



On approval of risk assessment criteria and the checklist in the field of registration of rights to immovable property

Unofficial translation

Joint order of the Minister of Justice of the Republic of Kazakhstan dated November 1, 2018 No. 1520 and Minister of National Economy of the Republic of Kazakhstan dated November 2, 2018 No. 55. Registered with the Ministry of Justice of the Republic of Kazakhstan on November 9, 2018 No. 17723.

Unofficial translation

In accordance with clause 5 of Article 141 and clause 1 of Article 143 of the Entrepreneurial Code of the Republic of Kazakhstan, **we hereby ORDER:**

Footnote. The preamble as amended by the Joint Order of the Minister of Justice of the Republic of Kazakhstan dated 16.11.2022 № 936 and the Minister of National Economy of the Republic of Kazakhstan dated 18.11.2022 № 83 (shall be enforced from 01.01.2023).

1. To approve:

- 1) risk assessment criteria in the field of registration of rights to immovable property, in accordance with Appendix 1 to this joint order;
- 2) the checklist in the field of registration of rights to immovable property, in accordance with Appendix 2 to this joint order.

2. In accordance with the procedure established by the legislation, the Department of Registration Service and Organization of Legal Services of the Ministry of Justice of the Republic of Kazakhstan shall:

- 1) ensure state registration of this joint order with the Ministry of Justice of the Republic of Kazakhstan;
- 2) within ten calendar days of the state registration of this joint order, send it in Kazakh and Russian to the Republican State Enterprise with the Right of Economic Management “Republican Center of Legal Information” of the Ministry of Justice of the Republic of Kazakhstan for its official publication and inclusion into the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;
- 3) place a copy of this joint order on the official website of the Ministry of Justice of the Republic of Kazakhstan.

3. Control over execution of this joint order is entrusted to the supervising vice-minister of Justice of the Republic of Kazakhstan.

4. This joint order shall take effect ten calendar days after the day of its first official publication.

*Minister of Justice of
the Republic of Kazakhstan*

M.Beketayev

*Minister of National Economy of
the Republic of Kazakhstan*

T.Suleimenov

“AGREED”

Committee on Legal Statistics and
Special Accounts of the
General Prosecutor’s Office of
the Republic of Kazakhstan

Appendix 1
to Joint Order № 1520
of the Minister of Justice of the
Republic of Kazakhstan as
of November 1, 2018
№ 55 of the Minister
of National Economy
of the Republic of Kazakhstan
as of November 5, 2018

Risk assessment criteria in the field of registration of rights to immovable property

Footnote. Appendix 1 as amended by the Joint ORDER of the Acting Minister of Justice of the Republic of Kazakhstan dated 06.09.2023 № 643 and the Minister of National Economy of the Republic of Kazakhstan dated 07.09.2023 №157 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 1. General provisions

1. These Risk assessment criteria in the field of registration of rights to immovable property (hereinafter referred to as the Criteria) have been developed in accordance with clauses 5 and 6 of Article 141 of the Entrepreneurial Code of the Republic of Kazakhstan (hereinafter referred to as the Code), Law of the Republic of Kazakhstan “On State Registration of Rights to Immovable Property”, with the Rules for the formation of risk assessment and management system by the regulatory state bodies, approved by the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated June 22, 2022, № 48 (Registered in the Register of State Registration of Regulatory Legal Acts under №28577) and with forms of checklists approved by the Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated July 31, 2018 № 3 (Registered in the Register of State Registration of Regulatory Legal Acts under №17371).

2. The following terms shall be used herein:

- 1) score - quantitative measure of risk assessment;
- 2) data normalization - a statistical procedure involving the reduction of values measured on different scales to a notionally common scale;

3) risk - probability of causing harm as a result of the control subject's activities to human life or health, legitimate interests of individuals and legal entities, property interests of the state, taking into account the severity of its consequences;

4) risk assessment and management system – the process of making managerial decisions aimed at reducing the probability of occurrence of unfavorable factors by distributing subjects (objects) of control by degrees of risk for the subsequent implementation of preventive control with a visit to the subject (object) of control for the purpose of the minimum possible degree of restriction of freedom of entrepreneurship, ensuring an acceptable level of risk in the relevant areas of activity, as well as those aimed at changing the level of risk for a particular subject (object) of control and (or) exempting such subject (object) of control from preventive control with a visit to the subject (object) of control;

