of the Republic of Kazakhstan, fifty or more percent of voting shares (interests in the authorized capital) of which belong to a foreign investor;

3) investors in the presence of a contract for investment concluded with the state.

Article 117. Jurisdiction of administrative cases to military courts

Military courts consider administrative cases related to servicemen of Armed Forces, other troops and military formations, citizens undergoing military training, if the defendant is military authorities or a military unit except for cases under the jurisdiction of other specialized courts.

Article 118. Administrative cases under the jurisdiction of the regional and equivalent courts

Regional courts and courts equivalent to them consider administrative cases within the appeal procedure.

Article 119. Jurisdiction of cases to the Supreme Court

1. The Supreme Court of the Republic of Kazakhstan considers judicial acts of administrative and other courts in cassation order.

2. The Supreme Court of the Republic of Kazakhstan, according to the rules of the first instance court, reviews administrative cases on challenging decisions and actions (inaction) of the Central Election Commission of the Republic of Kazakhstan, decisions and actions (inaction) of the Central Referendum Commission.

Article 120. Territorial jurisdiction of administrative cases

1. Administrative cases are subject for consideration at the place of issuing an administrative act or at the location of the defendant.

2. An administrative act issued outside the Republic of Kazakhstan is subject to consideration by the specialized inter-district administrative court of the city of Astana.

3. The administrative act issued in the form of an electronic document is subject to consideration in the specialized inter-district administrative court of the city of Astana.

4. The claim against an administrative authority arising from the activities of its territorial subdivision (branch, representative office) shall be brought to the court at the location of the territorial subdivision.

Article 121. Jurisdiction for communication of cases and at the choice of the parties

1. The claim against several administrative bodies may be brought at the location of one of the defendants. The choice between several courts, which have jurisdiction on the case under this article, belongs to the plaintiff.

2. The parties may by agreement between themselves change the territorial jurisdiction for the case, including on cases that are in the proceedings of the court, at the stage of preparing the case for trial.

3. The requirement for compensation of losses caused by the defendant coupled with an administrative act, is considered by the administrative court.

4. The claim for compensation for non-pecuniary damage is considered in the civil procedure.

5. Several claims can be combined by the plaintiff in one case, if they are presented to one defendant and they are connected between each other and their consideration falls within the competence of one court.

6. It is not allowed to combine several requirements into one proceeding, which are subject to consideration in the order of different types of legal proceedings, unless otherwise established by the present Code.

Article 122. Transfer of administrative case on jurisdiction by the court that took the case to the proceedings and transfer of the case from the court to which it is subject to another court

1. An administrative matter accepted for the proceeding of a court in compliance with the rules of jurisdiction and appointed for consideration in a court session must be examined by it in substance, even if during its consideration it became subject to another court.

2. The court transfers the administrative case to another court, if:

1) if it was identified during the case review in such a court that it had been accepted for consideration with the violation of jurisdiction rules;

2) if after disqualification of one or more judges or for other reasons replacement of judges or consideration of the case in that court becomes impossible;

3) there are grounds provided for by the part two of the Article 121 of the particle Code.

3. The issue of transferring the case from one court to another or refusal to transferring the administrative case to another court based on the motion of court which can be appealed. The transfer of the administrative case to another court is carried out upon the expiration of the appeal period, and in case of filing a complaint or protest - after the court's ruling on leaving the complaint, protest without satisfaction.

Article 123. Settlement of disputes on jurisdiction

Disputes about jurisdiction between courts are resolved by a higher court, whose decision is final and can not be appealed.

CHAPTER 22
THE GENERAL PRINCIPLES OF THE TRIAL ON ADMINISTRATIVE MATTERS

Article 124. Immediacy and orality of administrative proceedings

1. The trial of administrative cases in the courts shall be conducted verbally and directly.

All evidence on administrative matters in the proceedings are subject to direct investigation. The court must hear the explanations of the parties and other participants of the administrative

proceeding, the testimony of witnesses and experts, to examine the evidence, get acquainted with the documentary (written) evidence and other documents, listen to the record and watch the video, films, photographs, read the materials on other data storage device, and to make other actions to investigate the evidence.

In exceptional circumstances when it is impossible to provide the direct hearing of oral evidence (explanation) of the participants in the administrative proceeding, the court may announce their testimony (explanation), obtained in the course of the administrative procedure.

2. In necessary cases, when examining evidence on an administrative matter, the court hears consultations and explanations of a specialist.

3. The hearing of the explanations of the parties, other participants in the administrative process,the testimony of witnesses, expert opinions can be conducted by the court through videoconferencing.

4. The final decision of the case may be based solely on the evidence that had been examined directly during the court hearing, except for documents containing state secrets or other secrets protected by law.

Article 125. The invariability of the composition of the court in the proceedings of the case

1. An administrative case must be examined by the same judge or composition of the court.

2. If the judge is unable to participate in the proceedings, he is replaced by another judge, and the trial starts from the beginning.

Replacement of a judge or several judges is possible in case of:

1) the self-disqualification and disqualification of judge declared and satisfied in the manner prescribed by present Code;

2) a prolonged absence of the judge due to illness, leave, study, official business trip;

3) termination or suspension of the powers of the judge on the grounds provided for by the constitutional law.

3. Performing procedural actions in urgent cases, including the consideration of the application for the enforcement of the claim, adjournment of the trial, by one judge instead of the other judge in the interchangeability procedure can not be considered as replacement of the judge.

Article 126. Principle of judicial protection

During the consideration of administrative case the court is obliged, by maintaining objectivity and impartiality, to provide each participant with an equal opportunity and conditions for the exercise of their rights for a comprehensive and full investigation of the circumstances of the case.

Article 127. Participation in the court proceedings.

1. The court proceedings shall be conducted with the obligatory participation of the defendant, with the exception of cases provided for in part two of this article.

If the defendant does not appear, the court postpones the consideration of the administrative case.

The court has the right to impose a pecuniary punishment and compulsory attendance of the defendant , and in case of a repeated failure to appear also has a right to consider the case in the absence of the defendant.

2. The hearing of the case in the absence of the defendant may be provided if it does not impede to the full, objective and comprehensive examination of the case.

3. The court is obliged to provide the plaintiff with the possibility of direct participation in the trial. Absence of the latter for disrespectful reasons is not an obstacle to the consideration of the case in his absence.

4. Interested persons may be brought to participate in administrative proceedings on the initiative of the court or at the request of participants of the administrative proceedings.

Article 128. Notices and notifications

1. The participants of the administrative process are notified about the time and place of consideration of the case or the commission of certain procedural actions and are summoned to court by notifications (notices).

Notification (notice) is sent by phone message, text message to the subscriber number of the cellular communication or by e-mail, telegram or registered mail with a notification of its delivery, or using other means of communication that ensure the recording of the notification or call.

If the person actually does not live at the address indicated in the case, the notification (notice) can be sent to the legal address or the place of his work. Notification (notice) addressed to a legal entity is sent to the place of its registration and (or) actual location.

2. Delivery would be considered delivered in appropriate and reliable way, in the following cases:

1) sending a text message to the subscriber number of the cellular communication or to the e-mail address that the notified person indicated during the proceedings in the case and confirmed with his signature;

2) notice of the person by telegram, which are handed to him personally or to someone from the adult family members living with him under the receipt of delivery to the sender that is subject to return, by registered mail.

