

On approval of the Rules for withdrawal, registration, storage, transfer and destruction of material evidence, seized documents, money in national and foreign currencies, narcotic drugs, psychotropic substances in criminal cases by the court, procurators, bodies for criminal prosecution and judicial examination

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated December 9, 2014 No. 1291.

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In accordance with part four of Article 118, parts three and four of Article 221 Of the Criminal Procedure Code of the Republic of Kazakhstan dated July 4, 2014 The Government of the Republic of Kazakhstan **HREBY DECREES AS FOLLOWS:**

1. To approve the attached Rules for withdrawal, registration, storage, transfer and destruction of material evidence, seized documents, money in national and foreign currencies, narcotic drugs, psychotropic substances in criminal cases by the court, procurators, bodies for criminal prosecution and judicial examination.

2. To recognize invalid the Decree of the Government of the Republic of Kazakhstan dated November 6, 2008 No. 1017 "On approval of the Rules for destruction of narcotic drugs , psychotropic substances, which are the evidence in criminal cases by bodies for criminal prosecution" (Collected Acts of the President and the Government of the Republic of Kazakhstan, 2008 No. 42, p. 474).

3. This Decree shall be enforced from January 1, 2015 and shall be subject to official publication.

*Prime Minister
of the Republic of Kazakhstan*

K. Massimov

Approved
by the Decree of the Government
of the Republic of Kazakhstan
dated December 9, 2014 No. 1291

Rules

**for withdrawal, registration, storage, transfer and destruction of material evidence, seized documents,
money in national and foreign currencies, narcotic drugs, psychotropic substances in criminal cases
by the court,
procurators, bodies for criminal prosecution and judicial examination**

Chapter 1. General provisions

Footnote. The title of Chapter 1 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

1. These Rules for withdrawal, registration, storage, transfer and destruction of material evidence, seized documents, money in national and foreign currencies, narcotic drugs, psychotropic substances in criminal cases by the court, procurators, bodies for criminal prosecution and judicial examination (hereinafter referred to as the Rules) have been developed in accordance with part four Article 118, parts three and four of Article 221 Of the Criminal Procedure Code of the Republic of Kazakhstan dated July 4, 2014 (hereinafter referred to as the CPC) and shall determine the uniform procedure for withdrawal, registration, storage, transfer and destruction of material evidence, seized documents, money in national and foreign currencies, narcotic drugs, psychotropic substances in course of pre-trial procedure and judicial examination.

2. When making a decision on termination of a criminal case or a sentence, the issue of material evidence shall be decided. Provided that:

1) tools and (or) means of committing a criminal infraction, which belong to the person committed the criminal infraction, shall be subject to confiscation based on Article 48 of the Criminal Code of the Republic of Kazakhstan;

2) tools and (or) means of committing a criminal infraction, which lawfully belong to the person, who did not know or should not know about illegal purposes of using his/her property, shall be returned to this person;

3) in other cases, tools and (or) means of committing a criminal infraction shall be transferred to the appropriate institutions to particular persons or destroyed;

4) items prohibited for circulation or restricted in circulation shall be subject to transfer to the appropriate institutions or destroyed;

5) items of no value and that cannot be used, shall be subject to destruction, and in case of a request from interested persons or institutions, they can be issued to them;

6) money and other property obtained by criminal means or acquired with funds obtained by criminal means, with the exception of property and income from it subject to return to the rightful owner, as well as items of illegal entrepreneurship and smuggling, by a court decision, shall be subject to conversion into state revenue; the rest of the things shall be given to the rightful owners, and if the latter are not identified, they become the property of the state. In the event of a dispute over the ownership of these things, the dispute shall be subject to resolution in civil proceedings;

7) documents that are material evidence shall remain in the case during the entire period of storage of the latter or shall be transferred to interested individuals or legal entities in the manner prescribed by part four of Article 120 of CPC.

Footnote. Paragraph 2 as reworded by the Decree of the Government of the Republic of Kazakhstan dated 06.04.2020 No. 171 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

3. In case of a damage, loss of the withheld material evidence, valuables and other property, the harm caused shall be subject to remuneration through civil procedure.

Chapter 2. Procedure for the seizure of material evidence and documents in criminal cases by the court, the prosecutor's office, criminal prosecution and forensic examination

Footnote. The title of Chapter 2 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

4. In the course of pre-trial proceedings, an employee of the body conducting the criminal procedure shall withdraw, relevant for the case:

1) items found in the course of investigative actions or presented at the request of the person conducting the pre-trial investigation;

2) items and documents restricted in circulation (if the owner does not have permission to purchase, use and store them). Items withdrawn from free circulation include items purchased under special permits, the list of which is determined by the current legislation of the Republic of Kazakhstan, and other objects, the manufacture, purchase, storage, sale and distribution of which are prohibited by law;

3) identity documents provided for in the note in Article 300 of CPC, in case if the suspect is taken into custody;

4) money and other valuables found during the withdrawal of the property of the accused (defendant), which may be levied in order to compensate for the material damage caused or to enforce the sentence in terms of confiscation of property.

5. The fact of the seizure of objects, valuables and documents shall be reflected in the minute of procedural actions or the minute drawn up in accordance with the requirements provided for by Article 527 of the Criminal Procedure Code of the Republic of Kazakhstan. The body conducting the criminal process shall interrogate the person presenting the subject, values and documents, with the reflection in the minute of their name, time, place and other circumstances of their discovery, acquisition, storage, which are important for establishing the truth. Actual data can be used only after they have been recorded in the minute of procedural actions or a minute drawn up in accordance with the requirements provided for by Article 527 of the Criminal Procedure Code of the Republic of Kazakhstan as evidence.

Footnote. Paragraph 5 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

6. For the withdrawal of items, valuables and documents, the handling of which requires certain skills, accurate recording of their qualitative characteristics, individual characteristics and determination of the cost, relevant specialists shall be involved.

The fact of detection and withdrawal of items, valuables and documents shall be recorded by photography, video recording and other scientific and technical means.

