

## **On the State Defence Order**

### *Invalidated Unofficial translation*

The Law of the Republic of Kazakhstan dated 19 January, 2001 No.146. Repealed by the Law of the Republic of Kazakhstan dated March 18, 2019 No. 236-VI (shall be enforced upon expiry of twenty-one calendar days after the day its first official publication).

#### *Unofficial translation*

Footnote. Repealed by the Law of the Republic of Kazakhstan dated March 18, 2019 No. 236-VI (shall be enforced upon expiry of twenty-one calendar days after the day its first official publication).

Footnote. Throughout the text the words “of goods”, “goods” are respectively substituted by the words “of goods (products)”, “goods (products)” by the Law of the Republic of Kazakhstan dated 16.02.2012 No. 562-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

This Law determines and regulates the legal relations of the state bodies, organizations and legal entities, irrespective of their form of ownership, in the issues of formation and execution of the state defence order for the needs of defense and security of the Republic of Kazakhstan.

## **Article 1: Basic concepts used in this Law**

The following basic concepts are used in this Act:

1) works of military purpose - activity connected with construction, with capital repair and modernization of defensive objects and military property, with creation of new arms and military equipment, special means, information, telecommunication and geoinformation systems, automated control systems, as well as scientific-research, experimental-design and other works connected with military property or maintenance of defense and security of the state, having material result;

2) domestic supplier of military works and services (hereinafter - domestic supplier of works, services) - a legal entity that is a resident of the Republic of Kazakhstan, which has the ability to perform works of military purpose and provide services of military purpose of the required quality on the most favorable economic terms;

3) military services - activities related to testing, operation, maintenance, current repair, liquidation by means of utilization, destruction, burial of unused military

property and unused property of special state and law-enforcement bodies, scientific and other activities related to ensuring defense and security of the state that have no material result;

4) military goods (products) - weapons, military and special equipment, ammunition, documentation, intellectual property rights objects, equipment for production and testing of goods (products) of military purpose, as well as their components;

5) domestic producer of military goods (products), dual-use goods (products) (hereinafter referred to as domestic producer of goods) - a legal entity which is a resident of the Republic of Kazakhstan and has production capacities required for production of military goods (products) and dual-use goods (products) of the required quality on the most favorable economic terms;

6) state customer of defense order (hereinafter referred to as the state customer) - state body of the Republic of Kazakhstan carrying out orders for development, research, production and supply of military goods (products), dual-use goods (products), military works and services;

7) chief executors of defense order (hereinafter referred to as chief executors) - operators on execution of defense order and authorized organization;

8) defense order execution operators (hereinafter referred to as operators) - legal entities determined by the Government of the Republic of Kazakhstan for defense order execution or selection of defense order performers;

9) defense order executor (hereinafter referred to as executor) - a legal entity performing defense order execution on the basis of the contract concluded with the operator, authorized organization and (or) state customer;

10) dual-use (application) goods (products) - goods and technologies used for civil purposes, but which may be used or subsequently re-profiled and used by state customers as military goods (products);

11) state defense order (hereinafter referred to as defense order) - a legal act of the Government of the Republic of Kazakhstan approving the list (nomenclature) and volume of goods (products) of military purpose, dual-use goods (products), works of military purpose and services of military purpose purchased for the needs of defense, ensuring military security and law and order in the state, activity of special state bodies, as well as performance of international treaties and obligations by the Republic of Kazakhstan;

12) Authorized body - a state body implementing the state policy in the field of formation, placement and performance of defense order;

13) Authorized organization - a legal entity determined by the Government of the Republic of Kazakhstan for the implementation of import of military goods (products), dual-use goods (applications), military works and services designed to ensure military

security, except for the import of these goods (products), works and services, carried out by domestic manufacturers and domestic suppliers of works and services in the performance of defense orders.

**Footnote.** Article 1 of the Law of the Republic of Kazakhstan dated 13.06.2017 No. 69-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

## **Article 2. The legislation of the Republic of Kazakhstan on defence order**

**Footnote.** The title of Article 2 as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2).

The legislation of the Republic of Kazakhstan in defence order shall be based on the constitution of the Republic of Kazakhstan, shall consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

If by the international treaty, ratified by the Republic of Kazakhstan, made other rules than those that contained in this Law, the Rules of the international treaty shall be applied.

**Footnote.** Article 2 as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2).

## **Article 3: Composition of the defence order**

1. Included in the defence order:

1) production and supply of arms, military and special equipment, technical means, ammunition and equipment for production and testing of military goods (products) and dual-use goods (products);

2) fundamental and applied scientific research in the field of defense and national security of the state, research and development work on the development of prototypes, modernization of weapons, military and special equipment, technical means, ammunition and equipment for production and testing of military goods (products) and dual-use goods (applications);

3) repair, modernization and regulated technical maintenance of armaments, military and special equipment, technical means, ammunition and equipment for production and testing of military goods (products) and dual-use goods (products);

4) Deactivation of unused military property;

5) liquidation by means of utilization, destruction, burial, processing, sale of unused military property and unused property of special state and law enforcement bodies, as well as their components;

6) development of design and estimate documentation, construction and repair of military, special facilities, as well as services on their maintenance and operation;

7) production of military and special forms of clothing, insignia and personal protective equipment for servicemen of the Armed Forces, other troops and military formations and employees of special state bodies and civil protection bodies.

