

On Merchant Shipping

Unofficial translation

The Law of the Republic of Kazakhstan dated 17 January, 2002 № 284.

Unofficial translation

Footnote. Throughout the text, the words “State Register of Ships”, “State Register of Ships”, “State Register of Ships” are replaced by the words “State ship registry of marine vessels”, “State ship registry of marine vessels”, “State ships registry of marine vessels” – by the Law of the Republic of Kazakhstan dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication, with the exception of the third subparagraph of paragraph 12) of Article 1, which entered into force from 1 January, 2010 - see p.2).

Footnote. Throughout the text, the words “the legislation of the Republic of Kazakhstan on labour” are replaced by the words “the labour legislation of the Republic of Kazakhstan”; the words “individual”, “to individual” are excluded by the Law of the Republic of Kazakhstan dated 15 May, 2007 № 253.

This Law defines the legal, institutional, economic and international foundations of public administration in the field of merchant shipping and regulates the relations, connected with the carriage of passengers, baggage and cargo, safety in maritime transport and protection of environment.

Chapter 1. General Provisions

Article 1. The basic definitions, used in this Law

The following basic definitions are used in this Law:

1) an accident - an event with a ship that led to a disaster and resulted in partial or complete loss of its seaworthiness, resulting in damage by the ship to another ship (ships), aids to navigation, a coastal structure, loss or damage by the ship to the towed object, death or harm to human health, loss of a person from the ship, as well as harm to the environment;

1-1) emergency contribution - an amount of money that the recipient is obliged to pay to the carrier when the cargo is handed over to him to reimburse expenses in the event of general accident as security for the payment of his share in the general accident expenses;

2) the recipient - a person, authorized to collect goods under the contract of sea carriage of goods;

3) special staff - persons that are not members of the crew, but staying on board permanently due to nomination of the vessel (employed in harvesting and processing of marine living resources, scientific, engineering and technical personnel, laboratory workers, workers, and others);

4) bareboat charter – type of charter contract under which the carrier is obligated for due payment (freight) to give the freighter for possession and use for a specified period of the ship or several ships, not equipped and not staffed with the crew for the carriage of passengers, baggage and goods, and other purposes of merchant shipping;

5) usual route – the route of the ship that is common in the maritime practice;

6) demurrage - the payment for demurrage time;

7) dispatch – remuneration to the freighter for the end of loading the ship before the expiry of laytime;

8) average adjustment - a document, drawn up by the average adjuster, containing the payment of damages and costs in general average, and their distribution among the parties, involved in the common maritime adventure;

9) average adjusters – persons that have knowledge and experience in the field of maritime law, and making calculation to determine the average adjustment;

10) accounting unit - a unit of the Special Drawing Right, defined by the International Monetary Fund;

11) freight - fee for shipping, as well as remuneration under contracts of bareboat charter and time charter;

12) the joint marine adventure - property (ship, freight and cargo), at the expense of which the costs in general average shall be reimbursed;

13) passenger - a person that is in a contractual relationship with the carrier and indicated in the ticket or other document, confirming his (her) right to travel, or carrying out under the contract of carriage of goods with the consent of the carrier the escort of vehicle, animals and other goods;

14) passenger ship - a vessel, intended for the carriage and carrying more than twelve passengers;

15) passenger certificate – a ship document, containing information about the maximum permissible number of passengers on board;

16) the sender – a person, sending the goods in accordance with the contract of sea carriage and indicated in the shipping documents;

17) floating drilling rig - vessel (floating structure), designed for drilling operations for the exploration and (or) the extraction of groundwater resources of the seabed;

18) cargo ship - a ship that is not a passenger, intended for the carriage of goods;

19) incident - an incident or series of occurrences, having the same origin, which causes damage or creates a grave and imminent threat of causing such damage;

20) cabotage - transportation and towing in communication between the sea ports of the Republic of Kazakhstan, as well as from the port (points) of loading to the port (point) of discharge, located under the jurisdiction of the Republic of Kazakhstan;

21) cabin luggage - things of passengers that compactly packed and loosely placed in the cabin or on the shelves in public places, and carried with them, within the established limits in quantity and size;

21-1) Professional diploma is a diploma issued to a ship's crew member and confirming his(her) qualification;

22) ship – a self-propelled or propelled floating structure, including non-displacement ship and seaplane, used for the purpose of merchant shipping;

23) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

24) owner of vessel - the person operating the ship on its own behalf, regardless of whether it is the owner of the ship or it uses it on any other legal basis;

25) ship mortgage – mortgage of the marine vessel, inland ship, river –sea navigation vessel subject to state registration, as well as the vessel under construction arising under the contract, registered in the appropriate register;

25-1) Register of shipping – a Republican State Enterprise of Classification and technical safety of ships, established by the resolution of the Government of the Republic of Kazakhstan;

