

On approval of the Rules for introduction of temporary state price regulation in certain product markets and (or) for goods, works, services of individual market entities

Unofficial translation

Order of the Minister of National Economy of the Republic of Kazakhstan dated June 16, 2016 No. 262. Registered in the Ministry of Justice of the Republic of Kazakhstan on June 17, 2016 No. 13792.

Unofficial translation

In accordance with subparagraph 9) of Paragraph 3 of Article 116 and Article 119 of the Entrepreneurial Code of the Republic of Kazakhstan, **I HEREBY ORDER:**

Footnote. Preamble - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 08.09.2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

1. To approve the attached Rules for introduction of temporary state price regulation in certain product markets and (or) for goods (works, services) of individual market entities.

2. The Committee for regulation of natural monopolies and protection of competition of the Ministry of National Economy of the Republic of Kazakhstan, in the manner prescribed by the legislation of the Republic of Kazakhstan, to ensure:

1) state registration of this order in the Ministry of Justice of the Republic of Kazakhstan;

2) sending of a copy of this order in print and electronic form for official publication in periodicals and in the legal information system "Adilet" within ten calendar days after its state registration in the Ministry of Justice of the Republic of Kazakhstan, as well as in the Republican Center for Legal Information within five working days from the date of receipt of the registered order for inclusion in the reference control bank of regulatory legal acts of the Republic of Kazakhstan;

3) placement of this order on the Internet resource of the Ministry of National Economy of the Republic of Kazakhstan and on the Internet portal of state bodies;

4) within ten working days after the state registration of this order, submission of information to the Legal Department of the Ministry of National Economy of the Republic of Kazakhstan on implementation of measures provided for in subparagraphs 1), 2) and 3) of this paragraph.

3. The supervising vice minister of national economy of the Republic of Kazakhstan shall be authorized to oversee the execution of this order.

4. This order shall come into force from the day of its first official publication.

*Minister of National Economy of the
Republic of Kazakhstan*

K. Bishimbayev

"AGREED"

Minister of investment and development of the
Republic of Kazakhstan

_____ A. Issekeshev

dated "____" _____ 2016

"AGREED"

Minister of internal affairs of the
Republic of Kazakhstan

_____ K. Kassymov

dated "____" _____ 2016

"AGREED"

Chairman of the National
Security Committee of the
Republic of Kazakhstan

_____ V. Zhumakanov

dated June 13, 2016

"AGREED"

Energy Minister of the
Republic of Kazakhstan

_____ K. Bozumbayev

dated "____" _____ 2016

Approved by
the order of Minister of
national economy of the
Republic of Kazakhstan
dated June 16, 2016 № 262

**Rules for introduction of temporary state price regulation in certain product
markets and (or) for goods, works, services of individual market entities
Chapter 1. General Provisions**

Footnote. The heading of Chapter 1 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated September 28, 2020 No. 67 (shall be enforced ten calendar days after the day of its first official publication).

1. These Rules for the introduction of temporary state price regulation in certain commodity markets and (or) for goods, works, and services of individual market entities (hereinafter referred to as the Rules) have been developed in accordance with subparagraph 9) of Paragraph 3 of Article 116 and Article 119 of the Entrepreneurial Code of the Republic of Kazakhstan and shall determine the procedure for introducing temporary state price regulation on individual commodity markets and (or) on goods, works, services of individual market entities.

Footnote. Paragraph 1 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated September 8, 2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

2. Temporary state price regulation is introduced in product markets that are not in a state of natural monopoly, in the case of protecting the national interests of the Republic of Kazakhstan, including an emergency, natural disaster, and ensuring national security, provided that the problems arisen cannot be solved in a way that has smaller negative consequences for the state of competition.

3. Excluded by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated September 8, 2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

4. Temporary state price regulation in certain product markets and (or) for goods, works, services of individual market entities is introduced by the decision of the antimonopoly authority on the basis of instructions from the President of the Republic of Kazakhstan or the Prime Minister of the Republic of Kazakhstan, as well as at the initiative of the antimonopoly authority based on the requests of individual and (or) legal entities.

5. A prerequisite for introduction of temporary state price regulation in certain product markets and (or) for goods, works, services of individual market entities is the publication of the relevant decision of the antimonopoly authority in the media.

6. The decision of the antimonopoly authority on introduction of temporary state price regulation shall be enforced:

1) in certain product markets from the date of its official publication, unless otherwise specified in a decision of the antimonopoly authority;

2) for goods, works, services of individual market entities from the date of its official publication.

7. The duration of the temporary state price regulation begins:

1) for individual product markets - on the day of the official publication of the decision of the antimonopoly authority, unless otherwise specified in the decision of the antimonopoly authority;

2) goods, works, and services of individual market entities - on the day the antimonopoly body decides to set the maximum price.