A defence order must contain:

1) the list (nomenclature) and volume of supplied military goods (products), dual-use goods (products), military works and services, as well as the terms of their supply, performance and rendering;

2) the forecasted total cost (price) of the defense order, as well as by sections and stages of implementation;

3) list of state customers;

4) the list of lead executors as well as executors for special state bodies.

**Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 13.06.2017 No. 69-VI (shall be enforced upon expiration of ten calendar days after the day of its first official publication).**

#### **Article 4. Formation and placement of defence order**

1. Project of defence order shall be developed and formed by the authorized body on applications of the state customers on the basis of documents of the System of state planning of the Republic of Kazakhstan in the field of ensuring of defence and security of country, as well as in recognition of international treaties and obligations of the Republic of Kazakhstan upon formation of republican budget on the relevant planning period within the established expenses for these purposes.

2. Head executors are determined by the Government of the Republic of Kazakhstan on the proposal of the authorized body.

Operators shall select performers when placing a defense order in coordination with state customers (except for special state bodies) from among domestic manufacturers and domestic suppliers of works and services included in the register based on the ability to ensure the necessary conditions of production, including the protection of information constituting state secrets, the ability to produce military goods (products) and dual-use goods (products) and implement military works and services of the required quality on the most favorable economic terms.

Special state bodies of the Republic of Kazakhstan select performers in the process of formation of a defense order in coordination with the authorized body from among domestic manufacturers, domestic suppliers of works, services and (or) the authorized organization based on the possibilities of ensuring the necessary conditions of production, including the protection of information constituting state secrets, the ability

to produce military goods (products), dual-use goods (products) and implement military works and services of the required quality on the most favorable economic terms.

3. If it is impossible for operators to determine an executor from among domestic manufacturers, domestic suppliers of works and services, an authorized organization is recognized as the head executor based on the possibility to supply (import) military goods (products), dual-use goods (products) and perform military works and services.

If it is impossible for special state bodies to determine the executor from among domestic producers, domestic suppliers of works, services and (or) the authorized organization, the executor is determined from among foreign legal entities.

**Footnote.** Article 4 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication); No. 69-VI of 13.06.2017 (shall be enforced upon the expiration of ten calendar days after the date of its first official publication).

## **Article 5. Agreement for execution of defence order**

1. Execution of defence order shall be carried out on the basis of agreement between the state customer and executor. An agreement shall be concluded as for execution of whole complex of research and development works, production, supplies, operation, repair, modernization, recovery and elimination of armament and military equipment, other material means, as for the separate types of these works.

2. The quality of military goods (products), dual-use goods (dual-use goods (applications)), military works and services of military purpose, supplied under a contract for the performance of a defense order, shall comply with the requirements of regulatory and technical documentation and the terms of the contract.

**Footnote.** Article 5 as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2); No. 69-VI of 13.06.2017 (shall be enforced upon the expiration of ten calendar days after the date of its first official publication).

## **Article 6. Execution of defence order**

1. Defence order is obligatory for execution in the priority procedure. Volumes of defence order shall be determined by the financial means, allocated for implementation of defence order.

2. The state customer is entitled to send its representatives to the organizations performing the defense order to control the quality of supplied military goods (products

), dual-use goods (products), military works and services within the limits established by the legislation of the Republic of Kazakhstan.

3. Export and import of military goods (products), dual-use goods (applications), military works and services of military purpose provided for by the defense order are carried out in accordance with the legislation of the Republic of Kazakhstan.

**Footnote. Article 6 as amended by the Laws of the Republic of Kazakhstan dated 20.12.2004 No. 13 (shall be enforced from 1 January, 2005); dated 11.07.2009 No. 182 -IV (the order of enforcement see Article 2); No. 69-VI of 13.06.2017 (shall be enforced upon the expiration of ten calendar days after the date of its first official publication).**

## **Article 7. The competence of the Government of the Republic of Kazakhstan and authorized body**

1. The Government of the Republic of Kazakhstan shall:

1) approve the defence order for a three-year period within the established expenses for these purposes within two months after the adoption of the Law of the Republic of Kazakhstan on republican budget;

2) approve the Rules of formation, placement and execution of the state defence order of the Republic of Kazakhstan;

3) determine the authorized body;

4) determine the authorized organization; 5) execute other functions, imposed on it by the Constitution, the Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan;

4-1) defines the operators.