7. The minute of procedural actions or the minute drawn up in accordance with the requirements provided for by Article 527 of the Criminal Procedure Code of the Republic of Kazakhstan shall list all seized items and documents, as well as the described property. When removing a large number of items, valuables and documents, an inventory attached to the minute and being an integral part thereof is compiled without fail, which reflects the exact name of the item, quantity, measure, weight, series, number and other distinctive features of each seized object, time and place of their detection.

Based on the circumstances of the case, the body conducting the criminal process seizes part of the object on which there shall be traces (micro traces) related to the criminal case, if it is not possible to seize the object as a whole. At the same time, the body conducting the criminal process shall not allow damage to objects belonging to victims and other persons, and in the event of inevitable damage, a note is made in the relevant minute and measures are taken to compensate for the damage caused to citizens.

Footnote. Paragraph 7 – in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

8. Items, valuables and documents found during the inspection of the scene, area or premises, or confiscated during the performance of investigative actions, or presented at the request of the person conducting the pre-trial investigation, shall be withdrawn and presented to witnesses when they are involved or to other persons present at the same time.

If necessary, these items, valuables and documents shall be placed in a package that excludes the possibility of damage and ensures the safety of traces (micro-traces) on them, which is supplied with tags indicating the number of the criminal case and is certified by certifying inscriptions and signatures of the persons participating in the investigative action, the person who which the withdrawal was made, employees of the body conducting the criminal process, and also sealed with the seal of the relevant body.

If it is impossible to make an inventory of the withdrawn items, valuables and documents due to the large number, they shall be placed in a package, which is supplied with tags with endorsement of certifications and signatures of the above persons.

In such cases, drawing up an inventory of the withdrawn items, valuables and documents shall be made during their detailed examination in compliance with the requirements of the criminal procedure legislation.

9. The protocol of procedural actions and the inventory of items, valuables and documents shall be drawn up in two copies and must meet the requirements of the norms of criminal

procedure legislation of the Republic of Kazakhstan, signed by the person who made the withdrawal and the persons present at the same time, including the person from whom the withdrawal was made, and in case of his absence, by an adult member of his family, a representative of the local executive body or a housing maintenance organization.

Copies of the protocol and inventory shall be issued to the person from whom the items, valuables and documents were confiscated, and in his/her absence - to the adult members of his/her family or to the above representatives who signed the protocol.

A separate protocol shall be drawn up on the withdrawal of property that has been withdrawn, indicating the distinctive individualizing features of each item.

10. The seized items, valuables and documents shall be subject to examination, if necessary with the participation of a specialist, shall be described in detail in the minute of procedural actions or a minute drawn up in accordance with the requirements provided for by Article 527 of the Criminal Procedure Code of the Republic of Kazakhstan, which indicates the quantitative and qualitative characteristics of objects, values and documents, all other individual features that make it possible to distinguish the object from among the similar and determine its evidentiary significance.

The involvement of a specialist shall be mandatory if there is a suspicion that the items are dangerous (explosives, toxic and poisonous substances, radioactive materials and other dangerous substances). It is not allowed to perform any actions with such objects in the absence of a specialist.

If it is impossible to involve a specialist in the procedural document, only individual signs of the seized item and values are reflected.

Footnote. Paragraph 10 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 ((shall enter into force upon expiry of ten calendar days after the day of its first official publication)).

11. Withdrawn money and valuables before they are recognized as material evidence, as well as items prohibited for circulation, or those that are seized, shall be recorded and stored in accordance with the procedure prescribed by these Rules.

12. After the inspection, the seized items recognized as material evidence are attached to the case by a resolution of the body conducting the criminal process, or by a minute drawn up in accordance with the requirements provided for in Article 527 of the Criminal Procedure Code of the Republic of Kazakhstan, and shall be with it until the entry into force of the verdict or decision to terminate the case.

Items, valuables and documents seized during pre-trial proceedings, but not recognized as material evidence, shall be subject to return to individuals from whom they have been seized.

Footnote. Paragraph 12 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

13. Items and documents, with the exception of documents (including personal ones), which will be stored directly in the case, are packed, sealed, certified by the signatures of the person conducting the criminal process, witnesses when they are involved and other participants in the investigative action.

The packaging must exclude the possibility of substitution or change of the contents without violating its integrity and the safety of the items withdrawn from damage, deterioration, deterioration or loss of properties, by virtue of which it has the value of physical evidence.

An explanatory inscription shall be made on the package with a list of its contents and an indication of the type, date and place of the investigative action, the number of the criminal case, the full name of the position of the person who performed the investigative action.

14. Withdrawn narcotic drugs and psychotropic substances and their analogues shall be sent for judicial examination within twenty-four hours by the body for criminal prosecution.

No later than forty-eight hours after the judicial examination by the body for criminal prosecution, the examined narcotic drugs, psychotropic substances, and their analogues shall be attached to the criminal case as material evidence.

On the basis of a decision agreed with the prosecutor, the body for criminal prosecution or on his behalf, an expert or specialist with the obligatory use of video recording from the total mass of withdrawn narcotic drugs, psychotropic substances, and their analogues, samples shall be taken in an amount equal to the value of the especially large size established by the Law of the Republic of Kazakhstan dated July 10, 1998 “On Narcotic Drugs, Psychotropic Substances, their analogues and precursors and counter measures of their illegal turnover and their abuse” (hereinafter referred to as the Law), for the corresponding narcotic drug, psychotropic substance and their analogues separately for each name (type).

In case of withdrawal of two or more packages of narcotic drugs or psychotropic substances and their analogues, samples shall be taken from each package.

In case of withdrawal of cannabinoid types of narcotic drugs, subject to the general requirements for withdrawal, after carrying out the relevant types of expert studies, samples shall be taken for further storage from the total mass in an amount corresponding to the especially large size established by the Law for this type of a narcotic drug.

15. The body conducting the criminal procedure shall draw up a protocol that describes all the actions taken to obtain samples, in the sequence in which they were carried out, the research and other methods and procedures used, as well as the samples themselves.

Photo lineups of all packages in which narcotic drugs, psychotropic substances and their analogues were stored or transported at the time of their detection and withdrawal, as well as package data shall be attached to the case as well.

