



On approval of Rules for organizing activity of special premises and Model Rules of internal order of special premises

Unofficial translation

Order Acting Minister of the Interior of the Republic of Kazakhstan № 531 dated July 24, 2018. Registered with the Ministry of Justice of the Republic of Kazakhstan on August 7, 2018 № 17283.

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On approval of Rules for organizing activity of special premises and Model Rules of internal order of special premises

In obedience to paragraph 2 of Article 9-2 of the Law of the Republic of Kazakhstan dated March 30, 1999 “On the Procedure and Conditions for the Detention of Persons in Special Facilities, Detention Premises Ensuring Temporary Isolation from Society”, I **HEREBY ORDER:**

Footnote. Preamble – as reworded by Order No. 386 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.05.2020 (shall be enforced ten calendar days after the date of its first official publication).

1. To approve:

1) Rules for organizing activity of special premises in accordance with Appendix 1 to this order.

2) Model rules of the internal order of special premises, in accordance with Appendix 2 to this order;

2. In accordance with the procedure established by the legislation of the Republic of Kazakhstan, the Department of Operational Planning of the Ministry of Internal Affairs of the Republic of Kazakhstan (K.S. Tynybekov), shall:

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

2) within ten calendar days from the date of state registration of this order direct its copy in paper and electronic forms in the Kazakh and Russian languages to the Republican State Enterprise with the Right of Economic Management “Republican Center of Legal Information” for official publication and inclusion in the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3) within ten calendar days after the state registration of this order, direct a copy of it for official publication in periodicals;

4) place this order on the Internet resource of the Ministry of Justice of the Republic of Kazakhstan after its official publication;

5) within ten working days after the state registration of this order, submit data to the Legal Department of the Ministry of Internal Affairs of the Republic of Kazakhstan on execution of the actions provided for in subparagraphs 1), 2), 3) and 4) of this paragraph.

3. Control over the execution of this order shall be entrusted to the Supervising Deputy Minister of Internal Affairs of the Republic of Kazakhstan, Department of Operational Planning of the Ministry of Internal Affairs of the Republic of Kazakhstan (K.S. Tynybekov).

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

Acting Minister

Police Major-General

Z. Suleimenov

Appendix 1

to order № 531 of the Minister of Internal
Affairs of the Republic of Kazakhstan
dated July 24, 2018

Rules for organizing activity of special premises

Chapter 1. General Provisions

1. These Rules for Organising the Work of Special Premises (hereinafter referred to as the Rules) have been developed in compliance with paragraph 2 of Article 9-2 of the Law of the Republic of Kazakhstan dated March 30, 1999 “On the Procedure and Conditions for the Detention of Persons in Detention Facilities, Detention Premises Providing Temporary Isolation from Society” (hereinafter referred to as the Law) and determine the procedure for the receipt, registration of persons placed in detention facilities, personal inspection, medical examination, fingerprinting, photography, as well as the list of things to be confiscated.

Footnote. Paragraph 1 – as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall come into force upon expiry of ten calendar days after the date of its first official publication).

2. The following terms shall be used in the Rules:

1) special premises (hereinafter referred to as SP) - premises intended for a short-term restriction of personal liberty of an individual, a representative of a legal entity, or an official, for a period established by law, in order to suppress an administrative offense or to ensure administrative proceedings;

2) administrative detention - a short-term restriction of personal liberty of an individual, a representative of a legal entity, or an official, in order to suppress an administrative offense or to ensure administrative proceedings.

Chapter 2. Procedure for receiving, registering persons placed in special premises, conducting

personal search, medical examination, fingerprinting, photographing, also a list of things to be seized

3. The placement of a person into a detention facility shall be carried out by a decision of the head of the police authority, or his/her deputy, in relation to detainees.

The procedure for administrative detention shall be stipulated by Article 788 of the Code of the Republic of Kazakhstan dated July 5, 2014 “On Administrative Offences” (hereinafter the CAO).

Footnote. Paragraph 3 as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be enacted ten calendar days after the date of its first official publication).

4. Placement in SP shall be carried out around the clock.

5. The beginning of the detention period shall be the hour to the exact minute when restriction of the detained person’s freedom became a reality, regardless of whether the detainee was given any procedural status or of other performed formal procedures.