5) objective criteria for assessing the degree of risk (hereinafter - objective criteria) - criteria for assessing the degree of risk used to select subjects (objects) of control depending on the degree of risk in a certain area of activity and not directly dependent on an individual subject (object) of control;

6) risk assessment criteria - a set of quantitative and qualitative indicators related to the control subject's direct activities, specifics of industry development and factors affecting this development, which allow to assign control subjects (objects) to different degrees of risk;

7) subjective risk assessment criteria (hereinafter - subjective criteria) - risk assessment criteria used to select control subjects (objects) depending on the performance of a particular control subject (object);

8) checklist - a list of requirements for the activities of control subjects (objects), non-compliance with which entails a threat to human life and health, the environment, the legitimate interests of individuals and legal entities, the state;

9) sampling population (sampling) – a list of assessed subjects (objects) belonging to a homogeneous group of subjects (objects) of control in a specific area of state control, in accordance with clause 2 of Article 143 of the Code.

3. Risk assessment criteria and checklists, used for preventive control with a visit to the subject (object) of control shall be approved by a joint act of the regulatory state bodies and the authorised body on entrepreneurship and shall be placed on the Internet resources of the regulatory state bodies in accordance with clause 5 of Article 141 of the Code.

Chapter 2.

Procedure for the formation of a risk assessment and management system for preventive control of control subjects (objects)

4. For the purposes of risk management in the implementation of preventive control with a visit to the subject (object) of control, the criteria for assessing the degree of risk for

carrying out an inspection of preventive control of subjects (objects) of control shall be formed by determining objective and subjective criteria, which are carried out in stages (Multi-criteria decision analysis).

Preventive control with a visit to the subject (object) of control and an unscheduled inspection shall be conducted in respect of control subjects (objects) classified as medium risk according to objective criteria.

5. Depending on the possible risk and significance of the problem, the singularity or systemic nature of the violation, and the analysis of previous decisions on each source of information, the requirements imposed on the activities of control subjects (objects) shall correspond to the degree of violation - gross, significant, and insignificant.

The degree of violation (gross, major, minor) shall be assigned in accordance with the established definitions of gross, major, minor violations according to subjective criteria.

6. Criteria for assessing the degree of risk for preventive control of control subjects (objects) shall be formed by defining objective and subjective criteria.

Paragraph 1. Objective criteria

7. Determination of the objective criteria shall be carried out through risk determination.

8. According to objective criteria, the branches of the non-profit joint stock company "State Corporation "Government for Citizens" in terms of state registration of the emergence, change and termination of rights (encumbrances of rights) to immovable property belong to subjects (objects) of control of medium risk.

Paragraph 2. Subjective criteria

9. Determination of subjective criteria shall be carried out using the following stages:

- 1) database formation and information collection;
- 2) information analysis and risk assessment.

10. Database formation and information collection are necessary to identify the subjects (objects) of control that violate the legislation of the Republic of Kazakhstan in the field of registration of rights to immovable property.

11. The following sources of information are used to assess the degree of risks according to subjective criteria for preventive control with a visit to the subject (object) of control:

1) results of monitoring of reports and information submitted by the subject of control, including through the information system "Unified State Real Estate Cadastre" (hereinafter referred to as the IS "USREC");

2) results of previous inspections and preventive control with visits to control subjects (objects).

12. On the basis of available sources of information, the authorised body in the field of real estate registration generates data on subjective criteria to be analysed and evaluated according to Appendix 1 to these Criteria.

13. Analysing and assessing subjective criteria allows to focus preventive control of the control subject (object) on the control subject (object) with the highest potential risk.

Data of subjective criteria, previously recorded and used in relation to a particular control subject (object) or data for which the limitation period has expired in accordance with the legislation of the Republic of Kazakhstan shall not be used in the analysis and assessment process.

With regard to control subjects who have eliminated in full the violations issued on the basis of the results of the previous preventive control with a visit, it shall not be allowed to include them in the formation of lists for the next period of state control.

14. Based on the priority of the applied information sources and the significance of the indicators of the subjective criteria, in accordance with the procedure for calculating the overall risk level indicator for the subjective criteria, as defined in Chapter 3 of these Criteria, the risk level indicator for the subjective criteria shall be calculated on a scale from 0 to 100.

The priority of applied sources of information and the significance of indicators of subjective criteria are established according to the list of subjective criteria for determining the degree of risk according to subjective criteria in relation to the branches of the non-profit joint stock company "State Corporation "Government for Citizens" according to Appendix 1 to these Criteria.

