



On approval of the Rules for changing the methods of organizing equity participation in housing construction

Unofficial translation

Order of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan dated August 8, 2019 no. 629. Registered with the Ministry of Justice of the Republic of Kazakhstan on August 13, 2019 no. 19233.

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In accordance with sub-clause 11-1) of article 5 of the Law of the Republic of Kazakhstan "On equity participation in housing construction" **I HEREBY ORDER:**

1. To approve the attached Rules changing the methods of organizing equity participation in housing construction.

2. The Construction and Housing-Communal Services Affairs Committee of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan, in accordance with the procedure, established by the law shall ensure:

1) 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, its direction in Kazakh and Russian languages to the Republican State Enterprise on the right of economic management "Institute of Legislation and Legal Information of the Republic of Kazakhstan" of the Ministry of Justice of the Republic of Kazakhstan for official publication and placement in the Reference Control Bank of the Regulatory Legal Acts of the Republic of Kazakhstan;

3) Posting this order on the Internet resource of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan.

3. Control over execution of this order shall be entrusted to the supervising vice-minister of Industry and Infrastructural Development of the Republic of Kazakhstan.

4. This order shall come into force upon expiry of ten calendar days from the date of its official publication.

Minister

"AGREED"

Ministry of National Economy
of the Republic of Kazakhstan

R. Sklyar

Approved by the order of the
Minister of Industry and
Infrastructural Development
of the Republic of Kazakhstan
dated August 8, 2019 № 629

Rules for changing the methods of organizing equity participation in housing construction

Footnote. The Rules are in the wording of the order of the acting Minister of Industry and Infrastructural Development of the Republic of Kazakhstan dated October 16, 2020 № 538 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 1. General provisions

1. These Rules for changing the methods of organizing equity participation in housing construction (hereinafter- the Rules) have been developed in accordance with the Law of the Republic of Kazakhstan "On equity participation in housing construction" (hereinafter- the Law) and shall determine the procedure for changing the methods of organizing equity participation in housing construction.

2. Confirmation of changing the method of organizing equity participation in housing construction shall be a concluded contract on provision of a guarantee or permission to raise money from equity holders (depending on the method of organizing equity participation in housing construction).

3. When changing the organization of equity participation in housing construction to the method of obtaining a guarantee from the Single operator of housing construction (hereinafter - the Single operator), participation in a second-tier bank project, the choice of an engineering company shall be carried out by the Single operator or a second-tier bank and a contract shall be concluded on provision of engineering services within the framework of civil legislation.

4. When changing the organization of equity participation in housing construction to the method of raising money from equity holders after carcassing of a multi-apartment residential building, the authorized company shall have the right to reconsider an engineering company, taking into account the requirements established by the Law.

4-1. For a complex of individual residential buildings, the method of organizing equity participation in housing construction is changed between the methods of participation in a second-tier bank project and obtaining a guarantee from a Single Operator.

Footnote. The rules were supplemented by paragraph 4-1 in accordance with the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

Chapter 2. Conditions for changing the organization of equity participation in housing construction by obtaining a guarantee from a Single operator for permission from the local executive body to raise money from equity holders

5. The developer and the authorized company that meet the conditions established in this Chapter shall have the right to change the organization of equity participation in housing

construction by the method of obtaining a guarantee from the Single operator, to another method provided for by the Law, by terminating the contract on provision of a guarantee.

6. Termination of the contract on provision of a guarantee shall be carried out in accordance with the civil legislation of the Republic of Kazakhstan.

7. Conditions preceding the change in the method of organizing equity participation in housing construction at the date of applying to the Single operator for termination of the contract on provision of a guarantee shall be:

1) the absence of a backlog of construction and installation work on the construction project of an apartment building or a complex of individual residential buildings for a period of more than 60 (sixty) calendar days from the approved schedule of work.

The backlog of construction and installation work on the construction of an apartment building or a complex of individual residential buildings is revealed on the basis of the report of an engineering company in the field of equity participation in housing construction on the results of monitoring the progress of construction of an apartment building or a complex of individual residential buildings, provided in accordance with the order of the Minister of National Economy of the Republic of Kazakhstan dated July 28, 2016 № 339 (registered in the Register of State Registration of Regulatory Legal Acts № 14189), a local executive body, regardless of the method of organizing equity participation in housing construction, as well as a Single operator or a second-tier bank (depending on the method of organizing equity participation in housing construction);

2) absence of an unfulfilled notification (if any) of the Single operator about the need for compensation by the developer and (or) an authorized company, a contractor (general contractor) to the bank account of an authorized company within 15 (fifteen) working days from the date the engineering company establishes the use of money in violation of requirements of Article 20 of the Law;

3) notarized consents for changing the method of organizing equity participation in housing construction of least three fourths of equity holders who have entered into a contract with an authorized company on equity participation in housing construction;

4) the absence of shareholders who have paid (in whole or in part) a share in an apartment building or a complex of individual residential buildings at the expense of a loan issued by the joint-stock company Housing Construction Savings Bank Otbas Bank or a second-tier bank guaranteed by a Single Operator.