The terms of keeping the persons subjected to administrative detention in SP, and the procedure for their (terms) estimation, shall be determined in accordance with Article 789 of the Administrative Code.

6. Upon taking a decision to place a person in a detention facility, the duty shift officer, or other official charged with ensuring the regime in a detention facility by a decision of the head of the police authority (hereinafter - the authorized person) shall carry out the following actions:

1) receive from the arresting officer a written report with all available materials attached;

2) register the fact of a person's placement in the detention facility in the Book of Registration of Detainees of the Police Dispatch Centre (hereinafter - the Detainees Book) in the form pursuant to Annex 15 of the Rules for Organization of the Work of Operational Control Centres and Police Dispatch Centres of Internal Affairs Bodies of the Republic of Kazakhstan, approved by Order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 439 of July 17, 2014 (recorded in the Register of State Registration of Regulatory Legal Acts under No. 9697);

3) if it is established that the person has been unlawfully detained, immediately set the person at liberty.

The release of the person who is wrongfully detained shall be recorded in the Detainees Book. The fact of wrongful detention shall be immediately reported to the head of the police authority or his/her deputy;

Footnote. Paragraph 6 – as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be put into effect ten calendar days after its first official publication).

7. The placed persons, things and documents with them shall be subjected to inspection in the manner prescribed by Article 791 of the Administrative Code.

8. The following list of items shall be subjected to seizure:

- 1) weapons, explosives, poisonous, toxic and flammable substances, narcotic drugs, psychotropic substances, precursors, alcoholic beverages, pepper, salt, lighters;
- 2) scarves, sashes, belts, suspenders, laces, ties, towels longer than 50 centimeters;
- 3) glassware, piercing, sawing and cutting articles;
- 4) bracelets, cigarette cases, playing cards, cufflinks, rings, earrings, watches, orders, medals, metal objects and valuables;
- 5) perfumes, cologne and other alcohol-based products;
- 6) cameras, camcorders, cell phones;
- 7) money, valuable papers, jewelry.

The authorized person shall provide safety of the seized items until the detention period expiration, after which they shall be returned to the person, with the exception of items that are the instrument or the direct object of the offense (until decision on the point of substance).

Withdrawn items shall be stored in specially designated places, excluding their loss.

9. Before being taken to a detention facility, the officer who is drawing up a protocol shall question the detainee on any chronic diseases and health complaints.

Footnote. Paragraph 9 - as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be put into effect ten calendar days after its first official publication).

10. Excluded by Order No. 386 of the Minister of Internal Affairs of Republic of Kazakhstan dated 12.05.2020 (shall be put into effect ten calendar days after the date of its first official publication).

11. If the placed person complains about poor health or has signs of disease (trauma), the authorized person shall ensure the call of an ambulance team.

In urgent cases, if there is a threat to the life of the person being placed, in the long absence of ambulance team or their inability to arrive, the authorized person shall take measures for his urgent delivery to the nearest medical organization.

If, upon recommendation of an ambulance team worker, the placed person needs in-patient treatment, he shall be taken to a medical organization.

12. At the request of the person placed in the SP, he shall immediately notify his relatives, administration at the place of work or study, as well as a lawyer, of his whereabouts.

Notification of a minor's parents or legal representatives of his detention is mandatory.

13. Men in special premises shall be placed separately from women.

14. Excluded by Order No. 386 of the Minister of Internal Affairs of Republic of Kazakhstan dated 12.05.2020 (shall be put into effect ten calendar days after the date of its first official publication).

15. Excluded by Order No. 386 of the Minister of Internal Affairs of Republic of Kazakhstan dated 12.05.2020 (shall be put into effect ten calendar days after the date of its first official publication).

16. In the event of death of the detained person, the authorized person shall inform the senior duty shift officer of the duty station of the police body about it.

Chapter 3. Regime of containment in SP

17. The SP shall establish a regime that ensures observance of the rights of detainees, discharge of their duties, and also fulfillment of the tasks stipulated by the legislation of the Republic of Kazakhstan on administrative offenses.