Footnote. Paragraph 7 as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 08.09.2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

8. The duration of temporary state price regulation is calculated in calendar days.

9. Prior to the enforcement of temporary state price regulation in certain product markets and (or) for goods, works, services of individual market entities or during the period of temporary state price regulation, the antimonopoly authority cancels the previously adopted

decision on introduction on the basis of the instruction of the President of the Republic of Kazakhstan or the Prime Minister of the Republic of Kazakhstan, as well as at the initiative of the antimonopoly authority on the basis of the requests of individual and (or) legal entities.

Chapter 2. Introduction of temporary state price regulation in certain commodity markets

Footnote. The heading of Chapter 2 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated September 28, 2020 No. 67 (shall be enforced ten calendar days after the day of its first official publication).

10. By the decision of the antimonopoly authority on introduction of temporary state price regulation in certain product markets, the following shall be established:

- 1) a product market (product name, geographical boundaries of the product market);
- 2) the maximum price of goods, works, services produced (sold) by market entities in a certain product market;
- 3) duration of temporary state price regulation.

11. The maximum price of goods, works, services produced (sold) by market entities in a certain product market is determined by the antimonopoly authority:

- 1) on the basis of official statistical information of the authorized body in the field of state statistics on prices for goods, works, services of the corresponding product market;
- 2) in the absence of official statistical information of the authorized body in the field of state statistics - based on the results of a request for information on prices for goods, works, services and (or) the subject composition of the relevant product market received from the authorized state bodies, local executive bodies, and market entities, their associations, and analysis of this information.

12. Based on the results of the analysis of information, the arithmetic mean value of the prices of goods, works, services of the corresponding product market for the last three calendar years, as well as socio-economic factors in the development of a region, country and (or) relevant product market is taken.

Chapter 3. Introduction of temporary state price regulation for goods, works, and services of individual market entities

Footnote. The heading of Chapter 3 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated September 28, 2020 No. 67 (shall be enforced ten calendar days after the day of its first official publication).

13. By the decision of the antimonopoly authority on introduction of temporary state price regulation for goods, works, services of individual market entities, the following shall be established:

- 1) market entities for goods, works, services in respect of which temporary state price regulation is introduced;

- 2) deadline for submission of documents to establish the maximum price for goods, works, services;
- 3) duration of temporary state price regulation.

14. The decision of the antimonopoly authority on introduction of temporary state price regulation on goods, works, services of individual market entities is submitted to the relevant market entities within one day.

15. The deadline for submission of documents for approval of the maximum price for goods, works, services of individual market entities cannot be more than ten calendar days from the date the decision of the antimonopoly authority comes into force.

16. To establish the marginal price for goods, works, and services, market entities shall submit the following documents to the antimonopoly body within the established timeframe:

- 1) documents justifying the expenses included in the cost of goods, work, and services in accordance with Paragraph 17 of these Rules;

- 2) balance sheet in the form approved by the Order of the Minister of Finance of the Republic of Kazakhstan dated June 28, 2017 No. 404 (registered in the State Register of Normative Legal Acts under No. 15384);

- 3) profit and loss statement in the form approved by the Order of the Minister of Finance of the Republic of Kazakhstan dated June 28, 2017 No. 404 (registered in the State Register of Normative Legal Acts under No. 15384);

- 4) labor report in the form approved by the order of the Chairman of the Committee on Statistics of the Ministry of National Economy of the Republic of Kazakhstan dated September 7, 2020 No. 34 (registered in the State Register of Normative Legal Acts under No. 21183);

- 5) report on financial and economic activities in the form approved by the order of the Chairman of the Committee on Statistics of the Ministry of National Economy of the Republic of Kazakhstan dated February 4, 2020 No. 14 (registered in the State Register of Normative Legal Acts under No. 20008);

- 6) cash flow statement in accordance with the form approved by the order of the Minister of Finance of the Republic of Kazakhstan dated June 28, 2017 No. 404 (registered in the State Register of Normative Legal Acts under No. 15384);

- 7) free data on income and expenses accepted for calculating selling prices, with breakdowns by cost items for the whole enterprise and separately for each type;

- 8) information on the applicable norms for the consumption of raw materials and materials;

- 9) investment programs (if any);

- 10) annual estimate of costs allocated for current and major repairs and other repair and restoration work;

- 11) calculation of depreciation deductions indicating the terms of operation of fixed assets ;

12) documents confirming the actual and planned volume of sales of goods, works, and services;

13) approved staffing table.

Herein, actual data for the four quarters preceding the submission of documents and for the previous calendar year shall be presented as supporting materials.

