

On approval of Rules of compulsory expulsion from the Republic of Kazakhstan of a foreign national or stateless person, and also detention in special institutions of internal affairs bodies of a person to be expelled who is under a court order of preventive travel restriction

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated April 6, 2017 No. 175.

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Footnote. Heading as amended by Resolution No. 235 of the Government of the Republic of Kazakhstan dated 12.04.2021 (shall be enforced ten calendar days after the date of its first official publication).

In accordance with part one of article 70 of the Penal Execution Code of the Republic of Kazakhstan dated July 5, 2014, article 28 of the Law of the Republic of Kazakhstan dated June 19, 1995 "On the legal status of foreigners" and article 60 of the Law of the Republic of Kazakhstan dated July 22, 2011 "On migration" The Government of the Republic of Kazakhstan hereby RESOLVES to:

Footnote. Preamble as amended by Resolution No. 235 of the Government of the Republic of Kazakhstan dated 12.04.2021 (shall be enforced ten calendar days after the date of its first official publication).

1. Approve the attached Rules of compulsory expulsion of a foreign national or a stateless person from the Republic of Kazakhstan, and also detention in special institutions of internal affairs bodies of a person to be expelled who is under a court order of preventive travel restriction.

Footnote. Paragraph 1 as amended by Resolution No. 235 of the Government of the Republic of Kazakhstan dated 12.04.2021 (shall be enforced ten calendar days after the date of its first official publication).

2. This resolution shall be enforced upon expiry of ten calendar days after the date of its first official publication.

*Prime Minister
of the Republic of Kazakhstan*

B. Sagintayev

Approved
by Resolution No. 175
of the Government of the
Republic of Kazakhstan
dated April 6, 2017

Rules of compulsory expulsion from the Republic of Kazakhstan of a foreign national or stateless person, and also detention in special institutions of internal affairs bodies of a person to be expelled who is under a court order of preventive travel restriction

Footnote. Rules as amended by Resolution No. 235 of the Government of the Republic of Kazakhstan dated 12.04.2021 (shall be enforced ten calendar days after the date of its first official publication).

Chapter 1. General provisions

1. These Rules of compulsory expulsion from the Republic of Kazakhstan of a foreign national or stateless person, and also detention in a special institution of the internal affairs bodies of a person being expelled, who is under a court order of preventive travel restriction, have been developed in accordance with the first part of Article 70 of the Criminal Execution Code of the Republic of Kazakhstan dated July 5, 2014, Article 28 of the Law of the Republic of Kazakhstan dated June 19, 1995 "On the legal status of foreigners", Article 60 of the Law of the Republic of Kazakhstan dated July 22, 2011 "On migration" and define the order of keeping in a special internal affairs bodies institution of the person being expelled, who is under a court order of preventive travel restriction, and expulsion of a foreign national or a stateless person subject to deportation from the Republic of Kazakhstan.

Chapter 2. The procedure of compulsory expulsion of a foreign national or a stateless person from the Republic of Kazakhstan

2. The punishment of expulsion of a foreign national or a stateless person shall be executed by national security and internal affairs bodies of the Republic of Kazakhstan.

3. Execution of the enforced court sentence of the expulsion of a foreign national or a stateless person who has not left the territory of the Republic of Kazakhstan within the period indicated in the judicial act on expulsion shall be compulsory after the execution of the main type of punishment.

4. The authorized bodies and / or persons responsible for the execution of the main type of punishment shall inform the internal affairs bodies about the execution of the main type of punishment in relation to a foreigner or stateless person subject to expulsion.

5. Upon receipt of the relevant information, the internal affairs bodies shall take measures to organize the expulsion of a foreigner or a stateless person (determination of the route, the place of crossing the State Border and the purchase of tickets), and also inform the border service of the National Security Committee of the Republic of Kazakhstan (hereinafter - the Border Service) about the upcoming deportation.

6. The expulsion of a foreign national or a stateless person shall mean escorting him by the internal affairs bodies to the checkpoint across the State Border by rail. In the absence of a railway connection (route), he shall be deported by other means of transport (air, road or water).

If a foreigner or stateless person to be expelled is in the same settlement as the checkpoint across the State Border, he or she will be escorted by road or on foot.

Foreigners or stateless persons admitted from a foreign state in accordance with the international agreement on readmission ratified by the Republic of Kazakhstan, but who do not have legal grounds for entry and stay in the Republic of Kazakhstan, are subject to deportation in the absence between the Republic of Kazakhstan and the state of nationality or permanent (primary) residence of such a person of international treaty on readmission ratified by the Republic of Kazakhstan.

7. The border service shall make a pass of the said category of foreigners or stateless persons through the state border as established by the legislation of the Republic of Kazakhstan.

8. At the checkpoint across the state border, officials of the internal affairs bodies and the border service shall draw up an act on the expulsion of a foreigner or stateless person from the Republic of Kazakhstan, which they sign after crossing of the state border by the foreigner or stateless person being expelled.

9. Expenses for expulsion shall be borne by the persons being expelled, individuals or legal entities that invited a foreigner or stateless person to the Republic of Kazakhstan or used his labor at the time of establishing the fact of illegal stay of a foreigner or stateless person in the Republic of Kazakhstan. In cases of absence or insufficiency of funds from the named persons to cover the costs of expulsion, the relevant measures shall be carried out at the expense of budgetary funds, while the funds spent on the expulsion are subject to compensation in court on the claims of the interested state bodies against the above-mentioned persons.

10. The estimate of expenses on expulsion of a foreigner or a stateless person shall include the cost of:

travel documents for a foreigner or stateless person, as well as internal affairs bodies servicemen escorting him;

execution of documents and other actions related to expulsion.

Chapter 3. Procedure of detention in a special institution of Internal Affairs bodies of a person to be expelled, who is under a court order of preventive travel restriction

11. The detention of a foreigner or stateless person in special institutions is carried out for the purpose of individual prevention in relation to a foreigner or stateless person who is subject to compulsory deportation, on the basis of a verdict, decision, enforced court order, as well as those who have not left the territory of the Republic of Kazakhstan within the time indicated in the court order for expulsion.

Preventive restriction of freedom of movement shall be applied by the internal affairs bodies with the court sanction and consists in the temporary isolation of a foreigner or stateless person in a special institution of the internal affairs bodies for up to thirty days.

12. Upon admission to a special reception center of a foreigner or a stateless person subject to compulsory expulsion, the presence shall be checked of:

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

2) a protocol of personal search with seized things prohibited for storage in a special reception center;

3) identity documents of a foreigner or a stateless person subject to compulsory expulsion.

13. When a foreign national or stateless person is placed in a special detention center, the state body that carried out the detention shall immediately notify his close relatives at the place of temporary stay (residence) in the Republic of Kazakhstan, the Prosecutor General's Office, the Ministry of Foreign Affairs, the National Security Committee and the Ministry of Internal Affairs of the Republic of Kazakhstan.

14. In special reception rooms, round-the-clock duty regime shall be established excluding the possibility of unauthorized departure of detained persons outside the institution.

15. Foreigners or stateless persons who are subject to compulsory deportation and are held in special reception centers shall be provided with food according to the rules established for those held in custody and in a temporary detention center. Groceries shall be given to duty officers daily according to the work sheet.

16. Men shall be placed in special receivers separately from women.

17. People with an infectious form of tuberculosis, venereal and other infectious diseases shall be isolated from foreigners or stateless persons who are subject to compulsory expulsion

18. Foreigners or stateless persons subject to compulsory expulsion shall be released from a special detention center for the execution of a sentence, decision, court order on expulsion, or upon expiry of the period of preventive restriction of freedom of movement.