A notice (notification) addressed to a legal entity is handed to the head or employee of a legal entity who confirms the delivery of the notice by signature , indicating his / her surname, initials and position;

3) in another way, allowing to record (certify) the fact of proper delivery of the notification (notice).

Any other notification (notice) can not be considered sufficient for the conduct of procedural actions and decision-making.

Persons who participate in the administrative process confirm by their signature that voluntarily indicated address of the place of residence (location), place of work, subscriber's number of the cellular communication, e-mail address are accurate, and the notification (notice) directed at the specified contacts (address) will be considered appropriate and sufficient.

5. If the addressee refuses to accept the notification (notice), the person delivering or handing it over, makes a corresponding note on the notification (notice), which is returned to the court. The court has the right to consider such notice (notification) delivered properly.

6. The notice (notice) shall contain:

1) the name and exact address of the court;

2) the time and place of the hearing or the conduct of a separate procedural action;

3) the name of the administrative matter for which the addressee is notified;

4) the indication of the person summoned or notified to the court (last name, first name, patronymic (in case of its presence) and the person's place of residence or the name of the body or legal body and its location, to which the notification (notice) is addressed, and the status at the case;

5) an indication of what actions and by which date the person called or notified is entitled or obliged to commit;

6) an indication of the obligation of the person who received the notification (notice) because of the absence of the addressee, at the first opportunity to hand them to the addressee;

7) an indication of the consequences of failure to appear in court and the duty to notify the court of the reasons for non-appearance;

8) signature of the person who sent the notice (notification).

Article 129. Personal appearance

1. Participants in the administrative process must appear in court.The court may order a personal appearance in court of any of the participants.

2. Participants in the administrative process are entitled to make request to the court in writing form on consideration of the administrative case in their absence and forward them a copy of the decision.

Article 130. Consideration of cases in the absence of persons whose appearance is obligatory

1. The failure to appear of properly notified persons participating in the case is not an obstacle to holding a court session.

In case of non-attendance of persons whose appearance is obligatory, the court is entitled to apply to them measures of procedural coercion in accordance with Chapter 23 of this Code.

2. The adjournment of the administrative case is allowed if the court finds it impossible to consider the administrative case in this court hearing due to the absence of any of the participants in the administrative process or their representatives, in cases of change of the subject matter and the basis of the claim, and the involvement of new participants to the administrative case.

Article 131. Limits of court proceedings in administrative cases

1. In determining the subject matter of the claim, the court is not connected with the wording of the claim, the text of the claim and the documents attached to it or submitted later.

The court has the right to assist the party in formulating and (or) changing the claims with a preliminary explanation of the legal consequences.

The court is not bound to the claimed basis of the claim, but has no right to go beyond the limits of the claims.

2. The court is obliged to check during the trial whether the limits of administrative discretion and their conformity (proportionality) to the purposes of adopting the administrative act established by law,are exceeded.

Article 132. General rules for conducting a trial

1. The trial consists in the consecutive passage of the following main stages:

1) submission and acceptance of the claim;

2) the actions of the court on the filed claim;

3) conducting a preliminary hearing;

4) the appointment of a court session;

5) conducting a court session, which consists of opening a trial, initiating a trial, clarifying the position of the parties, investigating the circumstances of the case, ending the consideration of the case on the merits, judicial debates and replicas, removing the court for adjudication;

6) adjudication and its announcement.

2. The powers of the presiding officer, the procedure for the conduct of the court session, the preparation of a protocol, including a brief record, the fixation of the court session, the court's resolution of motions are determined by the requirements of the civil procedural law.

In this case, a short protocol should be accompanied by a text decryption of the audio recording, obtained by automatic text recognition.

Article 133. Interim order of the court

1. An act of a court in which administrative proceedings are not resolved on the merits is made in the form of interim order.

2. The court issues an interim order on uncomplicated issues, without departing from the courtroom, which is entered in the record.

3. An interim order as separate procedural document should specify:

1) date and place of an interim order;

2) name of the court that made an interim order, composition of the court and court clerk;

3) persons participating in the case and subject matter of the dispute;

4) issue on which an interim order is made;

5) reasons for which the court came to its conclusions, and reference to the laws by which the court was guided;

6) procedural decision;

7) procedure and term for appealing an interim order if it is subject to appeal.

4. The interim order made in the courtroom shall contain the information listed in subparagraphs 4), 5) and 6) of part three of this article.

5. The interim order or its resume part is announced immediately after the adjudication. Interim order in the final form should be made within five working days after the announcement of its resume part.

6. The court makes interim order on return of the claim on the following reasons:

1) the plaintiff did not observe the procedure for pre-trial settlement of the dispute, established by law for this category of cases;

2) the claim does not comply with the requirements of part two, subparagraphs 1), 2), 3) of part eight of Article 147 of this Code and it will be established that it is impossible to eliminate the deficiencies at the stage of preparing the case for trial;

3) the application was submitted by legally incompetent person;

4) the application was signed by a person who does not have the authority to sign or present it;

5) in the proceedings of the same or another court, there is a dispute between the same parties, on the same subject and on the same grounds;

6) the plaintiff withdrew the filed suit;

7) despite claims of the court, the plaintiff continuously evades from appearing in court for more than one month;

8) the person in whose interests the case is initiated does not support the claim;

9) the parties have concluded an agreement on conciliation or mediation and it is approved by the court;

10) a state fee has not been paid or has not been paid in full in the order established by the Civil Procedure Code of the Republic of Kazakhstan;

11) the case is not subject for consideration in administrative proceedings;

12) there is a court decision on the dispute between the same parties, on the same subject and on the same grounds that enetered into force or interim order of the court on the return (termination) of proceedings in connection with the withdrawal of the claim or the court's approval of the agreement on reconciliation;

13) after the death of a citizen who is one of the parties to the case, the disputable legal relationship does not allow succession;

14) the organization acting as a party to the case is liquidated with the termination of its activities and the absence of assignees;

15) if the court refuses to restore the missed term for filing a claim.

After elimination of circumstances which became the reason for the return of the claim, the plaintiff has the right to re-submit it to the court against the same defendant for the same subject matter and grounds.

7. The following interim orders are made by the court (judge):

1) on establishing or changing the language of legal proceedings;

2) on the hearing of the case in a closed court session in respect of all or part of the trial;

3) on the disqualification (self-disqualification);

4) on the preparation of the case for trial;

5) on the suspension of a representative in administrative proceedings, in cases established by this Code;

6) on the court order;

7) on the appointment of a forensic examination;

8) on recovery of legal costs;

9) on the transition from a simplified (written) to an oral trial proceeding;

10) on the consolidation or separation of several claims;

11) on the appointment of a court session;

12) on the reduction of the amount of the monetary penalty or on the release from it, on the postponement of its payment;

13) on the release of a person from payment for legal aid and reimbursement of expenses,

14) on consideration of comments on the protocol, a short protocol, the content of audio and video recordings;

15) on the results of consideration of a private complaint;

16) on the indvolvement of the specialist;

17) to involve an interested person;

18) to replace the defendant;

19) on providing the evidence;

20) on the transfer of the case according to jurisdiction;

21) on the receipt of samples;

22) on the enforcement, replacement and cancellation of the claim;

23) on imposing a monetary penalty;

24) on the introduction of correction of notes and explicit arithmetic errors;

25) on the refusal to issue an additional decision;

26) on the postponement or installment of the decision, on changing the method and procedure for its execution;

27) on indexation of the awarded sums;

28) on procedural succession;

29) on issuing a duplicate of the writ of execution;

30) on the immediate implementation of the decision;

31) on the turnaround of the execution of the decision;

32) on cancellation of suspension of an administrative act;

33) on the return of appellate and cassation appeals;

34) about the compulsory attendance

35) on the refusal to expedite the consideration of the case.