Footnote. Paragraph 16 - as amended by the Order of the Minister of National Economy of the Republic of Kazakhstan dated September 28, 2020 No. 67 (shall be enforced ten calendar days after the day of its first official publication); as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated September 8, 2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

17. When setting the price limit for goods, works, services of a market entity, the costs confirmed by substantiating materials directly related to the production (sale) of goods, works, services are taken into account in the cost price:

1) material costs determined on the basis of prices provided for in supporting documents (contracts, invoices) and the physical volume of material resources, based on the applicable norms for the consumption of raw materials, materials, fuel, energy of material resources for the production of a unit of goods, works, services and (or) annual norms of material resources ;

2) for remuneration of staff, including payment of surcharges and allowances for working conditions provided for by the remuneration system in accordance with labor legislation. At the same time, when determining labor costs, the actual number of personnel and the average monthly salary are taken into account.

Labor costs of administrative personnel of market entities are limited based on the ratio between the maximum and minimum salaries of employees of a market entity, not exceeding ten times.

3) depreciation deductions of fixed assets and intangible assets calculated using the straight-line (uniform) accrual method;

4) funds allocated by the market entity for current and overhaul repairs and other repair and restoration work, not leading to an increase in the cost of fixed assets, which are included in the cost part of the price on the basis of supporting documents on the need for such work (documented technical confirmation of the need for such works, summary estimates, object, local and resource estimates (separately for each object), etc.);

5) other production (sale) expenses directly related to the produced (sold) goods, works, services, which are included in the cost part of the maximum price on the basis of supporting documents;

6) the cost of paying interest on borrowed funds for implementation of the investment program (if any) aimed at expanding, restoring, updating, supporting the existing assets, reconstruction, technical re-equipment of fixed assets, creation and acquisition of new assets

directly involved in provision of services, to which a temporary state price regulation is introduced for goods, works, services;

7) to pay for emissions into the environment;

8) for compulsory types of insurance, taxes, fees and other obligatory payments to the budget, taken into account in the expenses of the period.

18. When forming the maximum price, the cost does not include the expenses that are not directly related to the production (sale) of goods, works, services, and also not confirmed by substantiating materials.

19. The formation of the maximum price for goods, works, services is carried out on the basis of separate cost accounting for each type of goods, works, services.

20. If the market entity does not have a separate cost accounting for the types of goods, works, services, the market entity's costs are divided by the types of goods, works, services sold based on indirect methods that provide for the determination of costs related to a certain type of activity of the market entity selling goods, works, services on the relative share of income (volumes, labor costs of production personnel) in the total costs of the market entity.

21. The level of profit included in the marginal price shall be determined by the antimonopoly body, taking into account the obligations of the enterprise for current loans (if any) attracted for the expansion, restoration, renovation, support of existing assets, reconstruction, technical re-equipment of fixed assets, creation and acquisition of new ones. assets directly involved in the provision of services, for which temporary state price regulation is introduced for goods, works, and services.

Footnote. Paragraph 21 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 08.09.2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

22. When considering documents, the antimonopoly body shall have the right to request additional information from market entities necessary for making a decision. In this case, the term for consideration of documents shall be suspended until additional information is received.

Footnote. Paragraph 22 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated September 8, 2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

23. The term for consideration by the antimonopoly body of documents of a market entity for approval of the marginal price for goods, works, and services shall not exceed twenty calendar days.

Footnote. Paragraph 23 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated September 8, 2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

24. If a market entity fails to apply for approval of the limit price within the established period, the antimonopoly authority shall approve the limit price based on official statistical information of the authorized body in the field of state statistics, sectoral state and local executive bodies on the prices of market entities engaged in the production of similar goods, works, services in the relevant or similar product market.

Footnote. Paragraph 24 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 08.09.2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

25. In the case provided for in paragraph 24 of these Rules, the marginal price for goods, works, and services of market entities shall be taken from the arithmetic mean of prices for goods, works, and services of the relevant commodity market over the past three calendar years, as well as socio-economic factors of the development of the region, country and (or) the relevant product market.

Footnote. Paragraph 25 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 08.09.2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

26. The antimonopoly body, within the period for consideration of documents established by these Rules, shall decide on setting the maximum price for goods, works, and services of market entities.

Footnote. Paragraph 26 - as amended by the Order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 08.09.2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).

27. The decision to set the maximum price for goods, works, and services shall be sent to interested market entities within one day and shall also be published on the Internet resource of the antimonopoly authority.

Footnote. Paragraph 27 - as amended by the Order of the Chairman of the Agency for Protection and Development of Competition of the Republic of Kazakhstan dated September 08, 2022 No. 18 (shall be enforced ten calendar days after the day of its first official publication).