16. The selected samples shall be packed, sealed, certified by the signatures of the participants in the investigative actions, attached to the case as material evidence by the decision of the body conducting the criminal process, or by a minute drawn up in accordance

with the requirements provided for by Article 527 of the Criminal Procedure Code of the Republic of Kazakhstan.

Footnote. Paragraph 16 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

17. In cases of withdrawal or destruction by law enforcement bodies of foreign states of narcotic drugs, psychotropic substances and their analogues in criminal cases, the investigation and consideration of which are carried out by the authorized bodies of the Republic of Kazakhstan, a confirming document on seizure or destruction shall be attached to the criminal case.

Chapter 3. The procedure for recording material evidence in criminal cases by the court, the prosecutor's office, criminal prosecution and forensic examination

Footnote. The title of Chapter 3 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

18. Withdrawn material evidence, as well as money and valuables withdrawn in cases that are not recognized as material evidence, shall be subject to mandatory registration in the book of physical evidence, documents seized or received by the body conducting the criminal procedure (hereinafter referred to as the book) in the form according to Appendix 1 to these Rules.

The book shall be kept in each law enforcement and special body and shall be located in a place that provides round-the-clock access to it for responsible persons (duty unit, registry).

19. Material evidence, as well as other money and valuables withdrawn in cases, not recognized as material evidence, transferred to the storage chamber, shall be subject to mandatory registration in the register of material evidence and other money and valuables seized in cases, not recognized as material evidence, located in the storage room, (hereinafter referred to as the register) in the form according to Appendix 2 to these Rules.

The register is maintained in every court, law enforcement and special body, judicial examination body and is kept by the person responsible for storing material evidence in a storage room (hereinafter referred to as the person responsible for storing).

20. The book and the register are documents of strict accountability, which are numbered, tied up and sealed, as well as the signature of the first head of the body, their departments, territorial and other bodies.

The person responsible for storage shall also maintain a nomenclature file with copies of decisions and judicial acts relating to decisions taken in relation to material evidence.

21. Registration of physical evidence in the book shall be carried out by an employee of the criminal prosecution body immediately from the moment the decision is made to recognize it as material evidence, and money, items and valuables not recognized as material

evidence - within twenty-four hours from the moment they are withdrawn according to procedural documents.

22. All material evidence and other money and valuables withdrawn in cases that are not recognized as material evidence shall be registered in the register on the day of receipt.

The person responsible for storage, during registration, shall check the integrity of the package, the presence of a seal and an explanatory inscription on it, the conformity of the material evidence received, as well as other money and valuables withdrawn in cases that are not recognized as material evidence, with the entries in the decision to attach them to the case and the procedural document on their withdrawal.

At the same time, the person responsible for storage shall not be allowed to open packages accepted for storage of material evidence and other items.

23. Registration of material evidence and other money and valuables withdrawn in cases that are not recognized as material evidence in the book and register shall be carried out in chronological order, each item shall be recorded separately with a serial number assigned, when several homogeneous items are withdrawn, their quantity, date of receipt, name shall be indicated.

If material evidence is in a criminal case and is not handed over to a storage room, a note in the book shall be made indicating the name of the official who has material evidence.

In addition to the book and the register, other forms of accounting for these objects are established at the discretion of the heads of the authorized bodies.

24. When material evidence is registered in court, it shall be assigned a serial number according to the register, which indicates the date of receipt, the name of the material evidence, the quantity, the number of the case to which it is attached, the surname, name, patronymic of the accused. After that, the number for which the criminal case was registered in court is affixed, as well as the number of physical evidence is indicated.

When registering criminal cases in court in the database of the Uniform Automated Information and Analytical System of the Judiciary of the Republic of Kazakhstan, in the presence of material evidence, electronic forms - a form for material evidence shall be created. Details for registration, storage, execution of a judicial act in terms of material evidence and their transfer shall be subject to filling in the registration document.

25. Inspections and checks of the state and procedure for accounting, storage, destruction and sale of material evidence shall be carried out at least once a year, the results of which are recorded in certificates and acts. When conducting inspections and inspections, special attention shall be paid to the recording and storage of physical evidence in criminal cases, for which the terms of the pre-trial investigation have been interrupted.

At least once a year, the bodies for criminal prosecution, together with the treasury authorities, shall reconcile the availability of the balance of money in the accounts in national and foreign currency withdrawn in the framework of the criminal cases under investigation.

Chapter 4. The procedure for storing material evidence, seized documents, money in national and foreign currency, narcotic drugs, psychotropic substances in criminal cases by the court, the prosecutor's office, criminal prosecution and forensic examination

Footnote. The title of Chapter 4 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

26. For the storage of material evidence in courts, judicial examination bodies, law enforcement, special, and other authorized state bodies, special rooms shall be equipped with racks, a metal door with a sealing device, natural or artificial ventilation, barred windows, security and fire automation systems. In the absence of such a room, a special storage shall be allocated (a metal cabinet of sufficient size).

Requirements for the premises for the storage of material evidence shall be approved by order of the first head of the relevant state body.

The person conducting the pre-trial investigation shall be responsible for the safety of material evidence in the case, and in court - the judge or the chairman of the court, in the body for judicial examination - the expert conducting the study.

27. The person responsible for storage shall be appointed in accordance with the established procedure by order (instruction) of the chairman of the court, the head of the forensic examination body, law enforcement, special and other state bodies, their departments, territorial and other bodies, from among the employees of these institutions, not related to the investigation of criminal cases.

Along with this, the order (instruction) shall determine the person substituting the person responsible for storage for the period of his/her absence.

When transferring, dismissing or leaving on vacation of the person responsible for storage, the first heads of the body, their departments, territorial and other bodies shall appoint a commission to verify the compliance of the actual availability with the records in the documents indicating their withdrawal.

The results of the inspection shall be documented in an acceptance and transfer certificate to a new responsible or substitute person.

28. The grounds for placing material evidence, money and valuables not recognized as material evidence for storage shall be a decision on recognition as material evidence or a procedural document on their withdrawal by the body conducting the criminal process.