The interim order provided for in subparagraphs 11) -15) of part six of this article may be appealed both in the appellate and cassation order.

The interim order provided for by subparagraphs 1) -9) of part six and subparagraphs 19) - 35) of part seven of this article may be appealed to a higher court whose decision is final and can not be appealed.

Other interim order provided for in subparagraphs 1) to 18) of part seven of this article are not subject to appeal, but objection to them may be included in the appellate or cassation appeal.

Within administrative procedure, private interim orders can not be made.

Article 134. Prejudice

1. Court decision on administrative matter that entered into force is mandatory for all state authorities, individuals and legal entities in respect of both the established circumstances and their legal assessment in relation to the person about whom they are issued. This provision does not impede for the verification, cancellation and modification of the decision of the court and other judicial acts of the court in the appellate and cassation order.

2. An effective court decision on an administrative matter is mandatory for any court or authority during establishing facts relevant to the case, and factual data established without evidence.

Article 135. Conciliation procedures

1.The parties may fully or partially settle the dispute through negotiations by concluding a conciliation agreement or mediation on all stages of the administrative proceeding until the departing of the court for the adjudication.

Reconciliation of the parties is allowed if the defendant has administrative discretion.

2. Mediation in court is conducted in accordance with the legislation of the Republic of Kazakhstan and with the features established by this Code.

3. A conciliation or mediation agreement is made in writing and signed by the parties or their representatives.

4. The agreement on reconciliation or mediation must comply with enforcement requirements in a compulsory manner and contain the conditions under which the parties came to reconciliation, as well as the procedure for allocating legal costs, including expenses for the services of representatives.

5. The request of the parties to approve the agreement on conciliation or mediation shall be considered by the court in a court session or at a preliminary hearing.

Based on the results of consideration of the application for approval of the agreement on conciliation or mediation, the court issues an interim order on the approval of such an agreement or on the refusal.

6. When the court approves the agreement of the parties on conciliation or mediation, the court makes interim order on the return of the claim in full or in the relevant part.

7. An agreement on conciliation or mediation not voluntarily executed shall be enforced on the basis of the writ of execution issued by the court upon the petition of the person who concluded the agreement.

8. The court is entitled to recommend to the parties the terms of the agreement on reconciliation or judicial mediation.

9. The court does not approve an agreement on conciliation or mediation, if its conditions are contrary to the law or violate the rights and legitimate interests of others or affect public order and public safety.

10. Reconciliation between the parties in certain categories of administrative cases, the production of which is provided for by Chapter 30 of this Code, shall not be permitted.

11. If the parties have not reached an agreement by way of mediation or the terms of the agreement are not approved by the court, the proceedings are conducted in the general order.

Article 136. Features of judicial mediation

1. To conduct mediation in the court of first instance, the case is transferred to another judge who approves the mediation agreement.

At the request of the parties, mediation can be conducted by a judge, in whose proceedings the case is located.

To conduct mediation in the court of appellate instance, the case is, as a rule, transferred to one of the judges of the collegial composition of the court.

In the court of cassation instance, simultaneously with the petition for settlement of the dispute (conflict) by concluding a mediatory agreement, the parties must submit the mentioned agreement.

2. The judge who conducts the mediation appoints the day of the mediation and notifies the parties about the time and place of the mediation.

The court has the right to call on mediation other persons if their participation will contribute to the settlement of the dispute (conflict).

3. When the terms of the agreement on mediation are discussed, the protocol is not kept.

Article 137. Legal expenses in administrative cases

Issues on the distribution of legal costs are examined according to the rules of the Civil Procedure Code of the Republic of Kazakhstan.Legal costs in case of the return of a claim on the grounds provided for in subparagraphs 11) to 14) of part six of Article 133 of this Code are not reimbursed.

CHAPTER 23
MEASURES OF PROCEDURAL COERCION

Article 138. Procedural coercive measures

The measures of procedural coercion include:

1) oral warning;

2) removal from the courtroom;

3) fine

4) conveyance

Article 139. Grounds and procedure for the application of procedural coercive measures

1. The application of measures of procedural coercion provided for in subparagraphs 1) and 2) of Article 138 of this Code shall be entered in the record of the court session.

2. The court issues an interim order on the application of procedural coercive measures provided for in subparagraphs 3) and 4) of Article 138 of this Code.

The appeal of this interim order does not suspend the enforcement of procedural coercion measures. The filing of a private complaint about the use of fine is allowed after the execution of the imposed penalty.

3. If the selected measure of procedural coercion has not lead to the results, another measure of procedural coercion is permissible. Measures of procedural coercion can be applied repeatedly.

4. The application to the person of measures of procedural coercion does not relieve this person from the performance of the corresponding duties established by this Code.

5. If there are signs of a criminal offense in the actions of the offender in the court session, the court sends the materials to the prosecutor to resolve the issue of initiating a pre-trial investigation.

Article 140. Oral warning

The presiding judge has the right to declare an oral warning to the person who violates the procedure in the courtroom. At the same time, the presiding judge explains the possibility of applying a more stringent coercive measure against him in case of repetition.

Article 141. Removal from the courtroom

1. In case when the persons participating in the case violate the rules in a court session, the chairperson after warning may expel them for the entire period of case consideration or for a part thereof.

2. Other attending persons violating the rules may also be expelled by order of the chairperson in a court session without prior oral warning.

Article 142. Fine

1. Court fines are imposed by the court in cases stipulated by this Code.

2.The fine is imposed in the amount of ten to one hundred monthly calculation indices and is collected from an individual , official, legal entity or its representative. On imposing a fine, the court issues an interim order, a copy of which is handed to the person who is subject to pecuniary punishment.

The consideration of the issue of imposing fine is made in the court session with a preliminary notice of the person against whom the coercive measure is applied.

3.For failure to comply with the requirement, request of the court, failure to attend the court of the person participating in the case, untimely notification of the court, untimely submission of the response, the court imposes fine in the amount of ten monthly calculated indices.

For failure to comply with the court decision, the court's interim order to approve the agreement of the parties on reconciliation or mediation, the court imposes a pecuniary penalty in the amount of fifty monthly calculation indices with indication of the time limit not exceeding one month during which the court decision must be enforced.

4. Payment of fine shall be effected within five working days from the date of delivery of the interim order and shall be collected in the income of the republican budget.

5. A person who is subject to fine has the right to apply to the court with a request to release him from payment or to reduce the amount of the monetary penalty.

The application is considered in the court session with the applicant's challenge.

6. When imposing a pecuniary punishment, the court is entitled to postpone or delay the execution of the interim order for a period of up to two months.

7. If the claim, request of a court or a court decision specified in part three of this article is not executed, after the imposition of fine, the court is entitled to impose a repeated pecuniary punishment on the person in an amount increased by ten monthly calculation indices.

Article 143. Conveyance

1. Conveyance is a procedural compulsion measure executed by law enforcement bodies based on a court order through forced delivery to the court of the persons whose attendance is recognized by the court as obligatory. The conveyance is used in cases where the previously chosen coercive measure has not reached the declared goal.

2. Compulsory attendance can not be applied to minors, pregnant women, persons who due to illness, age or other valid reasons, are not able to appear at the court hearing on a court summons.