18. Containment of detainees in SP shall conform to the principles of legality, presumption of innocence, equality of citizens before law, humanism, respect for the honor and dignity of the person, international law and shall not involve actions aimed at causing physical or moral suffering.

19. Foreign nationals and stateless persons contained in SP shall enjoy rights and freedoms, and also bear obligations established for citizens of the Republic of Kazakhstan, unless otherwise provided by the Constitution, laws and international treaties ratified by the Republic of Kazakhstan.

20. Control over performance by the authorized person of the requirements of the rules for containment of persons in SP shall be carried out by the top executive of the police body.

21. Upon release, the person shall be issued a certificate by the reporting officer stating that he/she is in a special premises, in the form annexed hereto.

Footnote. Paragraph 21 – as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be put into effect ten calendar days after the date of its first official publication).

Chapter 4. Release of placed persons from SP

22. Persons placed in SP shall be subject to immediate release if circumstances that served as grounds for their detention fail, or at the end of the detention term established by the legislation of the Republic of Kazakhstan.

23. Persons released from detention shall be given back the things seized from them for storage under receipt, excepting those the storage of which is illegal.

24. Upon release, the person shall be given a certificate of his staying in SP, on the form of the appendix to these rules.

Certificate of release from special premises

This is to verify that _____

_____ (full name)

in the period of time from ___ hr. ___ min. " ___ " _____ 20___ yr.

to ___ hr. ___ min. " ___ " _____ 20___ yr. was subjected to administrative detention and was staying at special premises of _____

_____ (name of the body)

head of police agency _____

_____ (full name), signature)

" ___ " _____ 20___ yr.

C. S.

Appendix 2
to order № 531 of the Minister of Internal
Affairs of the Republic of Kazakhstan
dated July 24, 2018

Model Rules of internal order of special premises

Chapter 1. General Provisions

1. These Standard Internal Regulations for Detention Premises (hereinafter - Standard Regulations) have been developed in compliance with paragraph 2 of Article 9-2 of the Law of the Republic of Kazakhstan dated March 30, 1999 “On the Procedure and Conditions for Holding Persons in Detention Facilities, Detention Premises Providing Temporary Isolation from Society” (hereinafter - Law) and determine internal regulations of detention premises.

Footnote. Paragraph 1 as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be put into effect ten calendar days after the day of its first official publication).

2. The following terms shall be used in the Rules:

1) special premises (hereinafter referred to as SP) - premises intended for a short-term restriction of personal liberty of an individual, a representative of a legal entity, or an official, for a period established by law, in order to suppress an administrative offense or to ensure administrative proceedings;

2) an authorized person - an officer of round-the-clock shift of the duty police station, or another official who is assigned by the decision of the head of the police body to ensure the regime in SP.

Chapter 2. Requirements to SP equipment

3. Administration of the body that houses the SP shall create conditions for persons subjected to administrative detention that meet the requirements of hygiene, sanitation and fire safety.

4. The number of premises for detainees shall be determined based on the area standard norm for accommodating detainees with due regard for their average daily occupancy rate. The area standard in the premise for detainees shall not be less than 2.5 square meters per person.

Audio and video equipment may be used for surveillance purposes.

Footnote. Paragraph 4 – as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be enforced ten calendar days after its first official publication).

5. Excluded by Order No. 386 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.05.2020 (shall come into effect ten calendar days after the date of its first official publication).

6. The walls of SP for the detainees shall be smooth-plastered.

The internal walls separating SP must be made of brick and shall be at least 250 mm thick

The floor must be concrete.

In the wall of each building for detainees, facing the room of the operative duty officer, an opening shall be fitted of maximum possible width, at least 2 meters high, filled with latticed partition with a lattice door. The partition and the door shall be made of steel, welded in joints with a grill of rods not less than 16mm thick with a mesh size of at least 150x150 mm.

The size of the door leaf shall be 0.75 x 2 meters. The doors (without handles on the inside) must open to the outside and close by a bolt (latch).

The outer walls of the SP should be at least 380mm thick.