Access to the premises for the storage of material evidence shall be possible only in the presence of the person responsible for storage.

29. In the absence of a person responsible for storage (or a substitute employee), access to the storage premises shall be carried out only on a commission basis (of at least three people)

with the permission and in the presence of the head of the body of inquiry, the investigative unit of law enforcement and special bodies, the prosecutor, the chairman of the court, judges, head of the forensic examination body, who must keep duplicate keys to this premises.

In such cases, an act is drawn up, which indicates, due to what and which objects are withdrawn from the storage room (storage) or placed in it. The act shall be transferred to the person responsible for storage to enter the relevant data in the register or in the registry of the authorized body.

30. When storing material evidence, valuables, documents and other property, measures shall be taken to ensure that the withdrawn objects retain the features and properties by virtue of which they have the value of material evidence in criminal cases, as well as the traces on them, as well as the safety of the material evidence, valuables, documents and other property themselves.

Placement of material evidence for storage in a condition that could lead to their damage and the impossibility of further research and use as evidence, shall not be allowed. If necessary, measures shall be taken to bring the withdrawn objects into a state that allows their further storage.

31. Material evidence, valuables, documents and other property may be transferred for safekeeping to the victims, as well as, with their consent, to close relatives or other persons, if this is possible without prejudice to the case. At the same time, the victims, their close relatives and other persons shall be explained the responsibility for the safety of the received property, whereof an acknowledgement shall be collected.

32. If items due to their bulkiness or other reasons cannot be stored in a criminal case, they must be fixed by scientific and technical means, sealed if possible and stored in a place indicated by the person conducting the pre-trial investigation. Sample material evidence may be attached to the case. There must be an appropriate certificate about the location of material evidence in the case.

33. Documents proving the identity of the suspect (accused, defendant) in custody shall be attached to the criminal case and stored in a separate sealed package, filed with the case and numbered on its sheet.

After entry of judgment into legal force, the documents of the person sentenced to imprisonment shall be sent to the penitentiary institutions, in other cases they are returned to the owner, about which a receipt is taken and attached to the case.

If it is impossible to return the documents to their owner, after six months from the date of entry into force of the judicial act, they shall be sent to the body that issued them.

Other personal documents, if they are not relevant to the case, shall be returned to the owner or, with his consent, to relatives.

34. Documents, letters and other records attached to the criminal case as material evidence shall be stored in envelopes enclosed between blank sheets of paper. Making any notes,

inscriptions and bending them shall not be allowed. Envelopes shall be sealed, filed into files and numbered as separate sheets.

With a large number of letters and documents attached to the criminal case, they shall be tied up into a separate volume (volumes), on the title page of which a note is made that it is material evidence. At the beginning of the volume, an inventory of documents is attached and a copy of the resolution on recognizing these documents as material evidence is filed on the first sheet (sheets). If necessary, the resolution indicates the total number of volumes and pages of the case in each volume.

35. Material evidence and withdrawn objects related to nuclear and radioactive materials, sources of ionizing radiation, poisonous and potent substances shall be transferred to the warehouses of organizations that have permission and appropriate conditions for storage, after examining.

36. The storage of explosive devices, firearms, weapons, ammunition, explosives withdrawn in the course of pre-trial procedure and judicial examination shall be carried out only in the utility units of law enforcement and special bodies, in specially equipped premises, warehouses (storage facilities) of military units or relevant enterprises (organizations) determined by the local executive body after examining.

The withdrawn firearms shall be verified against the records of the integrated data bank of the Ministry of Internal Affairs of the Republic of Kazakhstan: “Criminal weapons” and “Registered weapons”.

If the seized weapon has an identification number and is not registered as “Registered Weapon”, then the information and search card “Criminal Weapon” shall be filled out for the weapon and sent to the regional division of the information and technical service to enter information into the database “Criminal Weapon”.

In all cases of criminal offenses related to the use of rifled firearms, the body conducting the criminal procedure, after the withdrawal, inspection and examining, shall send for registration bullets, cartridge cases, cartridges and other ammunition with traces of weapons and the weapon itself to the bullet casing of the authorized arms control authority.

37. Withdrawn works of art, antiques, as well as objects of cultural value shall be transferred to museums for storage after research.

38. Storage of motor vehicles, motorcycles and other transport (including floating and aircraft) means recognized as material evidence, as well as vehicles that have been withdrawn, shall be carried out in special guarded premises, sites or parking lots created by decision of local executive bodies and which are communal property (if they cannot be transferred for storage to the owner, his relatives or other persons).

The local executive body, upon application by the body conducting the criminal procedure, within three working days, shall make a decision indicating the conditions for storing vehicles.

The body conducting the pre-trial investigation, when transferring the vehicle for storage, shall draw up a protocol in which the number and date of the relevant decision of the local executive body are indicated. The persons responsible for storage shall issue a signature attached to the file on ensuring the safety of the accepted vehicle. The body conducting the pre-trial investigation shall send an instruction to the authorized body to impose restrictions on the alienation of the vehicle. The restriction shall be removed after the final decision on the case is made or by order of the person conducting the pre-trial investigation.

When withdrawing, as well as transferring the vehicle for storage, an act of its technical condition shall be drawn up with the participation of the owner (if any), a traffic police officer and a specialist.

39. Jewelry and household products made of precious metals, precious stones and pearls, precious stones of organogenic formation, semi-precious stones, handicraft jewelry, coins made of precious metals and containing precious metals, scrap of these products, refined precious metals and foreign currency, as well as withdrawn from circulation precious metals (gold, silver, platinum and other platinum group metals) in ingots, concentrate, nuggets, scrap, semi-finished products, products for industrial or laboratory purposes, diamonds and other natural precious stones withdrawn by the body conducting the criminal process shall be subject to mandatory registration in accordance with the procedure prescribed by these Rules, regardless of whether they are recognized as material evidence or not.

Not later than within three days from the date of registration or after appropriate research, they shall be subject to delivery to the storage room in a packaged and sealed form with the assignment of a serial number of the register. If the body conducting the criminal procedure does not have the possibility of storing them, they, together with the inventory, shall be handed over for temporary storage to a second-tier bank. The cover letter should stipulate that the sent valuables should be stored until a separate order from the body that sent (handed over) them for storage.