CHAPTER 24
EVIDENCE AND PROVING

Article 144. Order and features of legal regulation of evidence and the process of proof

The procedure for the legal regulation of evidence, facts that are inadmissible as evidence, the subject of evidence and sources of evidence, and the collection, research, evaluation and use of evidence and other provisions on evidence and proof are determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, except of the features established by this Code.

Article 145. Duty of proof

1. The plaintiff, in accordance with his capabilities, must participate in the collection of evidence. Regardless of the type of filed claim , the plaintiff must prove the time when he became aware of a violation of his rights, freedoms and legitimate interests.

2. The burden of proof is:

1) on the claim for challenge - the defendant who accepted the onerous administrative act;

2) on the claim of coercion - the defendant in respect of the facts that became the basis for refusing to accept the requested administrative act and the plaintiff in respect of the facts by which the adoption of a favorable administrative act is justified.

If the defendant refers to the existence of factual conditions that exclude the adoption in the particular case of the administrative act desired by the plaintiff, the obligation to prove such conditions rests with the respondent;

3) on the claim for action - the defendant in respect of the facts that were the basis for refusing the commission of the requested action (inaction) and the plaintiff in respect of facts favorable to him;

4) on a claim for recognition:

the plaintiff in the part of the facts confirming the presence or absence of any legal relationship;

the defendant in the part of facts that refute the invalidity of the administrative act;

the defendant in the part of the facts justifying the validity of the encumbering administrative act, which has no legal force, and also any committed action (inaction).

3. The defendant can only refer to those justifications that are mentioned in the administrative act.

4. If, after examining all the evidence, any fact that determines the outcome of the case remains unproven, then its negative consequences are borne by the party bearing the burden of proving this fact.

Article 146. Features of proving

1. The court is obliged to assist in eliminating formal violations, clarifying ambiguous expressions, filing motions on the merits, supplementing incomplete factual data, submitting all written explanations relevant for the full determination and objective assessment of the circumstances of the case at all stages of the process.

2. If the evidence submitted by participants in the administrative process is insufficient, the court shall collect them on its own initiative.

The court is not bound by the party's statement on the admissibility of evidence, which is resolved in the final decision.

3. Participants in the administrative process are required to provide documents requested by the court, as well as necessary information. The court may require these documents by a certain date.

To these documents, participants are required to attach electronic documents, documents or extracts from them to which they refer.

4. The parties shall not have the right to destroy or conceal any evidence or otherwise interfere with its investigation and evaluation, making it impossible or difficult to obtain evidence. In such a case, the court may impose the burden of proof on the opposing party regardless of the rules established by part two of article 145 of this Code.

5. In the event failure to notify the court on the impossibility of presenting the evidence within the deadline established by it, as well as the failure to fulfill the obligation to present the evidence required by the court for reasons recognized as disrespectful by the court, the court is entitled to impose a fine in the manner established by Article 142 of this Code.

6. In case when the disclosure of the contents of documents or acts may cause damage to legally protected interests or if they contain information constituting state secrets or other secret protected by law, the court shall issue an interim order on the examination of these documents or acts as well as information in a closed court session.

CHAPTER 25
ADMINISTRATIVE CLAIM AND ITS TYPES

Article 147. Administrative claim, its form and content

1. In an administrative court, a case is initiated based on a claim. The claims brought to court are:

1) a claim for challenge;

2) a claim for coercion;

3) claim for commission of the actions;

4) a claim for recognition.

2. The claim is submitted to the court in writing or in electronic form, certified by the electronic digital signature of the plaintiff and (or) his representative.

The claim should include the following:

1) name of court the claim is filed with;

2) the surname, name and patronymic (if any) of the plaintiff, if the plaintiff is an individual, his place of residence, the date and place of his birth, the name of the representative and his address if the claim is filed by the representative; phone numbers, e-mail addresses of the claimant, his representative;

the name of the plaintiff, if the it is a legal entity or other organization, their location, business identification number and bank details;

3) full name of the defendant, location, bank details (if known by the plaintiff) and business identification number (if known by the plaintiff). The claim must include information about the subscriber's number of cellular communication and the electronic address of the defendant, if they are known to the plaintiff;

4) content of claim and statement of circumstances used by the plaintiff as grounds for his/her claim, the essence of the violation or threat of violation of the rights, freedoms and legitimate interests of the plaintiff. In case of filing a claim against several defendants – the content of claim particulars regarding each of the defendants;

5) information on compliance with pre-trial procedure for addressing the defendant, if it is established by legislative acts;

6) list of documents and other attached materials (in the presence of such)

3. The claim, as a rule, also indicates:

1) the plaintiff's reasoned opinion of the defendant's violation of his rights and legitimate interests, the establishment of obstacles to their implementation, or the unlawful imposition of any obligation on him;

2) where necessary – a written motion for deferral, installment payment, exemption from the state duty; for appointment of forensic examination; for subpoenaing for production of evidence; for summoning witnesses; for securing the claim etc.;

4. In confirmation of circumstances justifying the claim particulars the plaintiff presents the evidence, and in case it is impossible specifies the evidence he/she cannot present independently with indication of the reasons for impossibility to present such evidence.

5. The claim is signed by the plaintiff or by his/her representative if the latter is authorized to sign it. If the claim is filed by a representative, the name of the representative, his postal address, as well as phone numbers, e-mail address, if any, shall be indicated there.

6. In case the prosecutor files a claim in the interests of a citizen it should contain justification of the reasons for impossibility of filing a claim by the citizen.

7. Documents attached to the claim are generally submitted in the original. In case it is impossible to submit original documents their copies certified according to the procedure established by law may be submitted. If a copy of a document cannot be certified due to the absence of the original the reason for impossibility to perform such actions should be stated in the claim.

8. The claim should be attached with:

1) copies of the claim and attached documents on the number of participants in the administrative process;

2) a document confirming the state duty payment;

3) a power of attorney certifying the powers of the representative;

4) documents confirming the circumstances on which the plaintiff bases his demands, copies of these documents for the participants of the administrative process;

5) documents confirming compliance of the out-of-court dispute settlement procedure if such procedure is established by legislative acts;

6) copies of the charter and certificate of state registration, if a case is brought by a legal entity;

7) copies of the investment contract concluded between the investor and state authority and also the documents confirming the investor's investment activity, if the claim is issued in the order of part three of Article 116 of this Code.

Article 148. Claim for challenge

In case of violation of the rights and legitimate interests of the plaintiff by encumbering administrative act, he has the right to claim for challenging with the demand to cancel the act completely or in any part of it.

Article 149. Claim for coercion

1. Under a claim for coercion, the plaintiff may require the adoption of a favorable administrative act, in the acceptance of which the administrative authority was refused or not accepted because of inaction of the authority. In such cases, separate claim to challenge the refusal is not required.

2. Claim for coercion may contain a requirement on the obligation of the defendant to do not take an encumbering administrative act.

Article 150. Claim for the commission of an action

1. Plaintiff on the claim for the commission of actions can require commission of certain actions or refrain from such actions, which are not aimed at the adoption of an administrative act.

2. On the claim for commission of the action, the plaintiff may also demand the provision of the relevant document provided for by law in the event that the administrative act is recognized as being taken as a result of the non-acceptance of the administrative act within the time prescribed by law on the same subject.