26) pilotage - carrying vessels, carried out by the pilot;

27) the charterer - a party to the charter contract, that is provided with the ship or several ships for a certain period of time for the carriage of passengers, baggage and cargo, or other purposes of merchant shipping;

28) freighter - a party to the charter contract, providing a ship or several ships for a certain period of time for the carriage of passengers, baggage and cargo, or other purposes of merchant shipping;

29) owner of the ship - a person, registered as the owner of the ship in accordance with the Rules of state registration of ships and the rights to them;

30) capacity of the ship - the ship's ability to take carriage of the amount of cargo, depending on the volume of its cargo spaces that shall be calculated in cubic meters or cubic feet;

31) Bill of lading - a document, issued by the carrier to the sender and certifying the acceptance of cargo to be transported;

32) demurrage - the time period during which the ship is being loaded in excess of the lay time;

33) dangerous cargo – cargo which, by virtue of its inherent properties may cause explosion, fire, or damage to hardware, devices, buildings and structures, as well as death, injury or disease in humans, animals, harm the environment in transportation, production handling and storage;

34) pilot – a specialist with certain knowledge and skills in the filed of safe conduct of ships to the site of mooring, anchoring and permutations of ships in port;

35) pilot service - activities of the pilot (pilots);

36) oil tanker - a cargo ship constructed or adapted for the transportation and storage of oil and oil products;

37) the actual carrier – a carrier, actually engaged in the carriage of passengers, baggage and cargo, or part of them;

38) through bill of lading - a document, issued by the carrier to the sender and certifying the acceptance of cargo, to be transported, which provides that part of the transportation has to be carried out by another carrier;

39) port waters - internal waters of the Republic of Kazakhstan, bounded by a line, passing through the outermost seaward points of hydraulic and other structures of ports, or determined in accordance with the international treaties, ratified by the Republic of Kazakhstan;

39-1) port facilities is the sea terminals serving vessels engaged in international voyages, as well as the water area of the seaport, including areas of parking, waiting areas, approaches to the seaport;

40) port towing - towing and performing maneuvers in the waters of the port, including to enter a ship or other floating object in port or out port;

41) merchant shipping - activities on the transportation of passengers, baggage and cargo by ships, as well as activities related to the use of ships for other commercial and non-commercial purposes (hydrographic, scientific, hydrotechnical, rescue and others), with the exception of military ships and border guard vessels, boats used to perform the functions assigned to them;

42) lay time - the time period during which the vessel is being loaded without any additional payment to the freight;

43) sub-bareboat charter – a charter contract under which the charterer is obligated for the due payment (freight) to provide third parties in possession and use of the vessel for a specified period or more vessels that not equipped and not equipped with the crew for the carriage of passengers, baggage and cargo and other purposes of merchant shipping;

44) subtime charter – a charter contract under which the charterer is obliged to provide to third parties for remuneration for a certain period a ship or several ships, equipped and crewed for the carriage of passengers, baggage and cargo, and other commercial navigation purposes;

44-1) removal of sunken property - actions aimed at preventing, reducing or eliminating the danger posed by the sunken property, including raising sunken property from the water or refloating it or moving it outside the established sea corridors, or destroying it, as well as, when necessary, a set of these actions. Removal of the sunken property shall also include related work on the transportation and storage of the sunken property;

45) towing vessel – a vessel, designed for the towing and canting of other vessels and floating structures;

46) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

47) time charter – a time charter party under which the freighter is obligated for the due payment (freight) to provide the charterer a ship and services of the crew members in use for a specified period for the carriage of passengers, baggage and cargo, and other commercial navigation purposes;

48) transport regulations – regulatory legal acts, regulating the activities of maritime transport in the carriage of passengers, baggage, cargo, and approved by the authorized body;

49) the carrier - the ship owner, providing services for the carriage of passengers, baggage , mail and cargo, and specified in the transport documents;

50) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

51) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

52) marine navigational aids - lighthouses, buoys and other navigation equipment, ensuring the safety of navigation;

53) sea waybill – carriage document, issued in the carriage of goods by sea;

53-1) Marine studying and training center is a legal entity carrying out training (retraining) and skills development of maritime transport specialists in accordance with international requirements;

54) seaport - a complex of buildings, located on the provided in the legislation of the Republic of Kazakhstan land plots and intended for the service of vessels, passengers, baggage and cargo operations with, as well as for other purposes of maritime transport;

55) maritime claim – claims, asserted in connection with the use of ships for the purpose of merchant shipping (compensation for harm, payment of fees, etc.);

56) marine terminal - a special area in the seaport that includes a set of technical resources , engineering structures, weight-handling and other equipment to ensure the conditions for loading (unloading) of cargo, their storage, processing of vehicles, adjacent to the marine mode of transportation, as well as boarding, disembarkation and other passenger service;