Paragraph 3. Special features of forming a risk assessment and management system

15. The risk assessment and management system shall be maintained using IS "USRES" and other information systems that classify control subjects (objects) to specific risk levels and form lists of control measures, as well as based on state statistics, results of departmental statistical observation, and information tools.

16. The calculation of the risk level indicator according to subjective criteria, as well as risk level indicators, in accordance with which the subject of control shall be classified as high, medium or low risk, shall be established in the risk level assessment criteria according to the list of subjective criteria for determining the risk level according to subjective criteria in accordance with clause 14 of these Criteria.

Chapter 3. Procedure for calculating the degree of risk based on subjective criteria

17. The following procedure of calculation of a risk degree indicator shall be used for categorizing a control subject into a risk level in accordance with clause 4 of these Criteria.

The authorised body in the sphere of immovable property registration collects information and forms a database on subjective criteria from the following sources in accordance with

clauses 11 or 12 of these Criteria, depending on preventive control with a visit to the subject (object) of control.

The calculation of the risk level indicator by subjective criteria (R) is performed in an automated mode by summing up the risk level indicator for violations based on the results of previous inspections and preventive control with visits to control subjects (objects) (SP) and the risk level indicator by subjective criteria determined by the following in accordance with clause 14 of these Criteria (SC), with subsequent normalisation of data values into a range from 0 to 100 points.

$R_{\text{interim}} = SP + SC$, where

R_{interim} – an interim indicator of the degree of risk according to subjective criteria,

SP – is the indicator of risk degree by violations, a measure of the degree of risk by subjective criteria defined in accordance with clause 15 of these Criteria.

The calculation is made for each control subject (object) of a homogeneous group of control subjects (objects) of each sphere of state control. In this case, the list of assessed subjects (objects) of control attributable to a homogeneous group of subjects (objects) of control of one sphere of state control forms a sample population (sample) for the subsequent normalisation of data.

18. An indicator of the risk level of violations assessed in points from 0 to 100 is formed on the basis of data obtained from the results of previous inspections and preventive control with visits to the subjects (objects) of control.

19. If one gross violation is detected for any of the sources of information specified in clause 12 of these Criteria, the control subject is assigned a risk level indicator of 100 points and preventive control is carried out with a visit to the control subject (object).

If no gross violations are detected, the risk level indicator for violations is calculated by summing up the indicator for significant and minor violations.

A coefficient of 0.7 is applied in determining the indicator of significant violations.

This indicator is calculated according to the following formula:

$SP_3 = (SP_2 \times 100 / SP_1) \times 0,7$, where:

SP_3 – indicator of significant violations;

SP_1 – required amount of minor violations;

SP_2 – the number of identified minor violations;

A coefficient of 0.3 is applied in determining the indicator of minor violations.

This indicator is calculated according to the following formula:

$SP_H = (SP_2 \times 100 / SP_1) \times 0,3$, where:

SP_H – indicator of minor violations;

SP_1 – required amount of minor violations;

SP_2 – the number of identified minor violations;

The violation risk indicator (SR) is calculated on a scale from 0 to 100 points and is determined by summing up the indicators of significant and minor violations according to the following formula:

$SP = SP_3 + SP_H$, where:

SP – risk level indicator for violations;

SP₃ – indicator of significant violations;

SP_H – indicator of minor violations.

The resulting value of the risk level indicator for violations is included in the calculation of the risk level indicator according to subjective criteria.

20. The calculation of the risk level indicator according to subjective criteria, determined in accordance with clause 14 of these Criteria, shall be made on the scale from 0 to 100 points and is carried out according to the following formula:

$$SC = \sum_{i=1}^n x_i * w_i, \text{ где}$$

x_i – indicator of subjective criteria,

w_i – specific weight of the indicator of x_i subjective criterion,

n – the number of indicators.

The resulting value of the risk level indicator according to the subjective criteria determined in accordance with clause 16 of these Criteria, is included in the calculation of the risk level indicator based on subjective criteria.

21. The values calculated by subjects (objects) for indicator R are normalised into the range from 0 to 100 points. Data normalisation is carried out for each sampling population (sample) using the following formula:

$$R = \frac{R_{\text{пром}} - R_{\text{min}}}{R_{\text{max}} - R_{\text{min}}},$$

R – risk level indicator (final) according to subjective criteria of an individual subject (object) of control,

R_{max} – maximum possible value on the scale of risk degree by subjective criteria for subjects (objects) included in one sampling population (sample) (upper limit of the scale),

R_{min} – the minimum possible value on the scale of risk degree by subjective criteria for subjects (objects) included in one sampling population (sample) (the lower limit of the scale),

R_{interim} – an interim risk level indicator according to subjective criteria, calculated in accordance with clause 19 of these Criteria.