2. An authorized body shall:

1) carry out management in the field of formation, placement and execution of defence order;

2) *Is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159 -V (shall be enforced upon expiry of ten calendar days after its first official publication );*

3) forms the defense order, submits it for approval of the Government of the Republic of Kazakhstan and brings the tasks of the approved defense order to the head executors;

3-1) develops and approves the rules of formation and maintenance of the register of domestic manufacturers and domestic suppliers of works and services;

3-2) develops and approves the register of domestic manufacturers and domestic suppliers of works, services in coordination with other state customers;

4) carry out cross-sector coordination and control of execution of defence order;

4-1) coordinates and controls the activities of lead performers within the framework of defense contracts;

5) execute other powers, provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

*Footnote. Article 7 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2); as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 16.02.2012 No. 562-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2014 No. 159-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2017 № 69-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).*

## **Article 8. Functions of the state customer upon formation and execution of defence order**

The state customers shall:

1) make payment of necessary goods (products), works and services of military and double designation (application), based on the needs of ensuring of defence and security of the Republic of Kazakhstan, prospects of material and technical re-equipment of the state customers, by standards approved by the Government of the Republic of Kazakhstan;

2) determine degree of secrecy of details of defence order in accordance with collection of the lists of details, subjected to classification by the state bodies of the Republic of Kazakhstan;

3) *Is excluded by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2);*

4) conclude agreements with executors, provide financing and carry out control of their execution;

5) develop technical features for new types of armament and military equipment, participate in the tests of experimental and production models of armament and military equipment, provided for the technical documentation;

6) participate in preparation of documents for acceptance of experimental models of armament and military equipment in the inventory (equipment), approval of design documentation for transfer them into mass production;

7) carry out acceptance of stages and work in general, issuance conclusions on their conformance to the specified requirements and conditions of agreements;

8) *Is excluded by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2).*

**Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2).**

## **Article 9: Functions of operators, authorized organizations and executors in the performance of defense orders**

1. Operators in the course of a defense order:

1) in accordance with the procedure determined by the Government of the Republic of Kazakhstan, select executors from among the organizations included in the register of domestic manufacturers and domestic suppliers of works and services;

2) justify the price of military goods (products), dual-use goods (products), military works and services;

3) enter into a contract with a state customer for performance of a defense order;

4) form and maintain a register of domestic manufacturers and domestic suppliers of works and services;

5) take measures for timely and proper execution of defense orders on the basis of contracts concluded with executors included in the register of domestic producers of goods and domestic suppliers of works and services;

6) provide, upon request of the authorized body, information on their activities;

7) use budget funds paid by state customers only for performance of defense order and its advance payment;

8) keep separate records of the results of financial activity under each contract for the performance of defense orders;

9) perform other functions in accordance with the legislation of the Republic of Kazakhstan.

2. Authorized organization:

1) carries out import of goods (products) of military purpose, goods (products) of dual purpose (application), works of military purpose and services of military purpose necessary for maintenance of military safety, and also activity of special state bodies, except for import of the specified goods (production), works and services which are carried out by domestic commodity producers and domestic suppliers of works, services which are got for manufacture of the specified goods at performance of the defensive order;

2) justify the price of military goods (products), dual-use goods (products), military works and services;

3) carry out liquidation by means of destruction, utilization, burial of unused military property and unused property of special state and law enforcement bodies;

4) carries out the sale (export) of unused military property and unused property of special state and law enforcement bodies, including products of their utilization and processing;

5) carries out the organization of carrying out of an estimation of not used military property and not used property of special state and law enforcement bodies;

6) concludes an agreement with the state customer on performance of the defense order;

7) provide information on its activity upon request of the authorized body;

8) use budget funds paid by state customers only for performance of defense order and its advance payment;

9) keep separate records of the results of financial activity under each contract for the performance of defense order;

10) perform other functions in accordance with the legislation of the Republic of Kazakhstan.

### 3. Performers:

1) provide information on their activities at the request of state customers and the authorized body;

2) ensure compliance of the supply of military goods (products) and dual-use goods (products), as well as performed military works and rendered military services with the terms of the contract concluded with the operator;

3) justify the price of military goods (products), dual-use goods (products), military works and services;

4) import military goods (products), dual-use goods (products), military works and services required for the production of goods (products) supplied under defense order;

5) use budgetary funds paid by state customers only for performance of defense orders and their advance payment;

6) keep separate records of the results of financial activity under each contract for the performance of defense orders;

7) perform other functions in accordance with the legislation of the Republic of Kazakhstan.

**Footnote. Article 9 of the Law of the Republic of Kazakhstan dated 13.06.2017 No. 69-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).**

**Article 10. (Is excluded by the Law of the Republic of Kazakhstan dated 20 December, 2004 No. 13 (shall be enforced from 1 January, 2005))**

**Article 11. Responsibility for violation of the legislation on defence order**

Violation of the legislation of the Republic of Kazakhstan on defence order shall entail responsibility, established by the Laws of the Republic of Kazakhstan.

Footnote. Article 11 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 182-IV (the order of enforcement see Article 2).

The President  
of the Republic of Kazakhstan

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