40. Money in national and foreign currencies, payment documents and documentary non-equity securities shall be stored in the following order (including those not recognized as material evidence and not subject to special examination):

1) money in the national currency in the form of banknotes and coins, having a nominal value (face value), which are legal tender in the territory of the Republic of Kazakhstan, shall be deposited to the cash control account of the temporary placement of money (deposit) of the body conducting the criminal process that carried out the withdrawal;

2) payment documents, documentary non-equity securities, lottery tickets, receipts or other documents, as well as payment cards and foreign currency for which there is no possibility of opening a cash control account for temporary placement of money, shall be stored in the storage room of the body conducting the criminal process that carried out the withdrawal, subject to ensuring their proper storage, or handed over to the nearest institution of a second-tier bank;

3) money in foreign currency shall be deposited into the foreign currency account of the body conducting the criminal procedure that carried out the withdrawal.

Footnote. Paragraph 40 as amended by the Decree of the Government of the Republic of Kazakhstan dated 11.08.2016 No. 455 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

41. If money in national and foreign currencies bear traces of a criminal offense, a list of banknotes by numbers and series in two copies shall be necessarily compiled - one is handed over together with the currency to the storage room, the second is attached to the case.

Simultaneously with the withdrawal of documents on the availability of money in bank accounts, the bodies conducting the criminal process shall send to the appropriate second-tier banks or organizations engaged in certain types of banking operations, judicial acts on the withdrawal of property. The judicial act on the withdrawal shall indicate the number of the criminal case that is being processed, in cases provided for by law - the case on confiscation of property, which is considered together with the criminal case.

The procedure for informing foreign banking institutions located outside the territory of Kazakhstan about the withdrawal of banking documents on the availability of funds in the monetary units of foreign states and international units of account held on their accounts and other financial institutions outside the territory of Kazakhstan shall be determined by the relevant international agreements.

42. Withdrawn documents, drawings, photographs containing classified data shall be sent through the units for the protection of state secrets to the departments in charge of secret documents in organizations and institutions of their affiliation.

43. When investigating criminal cases related to the illegal manufacture and use of radio transmitting devices, all used equipment, parts and components shall be withdrawn, the storage of which is provided by the body conducting the proceedings.

44. For the period of judicial examination, the storage of physical evidence, narcotic drugs, psychotropic substances, precursors and their analogues, poisonous substances shall be carried out by the body for judicial examination.

After an expert study, material evidence, selected samples of a narcotic drug, psychotropic substance and their analogues, until a decision is made to dismiss the case or until the court verdict enters into legal force, shall be stored in a sealed form in the room for storing material evidence of the body conducting the criminal process.

45. Objects of biological origin, including those subject to microscopic or chemical examination, subject to rapid deterioration, must be packed in hermetically sealed containers. The packaging of such objects (including parts of the corpse requiring further examination) shall be carried out by employees of forensic institutions.

Upon completion of an expert study of biological objects, the storage of which requires special conditions, it shall be carried out in institutions of judicial examination.

46. Material evidence subject to rapid deterioration, requiring special storage conditions, immediately after the withdrawal, examination, examination and verification of their quality by the state inspection bodies for the quality of goods (or sanitary supervision bodies), if they cannot be returned to the owner, shall be handed over to the appropriate organizations determined by the local by the executive body, for use for its intended purpose or sale by order of a judge (court) with the payment of the received amounts to the cash control account of the temporary placement of money (deposit) of the body conducting the pre-trial investigation.

47. Material evidence, the storage of which requires significant material costs, if they cannot be returned to the owner or if their owner is not identified, shall be sold by order of the judge (court) in accordance with the procedure prescribed by the legislation of the Republic of Kazakhstan with the payment of the received amounts to the cash control account of the temporary placement of money (deposit) of the body conducting the pre-trial investigation.

Footnote. Paragraph 47 as reworded by the Decree of the Government of the Republic of Kazakhstan dated 06.04.2020 No. 171 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

47-1. If there are grounds, the used or sold material evidence shall be reimbursed to the owner of items of the same kind and quality, or the latter shall be paid their cost at the expense of the state budget by a court decision.

Footnote. The Rules were amended with paragraph 47-1 in accordance with the Decree of the Government of the Republic of Kazakhstan dated 06.04.2020 No. 171 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

48. Farm animals withdrawn as material evidence, before the decision of the body conducting the pre-trial investigation, shall be issued to the injured persons, in their absence - to livestock enterprises (organizations) determined by the local executive body with the preparation of the relevant protocol or shall be sold by order of the judge (court) with depositing the amounts received to the cash control account of the temporary placement of money (deposit) of the body conducting the pre-trial investigation.

49. The withdrawn alcoholic beverages, after a proper inspection, conducting necessary examinations, if suitable for consumption, shall be sold by order of the judge (court) with the payment of the received amounts to the cash control account of the temporary placement of money (deposit) of the body conducting the pre-trial investigation, and the samples (samples) shall be attached to as material evidence in a criminal case.

50. The withdrawn oil and oil products, after a proper inspection, carrying out the necessary examinations, shall be sold by order of the judge (court) with the payment of the received amounts to the cash control account of the temporary placement of money (deposit) of the body conducting the pre-trial investigation, and the samples (samples) shall be attached as material evidence to the criminal cause.

51. In order to organize the storage, use, sale of individual material evidence provided for in paragraphs 46-50 of these Rules, the body conducting the pre-trial process shall apply to the local executive body, which, within three working days, by its decision determines the appropriate enterprise (organization), and in case of sale goods - its value, based on the average market value at the time of the decision.

Transportation of goods to the enterprise (organization) shall be provided by the local executive body.

At the same time, employees of law enforcement and special bodies shall not be allowed to participate in the sale of physical evidence and other seized items and valuables, as well as their acquisition, if they are aware that the goods and products being sold were withdrawn in connection with a criminal case.