22. Checklists are prepared for homogeneous groups of control subjects (objects) and include requirements in accordance with clause 2 of Article 132 of the Code and in compliance with the conditions specified in clause 2 of Article 143 of the Code.

23. Checklists are generated in the form according to Appendix 2 to this joint order.

Appendix 1
to Risk Assessment Criteria
in the field of registration
of rights to immovable property

Degrees of violations of requirements of subjects (objects) of control in the field of registration of immovable property

№	Criteria	Degree of violation
1	Failure to allow state registration of rights to immovable property if the subjects and objects of legal relations, the type of right or encumbrance of the right to immovable property and other objects of registration or the grounds for their emergence, change or termination do not meet the requirements of the legislation	Gross
2	Preventing service recipients from requesting documents that can be obtained from information systems	Significant
3	Preventing state registration of rights to immovable property in the presence of encumbrances (seizure) in the legal cadastre that preclude state registration of a right or other object of state registration	Gross
4	Carrying out registration of encumbrances imposed by state authorities and other authorized persons, as well as legal claims from the moment the application is received by the registration authority	Gross
5	Preventing state registration of the right to a person included in the list of organizations and persons associated with the financing of terrorism and extremism	Gross
6	Preventing state registration of rights to immovable property with an incomplete package of documents required for state registration of rights to immovable property	Gross
	Provision of copies of documents in the registration file of the legal	

7	cadastre must be provided by the registration authority not later than three working days from the date of submission of the request for information	Significant
8	Preventing unjustified refusal of state registration of rights to immovable property	Gross
9	<p>Compliance with the deadlines for state registration:</p> <ul style="list-style-type: none"> - State registration of rights to immovable property (encumbrances on such rights) must be carried out within three working days of receipt of the application by the registering authority; - electronic registration must be made no later than one working day following the day on which the legal cadastre information system receives confirmation of payment for the state registration of rights to immovable property or exemption from payment ; - State registration of rights to immovable property of a notarized transaction must be carried out within one working day of receipt of the application by the registering authority; - State registration of rights (encumbrances of rights) to immovable property in an accelerated procedure is performed at the request of the applicant not later than one working day following the day of receipt of the application by the registering authority; - registration of encumbrances imposed by state authorities and other authorized persons, as well as legal claims must be made immediately upon receipt of the application by the registration authority; - State registration of the termination of encumbrances and legal claims must be carried out within one working day of receipt of the application by the registering authority. 	Gross

10	Compliance of the service provider with business processes of rendering a state service	Significant
11	Preventing unjustified suspension of state registration of rights to immovable property	Gross
12	Proper maintenance and storage of registration files	Gross
13	Availability on official Internet resources and in printed publications of information on disclosure of personal data of citizens, including the privacy of personal life during registration of rights to immovable property	Gross
14	Presence of facts of private rulings or determinations made by courts with respect to the subject of control	Gross
15	Presence of facts of the court's issuance of a legally effective decision on recognizing the fact of registration invalid, in which his fault is indicated	Gross
16	Presence of facts of court rulings, which have entered into legal force, in respect of the subject of control, according to justified complaints about the actions or inaction of officials, in which its guilt is indicated	Gross
17	Incorrect filling of IS "USRES"	Gross
18	Failure to send an application to block a terminated employee's login used to work in IS "USRES"	Minor
19	use of login of another responsible employee to work in IS "USRES" by employees	Significant

Appendix 2
to Risk Assessment Criteria
in the field of registration
of rights to immovable property

List

of subjective criteria for determining the degree of risk in the sphere of state registration of the emergence, change and termination of rights (encumbrances of rights) to immovable property

Item №	Source of information on the indicator of	Specific weight by importance, point (the total	Conditions /values, xi	