Article 151. Claim for recognition

1. Upon the claim for recognition, the plaintiff may demand to recognize the presence or absence of any legal relationship, if he can not file a claim in accordance with Articles 148-150 of this Code.

2. Upon the claim for recognition, the plaintiff may also demand that the administrative act be considered null and void, or that the administrative act, which does not have more legal force, is unlawful.

3. A claim for recognition can be filed in case of sufficient interest of the plaintiff in establishing these relations in the shortest possible time. The plaintiff's interest in establishing legal relationships can have legal, moral or material character.

Article 152. Term for filing a claim

1. Claims for challenge, coercion shall be submitted to the court within a month from the date of delivery of the decision of a higher administrative authority and the official on the basis of results of the examination of the complaint.

In the event that the law does not provide for pre-trial procedure or there is no superior administrative authority, the official, the claim is filed within one month from the time of the delivery of the administrative act.

2. Claim for commission of the actions shall be filed with the court within one month from the day when the person became aware of the commission of the act, and also when the period established by law for the commission of the action has expired.

3. The claim for recognition shall be filed with the court within five years from the date of the appearance of the relevant legal relationship.

The requirement to recognize an encumbrant administrative measure that is not more legally effective may be declared null and void within three months from the day when the person became aware of the violation of his rights by this act.

4. A person who did not participate in the administrative procedure, whose rights and interests are affected by the administrative act, has the right to file a claim with the court within a month from the day the person learned or could learn about the adoption of the administrative act, but not later than one year from the date of its adoption.

5. The person who filed a complaint to a higher administrative authority, an official, has the right to file a claim to the court within a month from the date of the decision on the complaint or after the expiration of the period for consideration of the complaint, unless a decision is taken on the complaint.

6. A missed period for filing a claim on valid reasons can be restored by a court, unless otherwise provided by this Code. The reasons of missing the time limit for filing claim to the court and their significance for the proper resolution of the case are clarified by the court during the preparation of the case for trial.

7. Failure to apply within the time-limit for filing a claim to a court without a valid reason, as well as the impossibility of restoring the missed period of application to the court, is the basis for the return of the claim.

CHAPTER 26
DECISION ON THE APPOINTMENT OF A TRIAL AND A PRELIMINARY HEARING

Article 153. Presentation and adoption of a claim

The case is adopted to the proceedings through the presentation of a claim.

Article 154. Actions of a court on an administrative claim

1. Prior to the commencement of the trial, the judge shall make all necessary actions, orders, which are necessary to resolve the dispute, if possible in one court session.

Upon the filed claim, the judge shall provide the preparation for the trial within a reasonable time, with the exception of cases provided for in this Code.

2. The judge with regard to the adopted claim with the purpose of possibility of carrying out of preliminary hearing:

1) return the claim in the presence of grounds provided for by subparagraphs 1), 4) - 6), 11) and 14) of part six of Article 133 of this Code;

2) establishes the language of the proceedings, depending on the language in which the claim is filed. Upon receipt of an administrative matter, as well as on a reasonable motion of the parties, the established language of the proceedings may be changed before the end of the preparation for the trial;

3) resolve the application for the enforcement the claim;

4) indicates to the plaintiff the removable defects of the claim and sets the time limit for their correction, as a rule, not exceeding ten working days from the date of delivery of such a claim, explaining to him the procedural consequences of failure to comply with the requirements of the court;

5) carries out other necessary procedural actions provided by the Civil Procedure Code of the Republic of Kazakhstan.

The judge sends copies of the claim with the attachment of materials and documents to each of the defendants, obliges them to provide a written response prepared and issued in accordance with the requirements of the Civil Procedure Code of the Republic of Kazakhstan, with the case of administrative procedure (in the presence of such) within a period not exceeding ten working days. The judge sends the response to the plaintiff with the attached documents and materials.

Failure to submit a response, within the period established by the judge, may be the ground for the application of coercive measures and does not impede to the consideration of the case on the merits.

3. Preliminary hearing is appointed after the abovementioned actions.

Article 155. Enforcement of a claim

1. The grounds, measures and procedure for enforcement of the claim are determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, with the exception of the features provided for in this article.

2. The application for enforcement of the claim, which has arrived simultaneously with the claim, is considered by the judge within five working days from the day of the receipt of the claim.When an application for enforcement of the claim is received after the expiry of this five-day period, the application is authorized by the judge not later than the next working day after it has been received by the court.

Article 156. Cancellation of suspension of an administrative act

The defendant has the right to appeal with a motivated motion on the need to immediately enforcement of the impugned administrative act in accordance with Article 104 of this Code.

Such an application can be declared at any stage of the administrative process and is considered by a judge in accordance with the rules on measures for enforcement of the claim.

When a decision to dismiss a claim for challenge is made , as well as at any time before the decision enters into legal force, the court on the motivated motion of the participants in the process has the right to cancel the suspension of the action or execution of the disputed administrative act.

Article 157. Direction of materials of proceeding by the court to interested parties

1. In order to submit written motions, objections, explanations and related documents, the judge shall establish the necessary terms for the parties.

Written original motions, copies of documents to which they refer, or extracts from them must be attached to written petitions, objections, explanations.

If a decision is made to conduct simplified proceedings, the judge shall provide the parties with access to the materials of the administrative case.

Article 158. Change and withdrawal of a claim. Recognition of a claim.

1. Prior to the removal of the court to make a decision, the plaintiff is entitled to withdraw the claim in full or in part, and the defendant - to recognize the claim in full or in part, by filing a written application.

The plaintiff has the right to change the basis and subject matter of the claim, increase or reduce the amount of the claim by submitting a written application before the court is removed for adjudication.

The court, if necessary, on the amended claims, considers the issues provided for in Part Two of Article 154 of this Code, and also provides time for the preparation of a new response.

The parties have the right to perform such actions, either on their own initiative or on the basis of the judge's expression of a preliminary opinion.

The court does not have the right, on its own initiative, to change the subject matter of the claim.

2. In the event that the claimant's application for the withdrawal of the claim is received in full at a court hearing or in a preliminary hearing, the court explains the consequences of the withdrawal of the claim. In other cases, the judge returns the claim without summoning the participants of the administrative process.

3. Prior to the acceptance by the defendant of the claim, the court shall clarify the procedural consequences to the parties. Recognition of the claim by the defendant exempts the court from the obligation to investigate the evidence.

In the event of a partial recognition of a claim, the investigation of evidence shall be carried out only in the part in which the defendant's claim is not recognized and resolved when deciding on the merits of the dispute.

4. The court does not accept the change of the claim or its withdrawal, the recognition of the claim by the defendant, if these actions are contrary to the law or violate someone's rights, freedoms or interests, as well as in the appellate and cassational review. In this case, the examination of the administrative case continues in the general order.

Article 159. Preliminary hearing

1. In a preliminary hearing, the court:

1) resolve the issue of the composition of participants in the administrative process;

2) ascertain the reasons for missing the deadline and resolve the issue of restoring the missed deadline. In case of refusal to restore the missed deadline, returns the claim;

3) discusses the possibility of concluding an agreement on reconciliation or mediation;

4) explain to the parties the possibility of considering the case in the manner of simplified proceedings with their consent;

5) obliges persons who are not participating in the administrative case to submit materials and documents necessary for the court;

6) commits other actions aimed at resolving the administrative matter.

2. The preliminary hearing provides for the full disclosure of factual data without their examination.

3. Based on the results of the preliminary hearing, the court is entitled to appoint a repeated preliminary hearing.

Article 160. Access of parties to the case materials

The placement of documents and materials of the administrative case on electronic services is equal to the direction of documents to participants in the administrative case.