52. A protocol shall be drawn up in triplicate on the delivery of material evidence for sale to the relevant enterprise (organization) determined by the local executive body.

The first copy of the protocol and their detailed inventory shall be attached to the criminal case.

The second copy shall be transferred to the enterprise (organization) received the material evidence.

The third copy shall be transferred to financial subdivision of the body, conducting the pre-trial process, for subsequent control over the receipt of cash on the temporary placement of money (deposit) of the proceeds from the sale to the control account.

53. Material evidence in criminal cases, for which the investigation period has been interrupted, shall be stored at the place of their investigation, with the exception of those specified in paragraphs 35, 36 and 45 of these Rules, separately from the material evidence in existing cases in a packaged and sealed form, ensuring safety and possibility of further use. Each package with such objects shall be attached with an explanatory inscription indicating the number of the criminal case, its plot, the date of the start of the pre-trial investigation, the name of the object in the package.

Storage conditions shall be selected in respect to the categories of objects determined by these Rules.

Biological objects in criminal cases, for which the investigation period was interrupted, requiring special storage conditions, shall be held in the archives of institutions of judicial examination. The basis for placement in the archive shall be a letter from the body conducting the criminal process, sent to the head of the relevant institution.

54. When the pre-trial investigation is interrupted, the place of storage of material evidence, valuables and other property seized in this case shall be determined. Property withdrawn for the purpose of possible arrest may, after an expert assessment, be sold by order of a judge (court) with the payment of the received amounts to the cash control account of the temporary placement of money (deposit) of the body in charge of this case.

55. Using material evidence for official or other use shall not be allowed.

56. The place of storage of material evidence in the case shall be indicated in the certificate attached to the indictment with reference to the corresponding sheet of the case, where the documents confirming their deposit are filed.

57. Expenses, associated with storage and forwarding the material evidence, in accordance with Article 177 of CPC shall be included into the court cost.

Chapter 5. Procedure for the transfer of material evidence

Footnote. The title of Chapter 5 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

58. Material evidence attached to the criminal case, upon completion of pre-trial proceedings and referral of the criminal case to the court, when the case is transferred to another body, shall be transferred simultaneously with the criminal case. An appropriate entry shall be made about this in respect to each transferred object in the book or register.

When transferring material evidence and other money, items and valuables withdrawn in cases that are not recognized as material evidence, measures shall be taken to ensure that the withdrawn objects retain the features and properties by virtue of which they have the value of material evidence in criminal cases, as well as the traces on them, as well as safety of the material evidence, valuables, documents and other property themselves.

59. Material evidence stored separately from the criminal case shall be registered with the body where the criminal case is transferred, whereas a note is made in the book or register and reference sheet on the criminal case about their location.

60. An employee of the registry of the court, the body where the criminal case with material evidence is sent, accepting these objects, shall verify the integrity (safety) of the packaging and seals on it.

In case of violation of the packaging or seal, an employee of the court registry, in the presence of the chairman of the court (judge), the person who delivered the case and material evidence, shall open the package and verify the presence of the things contained in it with the record of material evidence in the certificate of indictment with the decision to attach to the case of material evidence and a cover letter.

61. If the presence of material evidence corresponds to the entry in the certificate of indictment and the decision to attach material evidence to the case, they shall be repackaged and sealed.

An act shall be drawn up on the opening of the package and signed by the persons present at this action, which is filed in the file.

In cases where, when opening a damaged package or seal, a discrepancy between the actual presence of material evidence is established, the case shall not be accepted until the reasons for the discrepancy are clarified by officials of the departments concerned.

On the established violations on the day of receipt of material evidence, an act shall be drawn up, which is signed by the chairman of the court (judge), the prosecutor, the head of a law enforcement or special body (the head of the investigative unit of these bodies), the body for judicial examination, an employee of the registry and the person who delivered the case.

A copy of the act shall be immediately sent to the body that sent the case.

62. Material evidence shall be sent to the territory of another administrative unit by post.

In case of receipt of material evidence by mail, the judge, prosecutor, head of the body of criminal prosecution, judicial examination shall create a commission, which opens the package and draws up an act. A copy of the act shall be sent to the body that sent the material evidence.

The following items shall not be sent in postal parcels: weapons, ammunition, explosives and pyrotechnic compositions, explosive devices and explosives, flammable and combustible substances, narcotic drugs, psychotropic substances and precursors, potent, toxic and poisonous substances, radioactive substances, nuclear materials and other dangerous substances.

Safe transportation of these items shall be provided by the body conducting the criminal process.

63. Material evidence for the examination shall be presented by personal delivery by the person who appointed the examination, or by an authorized representative of the body that appointed the examination, or by postal service.

64. Acceptance of material evidence and documents for examination shall be carried out by a responsible person, determined by the head of the structural unit of the body for judicial examination.

The person responsible for the acceptance, together with the worker of the registry and the person who appointed the examination, if a discrepancy is found with the list of objects specified in the decision on the appointment of a forensic examination, shall draw up an act containing information about violations, a copy of which is immediately handed over directly to the person who submitted the objects of examination.

The worker of the registry shall place physical evidence and documents in the room intended for their storage, about which he/she makes a note in the register.

Weapons, ammunition, explosive devices, explosives, poisonous, psychotropic substances, precursors, narcotic drugs and their analogues, audio and video cassettes, digital information disk drives, as well as objects with which the research objects were made, or their study is possible (cameras, camcorders, video or audio players, tape recorders, voice recorders); special technical means (covert video surveillance and audio recording devices); digital equipment; products made of precious metals (scrap of these products), precious stones and pearls, as well as handicraft jewelry, cash in the form of banknotes and coins shall be transferred to the expert, who is in charge for conducting the examination.

65. For the period of the investigation, material evidence and documents shall be transferred and stored by the expert, who is in charge for conducting the examination.

66. After the completion of the examination, the expert's opinion, as well as documents and physical evidence, except for those listed in paragraph 64 of these Rules, shall be transferred to the registry.

The worker of the registry shall place the material evidence and documents in a premise designed for their storage, whereof he/she makes a note in the register.