	Indicator of subjective criterion	the subjective criterion	should not exceed 100 points), wi	Condition 1 / value	Condition 2 / value
1	2	3	4	5	6
List of subjective criteria for determining the degree of risk in the field of registration of immovable property in accordance with Entrepreneur Code of the Republic of Kazakhstan					
For preventive control with visits					
1	Submission of information on the number of registration of immovable property	Results of monitoring of reports and information submitted by the subject of control	50	Timely submission / 0 %	Failure to submit a report / 100 %
2	Submission of information on the number of registration of immovable property with violation of the deadline	Results of monitoring of reports and information submitted by the subject of control	50	Timely submission / 0 %	Failure to submit a report / 100 %

Appendix 2 to the joint order of the Minister or Justice of the Republic of Kazakhstan dated November 1, 2018 № 1520 of the Minister of National Economy of the Republic of Kazakhstan dated November 5, 2018 № 55

Checklist

Footnote. Appendix 2 as amended by the joint order of the Acting Minister of Justice of the Republic of Kazakhstan dated 06.09.2023 № 643 and the Minister of National Economy of the Republic of Kazakhstan dated 07.09.2023 № 157 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

in the field of registration of rights to immovable property _____

(in accordance with Entrepreneur Code of the Republic of Kazakhstan)

in relation to the activity of branches of Non-commercial joint-stock company "State Corporation

"Government for Citizens" (registering bodies), which carry out registration of rights to immovable property

(Name of homogeneous group of control subjects)

State body that ordered the inspection/prophylactic control with a visit to the subject of control

Act on the assignment of an inspection/preventive control with a visit to control subject

_____ (№, date)

Name of the subject of control _____

(business identification number of the subject of control)

Registered address _____

№	List of requirements	Compliant	Non-compliant
1	2	3	4
1	Preventing state registration of rights to immovable property if the subjects and objects of legal relations, the type of right or encumbrance of the right to immovable property and other objects of registration or the grounds for their occurrence, change or termination do not meet the requirements of the legislation		
2	Preventing service recipients from requesting documents that can be obtained from information systems		
3	Preventing state registration of rights to immovable property in the presence of encumbrances (seizure) in the legal cadastre that preclude state registration of a right or other object of state registration		
4	conducting registration of encumbrances imposed by state authorities and other authorized persons, as well as legal claims from the moment the application is received by the registration authority		
	Preventing state registration of the right to a		

5	person included in the list of organizations and persons associated with the financing of terrorism and extremism		
6	Preventing state registration of rights to immovable property with an incomplete package of documents required for state registration of rights to immovable property		
7	provision of copies of documents in the registration file of the legal cadastre shall be provided by the registering authority not later than three working days from the date of submission of the request for information		
8	Preventing unjustified refusal of state registration of rights to immovable property		
	<p>compliance with the deadlines for state registration:</p> <ul style="list-style-type: none"> - State registration of rights to immovable property (encumbrances of such rights) must be carried out within three working days of receipt of the application by the registering authority ; - electronic registration must be made no later than one working day following the day on which the legal cadastre information system receives confirmation of payment for the state registration of rights to immovable property or exemption from payment; - State registration of rights to immovable property of a notarized transaction must be carried out within one 		

9	<p>working day of receipt of the application by the registering authority;</p> <ul style="list-style-type: none"> - State registration of rights (encumbrances of rights) to immovable property in an accelerated procedure is performed at the request of the applicant not later than one working day following the day of receipt of the application by the registering authority; - registration of encumbrances imposed by state authorities and other authorized persons, as well as legal claims must be made immediately upon receipt of the application by the registration authority; - State registration of the termination of encumbrances and legal claims shall be made within one working day of receipt of the application by the registering authority. 		
10	Compliance of the service provider with business processes of rendering a state service		
11	Preventing unjustified suspension of state registration of rights to immovable property		
12	Proper maintenance and storage of registration files		
13	Availability on official Internet resources and in printed publications of information on disclosure of personal data of citizens, including the privacy of personal life during the registration of rights to immovable property		
14	Presence of facts of private rulings or determinations		

	made by courts with respect to the subject of control		
15	Presence of facts of the court's issuance of a legally effective decision on recognizing the fact of registration invalid, in which his fault is indicated		
16	Presence of facts of court rulings, which have entered into legal force, in respect of the subject of control, according to justified complaints about the actions or inaction of officials, in which its guilt is indicated		
17	Incorrect filling of IS "USRES"		
18	Failure to send an application to block a terminated employee's login used to work in IS "USRES"		
19	use of login of another responsible employee to work in IS "USRES" by employees		

Official (s):

(position) (signature)

(surname, name, patronymic (if any))

Head of the subject of control

(position) (signature)

(surname, name, patronymic (if any))