The procedure for acquaintance with the documents and case materials in the courts in the form of an electronic document is determined in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

Article 161. Appointment of the trial

The judge, recognizing the case prepared, issues an interim order about its appointment to the hearing in the court session, notifies the parties and other participants in the administrative process about the place and time of consideration of the administrative case.

CHAPTER 27
COURT PROCEEDINGS

Article 162. Terms of court proceedings

1. The administrative case is reviewed and resolved within a reasonable time.

2. For certain categories of administrative cases, this Code may establish other periods for their consideration and settlement.

Article 163. The order and features of the legal regulation of the conduct of proceedings

1.The trial, including the order of the conduct of the court session and the examination of evidence, shall be carried out in accordance with the rules of the Civil Procedure Law, with the exception of the features established by this article.

2.After the court debate on the case, the court shall be retired for the adoption of a judicial act. The court shall read out the resolutive part of the decision and immediately hand in a copy to the persons present in the courtroom and forward the absentee not later than three working days.

If the announcement of the resolutive part of the decision is not made immediately after the end of the court session, the chairman must announce the date and time of the announcement to the persons present in the courtroom.

3. The order of announcement envisaged in part two of this article shall apply to other judicial acts, by which the proceedings in the case are completed.

Article 164. Prevention of the delay of court proceedings

In the event that the parties have justified claims for delaying the administrative proceedings by the court, they have the right to apply to the judge with a written application to expedite its consideration.

2. The statement on the acceleration of the case must indicate the circumstances on which the person, making the application, bases his claim.

3. The application for acceleration of the case shall be considered by the judge not later than ten working days after it has been received.

4. Based on the results of consideration of the application, the judge issues a interim order on the satisfaction of the application and the consideration of the case or on its refusal.

In case of satisfaction of the application, the judge is obliged to establish the period in which the administrative case must be finished. This takes into account such circumstances as the legal and factual complexity of the case, the behavior of participants in the administrative process, expressed in terms of the use of procedural rights and the performance of procedural duties, the sufficiency and effectiveness of the court's actions.

5. A copy of the interim order on expediting the consideration of an administrative case or on refusal thereof shall be sent to the persons participating in the case.

6. The interim order on refusal to satisfy the application for acceleration of the case is subject to appeal to a higher court, the decision of which is final.

CHAPTER 28
SIMPLIFIED (WRITTEN) PROCEEDINGS

Article 165. Simplified (written) proceedings

1. The court, with the consent of the parties, may examine the matter in a simplified (written) proceeding within a reasonable time.

The court shall pass into oral proceedings, if the party's request for withdrawal of the previously expressed consent has been received.

The court is entitled, at its own discretion, to pass to oral proceedings, if this is necessary for the proper resolution of the case.

2. By way of simplified (written) proceedings, the case is examined without conducting an oral hearing.

3. When considering a case in this order, the court examines the evidence submitted by the parties and claimed on their own initiative, and a decision is made on them.

4. In a simplified (written) proceeding, the court appoints a period within which additional motions and documents can be submitted.

Article 166. Features of the examination of evidence

1. The examination of evidence, the subject and limits of proof is established by the norms of the Civil Procedure Code of the Republic of Kazakhstan, taking into account the nature of written proceedings and the features established by this article.

2. The parties to administrative proceedings have the right to challenge the relevance, admissibility and reliability of written evidence.

3. The relevance, admissibility and reliability of written evidence can not be challenged by the person who submitted it.

4. The court may, at its discretion, initiate an oral hearing for a separate procedural act or for the resolution of a procedural matter. Such a court hearing is carried out according to the rules of oral proceedings, as far as the essence of the written proceedings permits to act in such manner..

At the same time, the court may demand that the necessary information and evidence in written form..

5. The court in a simplified (written) proceeding shall have the right to deviate from the formal requirements when collecting (presenting) and examining the evidence, to use as evidence also information that does not have a procedural form established by law.

Article 167. Decision on the case, considered in accordance with the simplified (written) proceeding

The decision on an administrative matter considered in accordance with the simplified (written) procedure shall be made with taking into account the rules established by Chapter 29 of this Code and

the corresponding to substance of the simplified (written) procedure and may be appealed in the appeal and cassation order.

CHAPTER 29
COURT RULING

Article 168. Adjudication

1. The judicial act by which the court resolves the dispute on the merits, is made in the form of a ruling. Ruling can be issued in the short form.

2. The decision shall be made without retiring to the deliberation room after the trial of the administrative matter and is made no later than ten working days from the date of the oral hearing. In exceptional cases, taking into account the complexity of the case, the decision of the court is made no later than one month after the date of the oral hearing.

3. The date of the decision is:

for oral proceedings - the day of the announcement of the decision on the case;

for written proceedings - the day of the end of the case specified in the court decision.

4. Recognition of an administrative act or its part as illegal, entails its cancellation, as well as the cancellation of all legal consequences arising from it or from its part, unless otherwise specified in the court decision.

Article 169. Ruling

1. The court shall render a decision on the basis of its internal conviction, based on the results of a direct examination of the circumstances of the case.

2. The ruling consists of introductory, descriptive, motivational and resume parts.

3. The contents of the introductory, descriptive and resolutive parts of the court decision, as well as the procedure for rectifying obvious blanks and arithmetical mistakes in them, making an additional decision are determined in accordance with the requirements of the Civil Procedure Code of the Republic of Kazakhstan, with the exception of the clarification of the court decision.

4. The reasoning part of the court decision contains:

1) the circumstances of the dispute;

2) lawsuits and their justifications;

3) evidence on which the court bases its decision without disclosing their content;

4) the reasons why the court rejected any evidence;

5) the reasons why the court does not agree with each of the arguments of the participants in the process;

6) the norms of legislation;

7) the conclusions of the court on each of the claimed requirements.

When resolving individual legal issues, the court has the right to refer to the decision of the cassation instance that resolved this legal situation in a certain way.

In case of recognition of the claim by the respondent in the motivative part, only the recognition of the claim and its adoption by the court can be indicated.

The decision of the court is made in writing and signed by the judge.

Article 170. Concise ruling

1. The concise ruling consists of an introductory, motivational and resolutive parts.

In the motivational part of the decision, evidence can be transferred without disclosing their content.

2. In case of disagreement with the arguments of the claimant or rejection of the evidence submitted to him, the court is only entitled to refer to the decision on the results of the pre-trial examination of the complaint if it considers the reasons given in it as exhaustive.

3. At the request of the parties, declared at any stage of the process, but not later than ten working days from the moment of delivery of the concise ruling, the court must make a decision. The text of the full decision is made no later than ten working days from the date of receipt of such a petition.

Article 171. Legality and reasonableness of the court ruling

1. The court ruling must be legal and reasonable.

The court ruling is legal when it is issued in compliance with all the requirements of the law and on the base of law.

The ruling is recognized as justified if it was rendered on the basis of comprehensive and objective examination in the court session of the evidence submitted to the court.

Article 172. Issues resolved by the court during the adjudication

1. During the adjudication the court assesses the evidence and determines what circumstances are established, what legal act is to be applied in this case and whether the claim is subject to satisfaction. If several claims are made in the case, the court makes a rulings on all the requirements.

2. When administrative discretion is exercised by the administrative authority, the court also checks whether the limits established by law are exceeded or whether the exercise of discretion corresponds to the purposes of this power.