67. The person (body) that ordered the examination shall be immediately notified of the completion of the examination, and within ten days must receive the expert opinion along with material evidence and documents.

68. The expert opinion, material evidence and documents shall be issued to the person who appointed the examination, or to an authorized representative of the body that appointed the examination, or sent by mail with notification of the person who appointed the examination.

69. Material evidence and other property subject to return to the owner shall be issued in kind against a receipt, which is filed in the criminal case and numbered as its next sheet. Interested persons shall be notified of the possibility of receiving items and valuables withdrawn from them, a copy of the notification shall be filed in the criminal case. In the receipt, the recipient shall indicate the details of his identity document, place of residence. If it is impossible for the owner to appear personally, they can be obtained by his legal representative or by his power of attorney by another person, whose receipt is attached to the case. If the owner is an organization, objects and valuables shall be transferred to their representatives in the presence of a power of attorney and an identity document.

70. In some cases, the body conducting the criminal procedure may return to the owners the things withdrawn from them even before making a decision on the case, if it is recognized that this is not an obstacle to its proper resolution.

71. When sending a criminal case to the court, a specialist of the territorial subdivision of the authorized body that provides organizational and logistical support to local and other courts, accepting physical evidence along with the criminal case, shall sign the second copy of the cover letter of the transferring body, legibly indicating his position, last name, certifies the signature stamp of the respective institution.

72. Items, things, including the clothes of the accused, watches, money and other objects that are not recognized as material evidence in the prescribed manner, shall not be accepted by the courts.

73. After the verdict, decision to dismiss the case, a note shall be made in the book or register about the decision made in relation to material evidence and other property, indicating the content and date of the decision.

74. The decision regarding material evidence shall be enforced after the entry into force of the judicial act or the expiration of the period for appealing against the decision to dismiss the case.

75. In a judicial act, a decision on the termination of a criminal case, the issue of the future of material evidence, property seized shall be decided.

76. If material evidence and other property are in special storage, the body that made the decision shall send a copy or an extract from the judicial act, resolutions, which indicate the future of these objects, to the place of their storage. A similar extract shall be sent in respect of the property seized to the state and other registration authorities in which the restrictions were registered. The adopted decision shall be binding on the heads of institutions where material evidence is stored.

77. Material evidence withdrawn from persons in respect of whom the cases were terminated at the pre-trial stage or the court passed a verdict of not guilty shall be returned to the owners or their legal representatives within three years from the date of proper notification. In cases where it is impossible to return property and valuables in kind, their cost shall be reimbursed in cash. After three years, unclaimed property and valuables, in accordance with the procedure established by law, shall be transferred to the state revenue.

78. If the location of the owner or his legal representative is not established, after three years from the date of termination of the criminal case, the entry into force of the judicial act, unclaimed material evidence in accordance with the procedure established by the law shall be transferred to the state revenue, and those that are not of value shall be destroyed.

79. In order to appeal to the execution of a judicial act in terms of the sale of physical evidence confiscated by the court, which are stored in institutions, organizations, as well as in terms of transferring money and valuables to state revenue, confiscation of deposits and other types of savings, a writ of execution is issued, which is sent to the enforcement agent for execution according to territoriality, a copy of the cover letter is filed in the case. A note shall be made in the Register to whom and when the writ of execution is sent.

80. If the material evidence to be sold is in the court that issued the decision, the secretary of the court session shall send a writ of execution to the enforcement agent with a cover letter. The cover letter shall be filed into the case and numbered with its next sheet. A note shall be made in the Register to whom and when the writ of execution is sent.

After the transfer of material evidence to the enforcement agent, a corresponding entry shall be made in the register about the transfer of material evidence to the enforcement agent.

81. Registration, storage, evaluation and further use of property transferred (to be transferred) into the ownership of the state on separate grounds, shall be carried out by the enforcement agent in accordance with the Rules for registration, storage, evaluation and further use of property converted (to be converted) into the ownership of the state on certain grounds approved by the Decree of the Government of the Republic of Kazakhstan.

82. Material evidence subject to transfer under a judicial act to the relevant law enforcement and special bodies must be sent there by courier or by mail. When transporting poisonous, potent, explosive substances, weapons, the rules established for their transportation must be observed. A copy of the cover letter and a document on the acceptance of physical evidence by the institution shall be filed into the case.

83. If there is a court decision that has entered into legal force on the return to the owner of valuables, currency, securities and other items that are not subject to confiscation, the owner or authorized person shall be immediately notified of the decision. Otherwise, in accordance with the procedure and terms established by law, they shall be transferred to the state revenue. Removal of arrest from property shall be carried out in accordance with the procedure established by law.

84. In cases of release from custody or termination of the case, delivering the judgement of acquittal, all personal documents shall be returned to the owners against receipt.

Chapter 6. Procedure for destruction of material evidence

Footnote. The title of Chapter 6 - in the wording of the resolution of the Government of the Republic of Kazakhstan dated 09.04.2022 No. 202 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

85. Destruction of material evidence shall be carried out on a commission basis.

A commission shall be created in the criminal prosecution bodies, by the order of the first head, their departments, territorial and other bodies, composed of the head of the investigation (inquiry) unit or the person replacing him, the employee who processed the case, the office worker, the person responsible for storage, and, if necessary, the head of the armament depot, a representative of the health authority, ecology, enforcement agents or other specialists. The chairman of the commission shall be one of the deputy heads of the criminal prosecution body, which organizes its convocation and work.

Convocation and work of the commission shall be carried out in accordance with the schedule approved by the first head of the criminal prosecution body, at least three times a month (every ten days).

In case of absence of any of the members of the commission, the chairman of the commission shall appoint another day for the destruction of material evidence, but no later than three days from the date of the originally appointed time. If it is impossible for him to appear within this period, he will be replaced by another employee of the same department.

Upon a court verdict that has entered into legal force, an enforcement agent shall be included in the commission. In the absence of the person in charge of the case, the head of the body or his deputy may be included in the commission.

In cases where material evidence is in court, their destruction shall be carried out in the composition of the presiding judge, a specialist responsible for the storage of material evidence, an enforcement agent.