Footnote. Paragraph 7 as amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

8. The authorized company shall publish information about the intention to change the method of organizing equity participation in housing construction in the mass media or on its own Internet resource 15 (fifteen) calendar days before the start of collecting the consents of equity holders.

The published informational message must contain the following:

1) information on the planned organization of equity participation in housing construction in a modified method with justification of this intention;

2) the stage of readiness of the project for the construction of an apartment building or a complex of individual residential buildings;

3) the deadline date and time, as well as the address to which notarized consents or refusal of the shareholder to change the method of organizing equity participation in housing construction must be sent.

Footnote. Paragraph 8 as amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

9. Upon termination of the guarantee agreement, the guarantee fee paid by the authorized company in accordance with the guarantee agreement is not refundable, except for early termination of the guarantee agreement in accordance with paragraph 4 of Article 30 of the Law.

Footnote. Paragraph 9 is amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

10. An agreement on termination of the guarantee contract shall be concluded in written form and shall enter into force from the date of the issue by the local executive body to the developer and the authorized company of permission to raise money from equity holders.

Chapter 3. Conditions for changing the organization of equity participation in housing construction by methods of obtaining a guarantee from a Single operator, participation in a second-tier bank project or raising money from equity holders after the carcassing of a multi-apartment residential building

11. Changing the organization of equity participation in housing construction by obtaining a guarantee from a Single Operator, participating in a second-tier bank project, or attracting money from equity holders after the construction of the frame of an apartment building is allowed if the developer, an authorized company, and the ongoing multi-apartment building project meet the following conditions:

1) requirements for the developer of an apartment building:

if the method of organizing equity participation in housing construction is changed from attracting money from equity holders after the construction of the frame of an apartment building or obtaining a guarantee from a Single Operator to the method of participation in a second-tier bank project, the developer must comply with the requirements provided for in paragraph 1 of Article 9 of the Law.

when changing the method of organizing equity participation in housing construction from participation in a second-tier bank project or obtaining a guarantee from a Single Operator to the method of attracting money from equity holders after the construction of the frame of an apartment building, the developer must comply with the requirements provided for in paragraph 1 of Article 10 of this Law.

when changing the method of organizing equity participation in housing construction from participation in a second-tier bank project or raising money from equity holders after the construction of the frame of an apartment building to the method of obtaining a guarantee from a Single operator, the developer must comply with the requirements provided for in paragraph 1 of Article 8 of this Law.

2) requirements for the developer of a complex of individual residential buildings:

when changing the method of organizing equity participation in housing construction from obtaining a guarantee from a Single Operator to a method of participating in a second-tier bank project, the developer must comply with the requirements provided for in paragraph 1-1 of Article 9 of this Law.

when changing the method of organizing equity participation in housing construction from participation in a second-tier bank project to a method of obtaining a guarantee from a Single Operator, the developer must comply with the requirements provided for in paragraph 1-1 of Article 8 of this Law.

3) an authorized company must have:

money and (or) unfinished construction, confirmed by acts of completed works, taking into account the requirements of Article 20 of the Law, in the amount of at least ten percent of the design value if the land plot belongs on the basis of the right of ownership, or in the amount of at least fifteen percent of the design value if the land plot belongs on the basis of the right of temporary compensation land use (lease) provided by the state (when changing to the organization of equity participation in housing construction by obtaining a guarantee from a Single operator);

the completed construction of the frame of an apartment building, confirmed by acts of completed work (when changing to the organization of equity participation in housing construction by attracting money from shareholders after the construction of the frame of an apartment building).

Construction and installation works on the unfinished construction specified in this subparagraph must be paid in full by the developer and (or) an authorized company before submitting an application to a Single Operator and confirmed by reconciliation reports between the customer and the contractor;

absence of overdue payments on loans (if any) from an authorized company issued by a second-tier bank for the construction of an apartment building or a complex of individual residential buildings;

the written consent of a second-tier bank to terminate collateral claims for a land plot together with an object of unfinished construction (in case of a change to the organization of equity participation in housing construction by obtaining a guarantee from a Single operator).

Footnote. Paragraph 11 is amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

12. The authorized company shall send a written notification on the change in the construction method in electronic or paper form to each equity holder who has entered into a contract on equity participation in housing construction, and also post information about the intention to change the method of organizing equity participation in housing construction in the mass media or on its own Internet -resource 15 (fifteen) calendar days before applying to the Single operator or the local executive body (depending on the method of organizing equity participation in housing construction).