Article 173. Ruling on the claim for challenge

1. If the claim for challenging an encumbering administrative act, affecting the legitimate interests of the plaintiff, is justified and the court recognizes its illegality, then it cancels this act completely or in any part. The court also has the right, at the request of the plaintiff, to recognize as unlawful the encumbering administrative act, if it has already been canceled or its effect has lost force in another way, including in any part of it.

2. In case of recognition of the illegality of the encumbering administrative act, which at the moment of making the decision has already been executed or is being executed, the court is entitled to compel the administrative body to cancel the execution and demand from the defendant to commit the actions in order to return the plaintiff to the original position.

Article 174. Ruling on the claim for coercion

1. If the non-acceptance of an administrative act resulting from a refusal to pass an administrative act or omission of the respondent contradicts the law or caused to the violation of the rights of the plaintiff, the court imposes an obligation on the administrative authority to adopt an administrative act.

The court has the right to impose an obligation on the defendant not to take burdensome administrative act.

2. The court in the ruling may determine the content and timing of the adoption of an administrative act, as well as other circumstances of significant importance for the case, with the exception of the resolution of questions of expediency. Such court ruling replaces the administrative act before its adoption.

In the event that it is not possible to make a specific decision to satisfy the claims in the presence of administrative discretion, the court imposes an obligation on the administrative authority to take the appropriate administrative act in favor of the plaintiff, taking into account the legal position of the court.

Article 175. Ruling on the claim for the commission of an action

1. When recognizing a claim about commission of an action as justified and lawful, the court obliges the defendant to perform specific actions and sets a time limit for their execution.

If the plaintiff simultaneously demands recognition of the unlawfulness of a particular committed action by the defendant, the court in the decision recognizes that the factual action of the administrative authority was unlawful.

2. When recognizing a claim for the prohibition to commit an action as justified and lawful, the court prohibits the defendant to take specific actions in the future.

Article 176. Ruling on the claim for recognition

1. During the satisfaction of the claim for recognition, the court recognizes the existence or absence of any legal relationship or their content, if such claims were claimed as independent.

2. The court also has the right to recognize the administrative act as null and void in whole or in part or to recognize as unlawful the burdensome administrative act that does not have legal force if the claim for recognition is justified and lawful, and the recognition of this circumstance is necessary to restore the violated rights of the plaintiff.

Article 177. The resolution of the claim for damages

1. The plaintiff has the right to present simultaneously with the claims specified in Articles 148-151 of this Code, the demand for compensation of damages, consisting with these claims in the cause-effect relations.

2. In case of satisfaction of the relevant requirements, the court in the ruling determines the amount of the incurred losses .

Article 178. Entry of a court ruling into legal force

The decision of the court of first instance, if it was not addressed to immediate execution, becomes valid after the expiration of the period for appeal, unless an appeal is filed.

In case of missing the time limit for the appleate and its non-restoration by the court, respectively, after the expiration of this period.

CHAPTER 30
FEATURES OF PROCEEDINGS ON CERTAIN CATEGORIES OF ADMINISTRATIVE CASES

Article 179.Administrative proceedings on the protection of electoral rights of citizens and public associations participating in elections, republican referendum

1. The claim received during the preparation and conduct of elections, the republican referendum, as well as within a month from the voting day, must be considered within five days, and received less than five days before the voting, on election day and before announcing the election results, republican referendum - immediately, unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan "On Elections in the Republic of Kazakhstan", the Constitutional Law of the Republic of Kazakhstan "On the Republican Referendum".

The claim for appeal against the ruling of the election commission on the need for correction in the electoral lists (electors) must be considered on the day of receipt.

2. The claim is considered by the court with the participation of the plaintiff, representative of the relevant election commission or state authority, local government and self-government body, enterprise, organization. Failure to appear in court of these persons, duly notified of the time and place of the court session, is not an obstacle to the consideration and resolution of the case.

3. An appellate complaint may be lodged on the ruling of the court of first instance, a motion may be submitted within three days from the date of delivery of the copy of the ruling unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan of September “On Elections in the Republic of Kazakhstan", the Constitutional Law of the Republic of Kazakhstan "On the Republican Referendum."

The ruling of the appellate court is not subject to appeal and protest.

4. The ruling of the court on cases challenging the rulings and actions (inaction) of the Central Election Commission of the Republic of Kazakhstan, as well as the rulings and actions (inaction) of the Central Referendum Commission made according to the rules of jurisdiction provided for in Chapter 21 of this Code may be appealed, protested in cassation order within three days from the date of delivery of the copy of the ruling, unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan "On Elections in the Republic of Kazakhstan", the Constitutional Law of the Republic of Kazakhstan "On the Republican Referendum".

5. The appeals, the cassation appeal specified in paragraphs two and three of this Article shall be considered within three days from the day of entering the court, and received less than five days before the voting, on polling day and before announcement of the results of elections, republican referendum - immediately, unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan "On Elections in the Republic of Kazakhstan", the Constitutional Law of the Republic of Kazakhstan "On the Republican Referendum".

6. The decision of the court, which entered into legal force, is sent to the appropriate administrative authority, local government and self-government body, organization, chairman of the election commission.

Article 180 Administrative proceedings on contesting of the rulings, actions (inaction) of local executive bodies that violate the rights of citizens to participate in criminal proceedings as a juror

1. The claim is submitted to the court within seven working days from the end of the period of acquaintance of citizens with the preliminary lists of candidates for jurors in accordance with the legislation of the Republic of Kazakhstan on jurors. The evidence indicating the violation of the citizen's right to be included in the list of candidates for jurors and participation in criminal proceedings as a juror must be attached to the claim.

2. The claim is considered and resolved by the court within two working days, and arrived on the day of the end of this period - immediately.

3. The claim is considered by the court with the participation of the applicant, the representative of the relevant local executive body. Failure to appear in court of these persons, duly notified of the time and place of the court session, is not an obstacle to the consideration and resolution of the case.

4. The ruling of the court, which establishes a violation of the citizen's right to participate in the selection procedure for participation in criminal proceedings as a juror, is the basis for making corrections to the preliminary lists of candidates for jurors.

5. The court ruling is sent to the appropriate local executive body.

Article 181.Administrative proceedings on challenging the legality of subsidiary legal acts

1. The claim, in addition to the requirements specified in Article 147 of this Code, shall contain data on the name of the state body, local government body, official who adopted the subsidiary legal act under the dispute, the date of its adoption, what rights, freedoms and the interests of person protected by law are violated by this normative legal act or its separate provisions, which articles of the Constitution of the Republic of Kazakhstan, articles or provisions of laws of the Republic of Kazakhstan it does not correspond with.

A copy of the challenged subsidiary legal act or its part is attached to the claim, indicating which body of the mass media and when the subsidiary legal act was officially published.

2. When considering a claim, the obligation to prove the circumstances that served as the basis for the adoption of this legal act is assigned to the state body, local government body or official who adopted the normative legal act.

The refusal from demands of the person who appealed to the court does not lead to the return of the claim. Recognition of a requirement by a state body, a local government body, an official who issued a subordinate regulatory legal act is not necessary for a court.

3. The ruling of the court, by which the act is fully or partially recognized as incompatible with the law and inoperative, is mandatory for the state authority, local government or official who adopted this subsidiary normative legal act.

4. The court, having recognized as justified the claim on the recognition as illegal by-law normative legal act, makes a decision on the satisfaction of the claim.