86. The grounds for the destruction of samples of narcotic drugs, psychotropic substances, precursors and their analogues, as well as toxic substances shall be a judicial act that has entered into force or a decision of the body conducting the pre-trial investigation, coordinated with the prosecutor.

Before the destruction of narcotic drugs, psychotropic substances and their analogues, the commission shall check the integrity of the package (package) in which it was placed, the presence of appropriate signatures, seals, inscriptions, compares the details of the inventory it has with it, containing an indication of its individualizing features, with the document that served grounds for destruction.

If any inconsistencies are found, an act shall be drawn up, which is signed by all members of the commission, and immediately reported to the head of the criminal prosecution body and the supervising prosecutor. Upon the establishment of inconsistencies, an internal investigation shall be carried out, after the approval of the conclusion of which the destruction of narcotic drugs, psychotropic substances and their analogues is carried out.

The destruction procedure must be photo and video recorded by with the attachment of the footage to the criminal case.

87. The destruction of narcotic drugs and psychotropic substances, precursors and their analogues shall be carried out by burning on the basis of a decision of the criminal prosecution body, agreed with the prosecutor, which is issued no later than seventy-two hours after sampling.

Destruction of narcotic drugs, psychotropic substances and their analogues shall be carried out within ten working days after the approval of the decision on destruction by the prosecutor.

On the destruction of a narcotic drug, psychotropic substance and their analogues for each criminal case, an act shall be drawn up in two copies, which is signed by all members of the commission. One copy of the act shall be sent for attachment to the case file, no later than three working days from the date of destruction, the second one- to the person responsible for storage.

The destruction of narcotic drugs or psychotropic substances and their analogues seized from illegal circulation, if it is necessary to use them during controlled delivery or other covert investigative actions, may not be carried out until the completion of such actions on the basis of a reasoned decision of the criminal prosecution body coordinated with the prosecutor.

88. Destruction of a weapon that is material evidence (hereinafter referred to as the weapon) shall be carried out on a commission basis.

The grounds for the destruction of weapons shall be a judicial act or a decision of the criminal prosecution body to terminate the criminal case.

The destruction of weapons shall be carried out by rendering weapon into an unserviceable condition, followed by smelting at industrial enterprises.

Rendering the weapon into an unserviceable condition shall be carried out within ten working days after the entry into force of the judicial act, the decision to dismiss the case, coordinated with the prosecutor.

The weapon shall be rendered unserviceable by deformation or cutting, leaving the marking of the weapon (series, number, caliber, year of manufacture). The procedure for rendering weapon into an unserviceable condition shall be drawn up by an act, to which is attached a number sheet indicating the model, brief description, series, number, caliber, year of manufacture of the weapon, distinctive features.

An act in two copies shall be signed by all members of the commission and participants in this action. One copy of the act shall be sent for attachment to the case file, no later than three working days from the date of destruction, the second one - to the person responsible for storage.

89. Weapons rendered unserviceable shall be destroyed by melting at industrial enterprises within a period of not more than three months from the date of entry into force of a judicial act, a decision to dismiss the case, coordinated with the prosecutor.

The criminal prosecution body shall ensure safe transportation when delivering destroyed weapons to an industrial enterprise.

Before rendering it into an unserviceable condition and destruction, the commission shall check each weapon, the details of the inventory it has with it, containing an indication of its individualizing features, compares it with the documents that served as the basis for destruction, the numbered list.

When revealing discrepancies, an act shall be drawn up, which is signed by all members of the commission. Upon establishment of inconsistencies, it is immediately reported to the leadership of the criminal prosecution body and the supervising prosecutor, an internal investigation shall be carried out.

On the destruction of weapons, an act shall be drawn up in two copies, which is signed by all members of the commission. One copy of the act shall be sent for attachment to the case file, no later than three working days from the date of destruction, the second one - to the person responsible for storage.

The procedure for rendering a large batch of weapons into an unserviceable condition and destroying them shall be recorded by photo and video filming, attaching the footage to the act of destruction.

The acts for rendering weapons into an unserviceable condition, destruction of weapons with video recording materials shall be stored by the person, who is responsible for the storage, the shelf life is five years.

90. The destruction of toxic substances and potent agents shall be carried out with the participation of a representative of the military department, health and other special state bodies, the person, who is responsible for the storage of the material evidence, an employee of the office and an enforcement agent.

Item No.	No. of criminal case, Surname, Name, Patronymic of the suspect	Name of the material evidence and other money and valuables withdrawn under the cases, not recognized as material evidence, with indication of individualizing features	The person, who made the decision to recognize the object as material evidence	The place of actual storage of material evidence and other money and valuables withdrawn under the cases, not recognized as material evidence, Surname, Name, Patronymic of the person, responsible for its storage	Date and name of the court made the decision on the sale of material evidence	When and to whom it was transferred for sale or further storage or returned according to ownership	Information on final decision (date, body made the decision, etc.)	Information on execution (destruction, Act No., date, etc.)	Note
1	2	3	4	5	6	7	8	9	10

Appendix 2
to the Rules for withdrawal, registration,
storage,
transfer and destruction of material
evidence, seized
documents, money in national and foreign
currencies,
narcotic drugs, psychotropic substances in
criminal cases
by the court, procurators, bodies for
criminal prosecution
and judicial examination

Register

for registration of material evidence and other withdrawn money and valuables not recognized as material evidence held in the storage room

	Date of acceptance	Name of the material evidence, with indication of	Surname, Name, Patronymic of the person, who made the	To whom, when and on the basis of which	Date, Surname, Name, Patronymic of the	Date and name of the court made the	When and to whom it was transferred for	Information on final decision	Information on
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Item No.	ce for storage, No. of the criminal case	individualizing features. Registration No. in the book of registration of material evidence	decision (date) on recognizing the object as material evidence, and submitted for storage	document the material evidence was transferred or submitted	person, who returned the material evidence to the storage room	decision on the sale of material evidence	sale or further storage or returned according to ownership	(date, body made the decision, etc.)	execution (destructive act, No., date, etc.)	Note
1	2	3	4	5	6	7	8	9	10	11