Chapter 4. Procedure for consideration by the Single operator of documents for termination of a guarantee agreement

13. The developer and the authorized company shall apply to the Single operator with an application to terminate the guarantee contract with the attachment of documents confirming compliance with paragraph 7 of these Rules.

14. The Single operator, in accordance with its regulatory acts shall consider an application for termination of the contract on provision of a guarantee and no later than 15 (fifteen) working days shall provide a consent for termination or a reasoned refusal.

15. If the Single operator makes a decision to terminate the guarantee contract, an agreement on termination of a guarantee contract shall be concluded between the Single operator, the developer and the authorized company.

16. The Single operator, no later than 5 (five) working days from the date of entry into force of the agreement on termination of the contract on provision of the guarantee, shall be obliged to terminate the collateral requirements for the pledged items and transfer the corresponding original documents to the developer and the authorized company.

Chapter 5. Procedure for consideration by a Single operator of documents from the developer of an apartment building or a complex of individual residential buildings and an authorized company to change the method of organizing equity participation in housing construction to the method of obtaining a guarantee from a Single operator

Footnote. The title of Chapter 5 is as amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

17. The developer and the authorized company apply to a Single Operator with a request to change the method of organizing equity participation in housing construction to the method

of obtaining a guarantee from a Single operator, with the attachment of documents established by the Rules for reviewing documents on the construction project of an apartment building or a complex of individual residential buildings for the conclusion of a guarantee agreement, approved by the Order of the Minister of National Economy of the Republic of Kazakhstan dated September 30, 2016 № 432 (registered in the Register of State Registration of Regulatory Legal Acts № 14312) (hereinafter referred to as the Rules for Reviewing Documents), as well as provide the following additional documents:

1) documents confirming the written notification of all shareholders, as well as publication in the media or on their Internet resource about their intention to change the way an apartment building or a complex of individual residential buildings is built;

2) an extract from the Register of contracts for equity participation in housing construction, issued by the local executive body;

3) information on realized shares within the framework of equity agreements in housing construction with a schematic representation of houses, sold shares in an apartment building or a complex of individual residential buildings of the construction project;

4) documents confirming the receipt of money from shareholders paid for the shares in an apartment building or a complex of individual residential buildings, confirmed by an authorized company and an engineering company;

5) documents confirming the intended use of money in accordance with Article 20 of the Law, accompanied by certificates of completed works on the construction project, confirmed by the engineering company;

6) a copy of the bank loan agreement (if there is a bank loan);

7) a copy of the permission to attract money from shareholders;

8) a document confirming the absence of encumbrances on the land plot together with the object of unfinished construction and on voting shares (shares of participation in the authorized capital) of the authorized company.

Footnote. Paragraph 17 is amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

18. The Single operator shall consider an application to change the method of organizing equity participation in housing construction to the method of obtaining a guarantee from the Single operator in accordance with the Rules for consideration of documents, and within 15 (fifteen) working days shall make a decision to conclude a contract on provision of a guarantee or issues a reasoned refusal.

19. The developer and the authorized company, no later than 3 (three) working days from the date of conclusion of the contract on provision of the guarantee, shall send a notification to the local executive body about the refusal of permission to raise money from equity holders

Chapter 6. The procedure for consideration by the local executive body of documents of the developer and

the authorized company to change the method of organizing equity participation in housing construction to the method of participating in a second-tier bank project or raising equity holders' money after the carcassing of a multi-apartment residential building

20. To obtain a permission for raising money from equity holders, the developer and the authorized company shall send to the local executive body the documents established by the Rules for issuing permission to raise money from equity holders, approved by the order of the Minister of National Economy of the Republic of Kazakhstan dated July 29, 2016 № 352 (registered in the Register of state registration of regulatory legal acts № 14188) (hereinafter - the Rules for issuing a permit).

21. In addition to the documents specified in clause 20 of these Rules, the developer and the authorized company shall submit the following documents:

1) information about the written notification of all shareholders, as well as publications in the media or on their Internet resource about their intention to change the way an apartment building or a complex of individual residential buildings is built;

2) a document confirming the absence of encumbrances on the land plot together with the construction in progress and on the voting shares (participation stakes in the authorized capital) of the authorized company (if the organization of equity participation in housing construction is changed by participating in a second-tier bank project);

3) agreement on termination of the contract on provision of a guarantee (in case of a change in the organization of equity participation in housing construction by the method of obtaining a guarantee from a Single operator)

4) an extract on the balance of money from the bank account with confirmation of the funds used for construction, provided for in Article 20 of the Law, confirmed by an authorized company and an engineering company.

Footnote. Paragraph 21 as amended by the Order of the Minister of Industry and Construction of the Republic of Kazakhstan dated 16.09.2025 № 369 (effective ten calendar days after the date of its first official publication).

22. The local executive body, within the time limits established by the Rules for issuing a permit shall consider the submitted application and issue a permit to raise money from equity holders or shall send a motivated refusal.