The decision specifies to which law and in what part the challenged by-law normative legal act contradicts and on the recognition of the act as inactive completely or in its separate part from the moment of adoption of the act.

5. The ruling of the court on recognizing the illegal by-law normative legal act or report about it should be published in the mass media in which the normative legal act was published, at the expense of the body that adopted it (issued). Publication must be carried out not later than ten working days from the date of entry of the court decision into legal force.

6.The court, finding the claim unreasonable, makes a decision on refusal to satisfy it.

7. The ruling of the court on the compliance or non-compliance of the legal act with the laws has a prejudicial effect. The legitimacy of the subsidiary normative legal act can be challenged again by other people only in the part that was not previously examined within the framework of the court.

SECTION IV. JUDICIAL ACT REVIEW PROCEEDINGS

CHAPTER 32
PROCEEDINGS IN THE COURT OF APPEAL

Article 182. Appeal procedure

1. The procedure for appealing and proceedings in an appellate court is determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, unless otherwise provided for in this article.

The peculiarity of the appeal of certain categories of cases is established by Chapter 30 of this Code.

In case of appeal, the prosecutor is not allowed to file an application.

Preparation for consideration of the case in the court of appellate instance is carried out according to the rules of Chapter 26 of this Code.

2. The interim orders and rulings of the court that have not entered into legal force can be appealed by the participants of the administrative proceeding on appeal within two months from the day of the delivery of the judicial act in the final form.

After the time limit for appeal, the decision of the court comes into legal force, if no appeal was filed. The respondent is required to send such a decision to the prosecutor within five working days.

3. Appellate complaints of participants in the administrative process to judicial acts issued by administrative courts and district and equivalent courts are considered by the judicial board of civil cases of the regional and equivalent court.

4. On a motivated petition of a participant in the administrative proceeding, the court is entitled to grant him an additional period to justify his legal position, not exceeding one month.

5. The decision of the court of appellate instance shall come into force, unless an appeal is filed.

The rulings of the appellate court on private complaints against the rulings of the court of first instance, rendered on the grounds provided for in subparagraphs 1) to 9), part six and subparagraphs 20) to 36) of part seven of Article 133 of this Code, which are not subject to revision in cassation order, enter into force from the day of announcement.

Other definitions of the court of appeal, which block the possibility of further motion of the case, may be appealed in cassation, in cases provided for by this Code.

CHAPTER 33
COURT OF CASSATION

Article 183. The order of cassation appeal

1. The procedure for cassation appeal and proceedings in the cassation instance court shall be determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, unless otherwise established by this article.

The peculiarity of cassation appeal of certain categories of cases is established by Chapter 30 of this Code.

In case of cassation appeal, the prosecutor does not allow to make the protest, except for the cases provided for in this article.

2. Judicial acts on administrative cases concluded in the order of reconciliation or mediation are not subject to revision in cassation.

3. The judicial acts of local and other courts that entered into legal force in case of non-compliance with the appellate procedure for their appeal, except for judicial acts in the cases specified in part two of this article, may be reconsidered in cassation proceedings on the protest of the Prosecutor General of the Republic of Kazakhstan within a month from the day of entry into force.

5. The decisions and rulings of the court that have not entered into legal force can be appealed by the participants of the administrative process in cassation order within a month from the date of delivery of the judicial act of the appellate instance in the final form.

After the expiry of the time limit for cassation appeal, the court decision comes into legal force, if no appeal was filed.

6. Cassation appeals of participants in the administrative process to judicial acts issued by administrative courts and district courts and courts equal to them, cassation protests of the Prosecutor

General of the Republic of Kazakhstan are considered by the Supreme Court of the Republic of Kazakhstan.

7. The decision of the court of cassation instance shall enter into force after its announcement, is final and is not subject to further revision.

CHAPTER 34
REVISION OF THE CASE BASED ON NEWLY DISCOVERED AND NEW CIRCUMSTANCES

Article 184. Revision of the case based on newly discovered and new circumstances

Proceedings on newly discovered and new circumstances is carried out according to the rules of the Civil Procedure Code of the Republic of Kazakhstan.

CHAPTER 35
ENFORCEMENT OF JUDICIAL ACTS. JUDICIAL CONTROL

Article 185. Enforcement of the court decision

1. The defendant is obliged to execute the decision of the court in time, taken in the administrative case, after it has entered into legal force.

2. In the event that a court decision is not voluntarily fulfilled within the time established therein, the court of first instance shall, on the basis of the application of the plaintiff, apply a pecuniary punishment in the amount established by Article 142 of this Code.

3. The procedure for deferment and installment of the execution of a court decision, changes in the method and procedure for its execution, the turnaround of the execution of a court decision, and the indexation of the awarded sums are carried out in accordance with the rules of the Civil Procedure Code of the Republic of Kazakhstan.

Article 186. Compulsory enforcement of a court decision on the monetary claim

1. The court decision imposing an obligation on an administrative authority to pay a monetary claim that was not voluntarily executed is subject to the enforcement on the basis of the writ of execution, which is issued at the request of the plaintiff.

2. The procedure for extracting, maintaining and issuing the writ of execution is determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, taking into account the features established by this Chapter.

Article 187. Immediate execution of a judicial act

1. The court, on the basis of a justified motion of the participants in the administrative process, and also on its own initiative, has the right to appeal to the immediate execution of the court ruling in case a later execution would cause substantial harm to the rights of the participant in the process or be difficult or impossible.

When the judicial act is applied to immediate execution, the court also takes into account the rights of other participants in the process and public interests.

2. The court may at any time, on the basis of a motion of a party to the proceedings, suspend the execution of a judicial act directed to immediate enforcement.

3. The judicial acts referred to immediate execution which have been revoked or amended by a judicial act of a higher authority that has not entered into legal force, shall not be enforced.

CHAPTER 35
FINAL PROVISIONS

Article 188. Order of enforcement of this Code

1. This Code enters into force from January 1, 2020.

2. To establish that the second part of Article 2 of this Code is valid until January 1, 2022.

3. To recognize as invalid from January 1, 2020:

Law of the Republic of Kazakhstan of November 27, 2000 No. 107 "On Administrative Procedures" (Gazette of the Parliament of the Republic of Kazakhstan, 2000, No. 20, Article 379).

The Law of the Republic of Kazakhstan "On the Procedure for Consideration of Appeals from Individuals and Legal Entities" dated January 12, 2007 No. 221 (Gazette of the Parliament of the Republic of Kazakhstan, 2007, No. 2, Article 17, 2011, No. 3, Article 32, No. 14 , st.117, 2013, No. 5-6, art.30, No. 14, art.72, 2014, No. 14, art.84, No. 23, art.143, 2015, No. 20- IV, ct.113, No. 22-I, p.141, No. 22-V, page 156, No. 23-II, ct.172, 2016, No. 22, art. 116).

4. The consideration of cases that are currently in courts, adopted for the proceedings before January 1, 2020, is carried out according to the rules of procedural legislation that was in force before the introduction of this Code.

5. The administrative procedure issued before the entry into force of this Code, but not completed after its entry into force, is carried out in accordance with the legislation effective before the entry into force of this Code.

6. The administrative procedure initiated before the entry into force of this Code, but not completed after its entry into force, is carried out in an unfinished part in accordance with this Code, if the applicant or addressee requests this in writing in advance of the relevant administrative authority.

The President of the Republic of Kazakhstan