7. SP must be equipped with exhaust ventilation.

8. SP shall also provide sanitation and hygienic facilities (in the availability of appropriate communications in the building). In the absence of capacity for a toilet room inside the building, an external toilet or a dry closet shall be made outside the SP.

9. Benches shall be installed in SP that can be used as a bed at night.

The benches must be attached to the floor at their base.

10. The detaining facility shall be illuminated from the hours of darkness until dawn. The special room shall have artificial lighting. Lighting fixtures shall be cleaned of dirt in a timely manner and burned out bulbs shall be replaced.

Footnote. Paragraph 10 – as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be enforced ten calendar days after its first official publication).

11. SP shall be lit up with the onset of the dark time of day until dawn.

12. The wiring in SP shall be hidden under the plaster. Light bulbs shall be placed in the niches above the door or on the ceiling and shall be protected by metal bars or nets, or an unbreakable transparent material.

13. Inside SP there should be no protruding pipes, fixtures, and also objects that can be used to attack the police, for suicide of the placed persons or that can cause other harm to themselves and others.

13. When designing and carrying out major renovation, reconstruction of the premises of police dispatch centres or construction of new buildings of territorial police authorities to give consideration to the norms and requirements of the legislation on special premises and engineering and technical reinforcement.

Footnote. The Rules as supplemented by paragraph 13 in compliance with order No. 386 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.05.2020 (shall come into force ten calendar days after the date of its first official publication).

Chapter 3. Containment conditions in SP

14. The person who has been placed to the detaining facility at night shall be provided with a sleeping place (bench) for individual use.

Footnote. Paragraph 14 – as reworded by order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 386 dated 12.05.2020 (shall be put into effect ten calendar days after its first official publication).

15. Drink water shall be provided in SP daily.

16. Persons placed in SP and contained for more than 3 hours, shall be given food in accordance with the standards provided for by resolution № 1255 of the Government of the Republic of Kazakhstan “On approval of natural regulations of food and household providing of suspects, persons accused, convicts and children who are in the children's homes of organizations of criminal executive system and samples of dress code of convicts, and also Rules of providing with free pass, food or money for transit of persons exempted from serving sentence in the form of arrest or imprisonment to the residence or works” dated November 28, 2014.

17. The placed person shall be allowed to carry with him food, basic necessities, footwear and clothing according to the season, personal hygiene items and toiletries.

In the presence of a medical professional's prescription the placed person may have medicines with him.

18. The placed person shall be allowed to receive packages.

19. Packages shall be accepted on the application made in duplicate in the form of the appendix to these Model rules.

20. After accepting of the package, the authorized person shall return to the visitor the first copy of the application with the receipt of acceptance, and the second copy shall be attached to the file of the person placed in SP upon his receipt of the package.

21. Packages shall be subjected to inspection by an authorized person. Items, substances and food that pose a danger to life and health or can be used as an instrument of crime shall be seized and returned to the visitor.

21. The detaining facility, equipment and furniture shall be kept clean. Damp cleaning of the detaining facility shall be carried out daily using detergents and disinfectants. General cleaning shall be done at least once a week. Disinfectant solutions shall be stored in containers labeled with the name of the product, concentration of the solution and the date of its preparation. Cleaning equipment for detaining facility and toilets shall be labelled according to their functional purpose and kept separately in a designated place (room) equipped with shelves or racks. It shall be washed, disinfected and dried at the end of the cleaning. The use of a rodent and insect repellent shall be carried out by organisations licensed to carry out these activities.

Footnote. The Rules as supplemented by paragraph 21 in obedience to Order No. 386 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12.05.2020 (shall be enforced ten calendar days after the date of its first official publication).

Appendix
to Model Rules
of internal order
of special premises

APPLICATION

From _____

_____ (full name)

residing _____

(residence address)

_____ (relation to the person placed in SP)

Please accept a package for _____

_____ (full name)

No n/n	Name of products	Weight		Quantity	Note
		kilogram	gram		
1					
2					

Applicant's signature _____

" ____ " _____ 20__ year

Package allowed _____

—

(full name of the head of the police body)

Package accepted _____

—

(full name of officer who accepted the package)

Package received _____

—

(signature of person placed in SP, who received the package)

" ____ " _____ 20 ____ year