57) operator of the marine terminal - a person that owns on the right of ownership or other legal basis the terminal in the seaport;

57-1) marine towing - towing of vessel or other floating object at a certain distance;

57-2) marine protest - a statement of the ship's captain about the incident that took place during a voyage or dockage, which can be the basis for a presentation to the ship owner the property claims in order to provide evidence;

58) authorized body - the central executive body, governing in the field of merchant shipping, as well as within the limits, stipulated by the legislation of the Republic of Kazakhstan, - in cross-sectoral coordination;

58-1) National sea carrier - a legal entity that renders services for the carriage of passengers, baggage, mail, cargo in international traffic and determined by the authorized body;

59) charter – a type of maritime contract for the carriage of passengers, baggage, cargo, where the sender is provided the whole vessel, part of it or certain areas of the vessel;

59-1) small size vessel - a vessel of not more than twenty meters with the permissible number of persons on board not more than twelve persons, other than vessels built or equipped for fishing, transportation of goods, towing, carrying out prospecting, exploration and mining, construction, travel, hydraulic and other similar works, pilotage and icebreaker assistance, as well as the implementation of measures to protect water bodies from pollution and contamination;

60) the foreign classification society is a foreign organization, carrying out technical supervision, inspection and classification of vessels, as well as the organization for certification of educational institutions, carrying out training (retraining) and skills development of specialists of maritime transport, marine studying and training centers and recognized by the authorized body, in the manner stipulated by international treaties of the Republic of Kazakhstan.

Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 29.12.2006 № 209 (the order of enforcement see Art. 2); as amended by the Laws of the Republic of Kazakhstan dated 19.03.2010 № 258-IV; dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 № 34-V (shall be enforced from the day of its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication), dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2015 № 276-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.05.2017 № 59-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 16.11.2020 № 375-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 2. Legislation on Merchant Shipping

1. Legislation of the Republic of Kazakhstan on merchant shipping is based on the Constitution of the Republic of Kazakhstan and consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If an international treaty, ratified by the Republic of Kazakhstan makes other rules than those provided for in this Law, the provisions of an international treaty shall apply.

Article 2-1. Application of resolutions and recommendations of the International Maritime Organization (IMO)

The application of the resolutions and recommendations of the International Maritime Organization (IMO) on the territory of the Republic of Kazakhstan is carried out by adopting the relevant regulatory legal acts provided for by the legislation of the Republic of Kazakhstan on merchant shipping, making the necessary changes and additions to them, or specifying references in them on the application of specific resolutions and recommendations of the International Maritime Organization (IMO).

Footnote. Chapter 1 is supplemented with article 2-1 in accordance with the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 3 Scope of this Law

1. This Law shall apply:

1) for marine vessels during their voyage by sea routes, rivers, lakes, reservoirs and other waterways of the Republic of Kazakhstan;

2) for the inland waterway vessel, river-sea navigation vessel while en route by sea routes, rivers, lakes, reservoirs and other waterways of the Republic of Kazakhstan in the carriage of passengers, baggage and cargo entering the seaport, while rescue operations, and when confronted with sea vessel;

3) for small size vessels, navigating in the Caspian Sea.

2. This Law shall not apply to the ships, boats and other vessels, sailing under the flag of the Naval Forces of the Republic of Kazakhstan and the Border Guard Service of the National Security Committee of the Republic of Kazakhstan.

Footnote. Article 3, as amended by the Laws of the Republic of Kazakhstan dated 02.06.2005 № 55 (shall be enforced from the day of its official publication, with the exception of the third subparagraph of paragraph 12) of Article 1, which shall be enforced from 1 January 2010 - see. p. 2); dated 16.01.2013 № 71-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 16.11.2020 № 375-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 4. The State administration in the field of merchant shipping

1. (is excluded – № 55 dated 02.06.2005).

2. The competence of the Government of the Republic of Kazakhstan in the field of merchant shipping shall be:

1) development of main directions of the state policy in the field of merchant shipping, strategic and tactical measures for its implementation;

2) (is excluded);

2-1) approval of the Rules for transfer of seaports, with the status of international importance, in payment for the shares of the national management holding company, National Holding, national company;

3) implementation of the interstate and international cooperation in the field of merchant shipping;

4) adoption of a decision to ban the transit passenger services on the territory of the Republic of Kazakhstan;

5) adoption of a decision to ban the import, export, transit of baggage and cargo on (from) the territory of the Republic of Kazakhstan;

6) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

7) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

8) is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication);

9) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

10) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

10-1) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

11) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-V (shall be enforced upon expiry of ten calendar days after its first official publication);

12) (is excluded).

13) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

14) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

15) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

15-1) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

16) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

17) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

18) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

19) – 31-1) are excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

31-2) approval of the sample seafarers' identity document of the Republic of Kazakhstan and requirements for its protection, as well as the procedure for its execution, issuance, replacement, delivery, seizure and destruction;

31-3) approval of the rules for navigation and hydrographic support of marine activities in the Kazakhstan sector of the Caspian Sea;

32) exercise other powers, stipulated by the Constitution, this Law, other laws of the Republic of Kazakhstan and the acts of the President of the Republic of Kazakhstan.

2-1. Authorized body shall act as the Maritime Administration of the Republic of Kazakhstan within the powers, defined by the Government of the Republic of Kazakhstan.

3. The competence of the authorized body shall be:

1) participation within its competence in the implementation of inter-state and international cooperation in the field of merchant shipping and representation of the interests of the Republic of Kazakhstan in the international organizations, including the enforcement of international treaties;

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

2-1) development of the Rules for the transfer of seaports, with the status of international importance, for payment for the shares of the national management holding company, National Holding, a national company;

2-2) is excluded by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

3) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

4) is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication);

5) approval of the statute concerning a seaport captain;

5-1) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

6) adoption of the decision on granting the right to sail under the State flag of the Republic of Kazakhstan and the temporary transfer of a vessel under the flag of a foreign state ;

6-1) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

7) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

8) is excluded by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (

shall be enforced upon expiry of ten calendar days after its first official publication);

9) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

9-1) the investigation of accidents with vessels, subject to state registration in the ship's book;

10) is excluded by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication);

11) is excluded by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication);

12) approval of the list of positions (jobs) of workers of state control in the maritime transport, which are issued uniforms (without shoulder straps), sample forms and insignia, the order of wearing the uniform (without shoulder straps);

13) is excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced from 30.01.2012);

13-1) is excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced from 30.01.2012);

14) (is excluded).

15) carrying out state registration of vessels and the rights to them in the ship's book;

16) control of ensuring the safe navigation, implemented through the Marine administration of a port;

17) issuance of a permit for the operation of a ship flying the flag of a foreign state in the Kazakhstani sector of the Caspian Sea;

18) is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication);

19) control and supervision of the classification, investigation and recording of accidents with ships, conducted by the Marine administration of a port;

20) control and supervision of compliance with the ship manning requirements;

21) is excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced from 30.01.2012);

22) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

23) control and supervision over the safe operation of port facilities;

23-1) determination of the list of requirements, violation of which entails the use of prompt response measures, also determination of the specific type of prompt response measure for specific violations of the requirements, indicating duration of this measure (if necessary).

The list of requirements, the violation of which entails prompt response measures, shall include requirements that are the subject of state control in accordance with Article 143 of the Entrepreneur Code of the Republic of Kazakhstan;

23-2) approval of forms of supervision acts in merchant shipping;

24) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

25) is excluded by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication);

26) interaction with the state bodies of the Republic of Kazakhstan on issues of safety on water transport;

27) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

28) check the availability of the ship's documents on board;

29) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

30) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

31) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

32) State control and supervision over the observance of individuals and legal entities with the requirements of regulatory legal acts of the Republic of Kazakhstan, which determine the functioning of water transport, the identification and adoption of measures to prevent their violations;

33) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

34) is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication);

35) is excluded by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication);

36) is excluded by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication);

37) request from individuals and legal entities of the required information, materials, reference data on all matters within the competence of the authorized body;

38) is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication);

39) is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication);

40) drafting, within its competence, of acts on the results of inspections and making orders to eliminate revealed violations of the Republic of Kazakhstan on the merchant shipping, documents on standards and norms governing the functioning of water transport;

40-1) consideration of draft documents on standardization within its competence, as well as preparation of proposals for the development, amendment, revision and cancellation of

national, intergovernmental standards, national classifiers of technical and economic information and recommendations on standardization for submission to the authorized body for standardization;

42) implementation in the manner and in cases, stipulated by the legislation of the Republic of Kazakhstan, the administrative detention of marine and small size ships, the inspection of marine and small size ships;

42-1) suspension and prohibition of the traffic(operation) of small vessels if there is a threat to the safety of navigation, life and health of people, the environment, the safety of cargo;

43) seizure of documents, goods or other property and items, belonging to a legal entity, that was the instrument or object of an administrative offence, found at the scene of an administrative offence or during the inspection of areas, facilities, vehicles, goods, other property and items, belonging to the legal entity;

44) is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication);

45) involvement of relevant specialists to participate in the examination on matters within the competence of the authorized body;

46) make proposals to the state bodies on measures to prevent accidents and traffic accidents, violations of the rules of operation of water transport;

47) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

48) approval of the Rules for the Classification and Construction of ships;

49) approval of the Rules on Load Lines of ships;

49-1) approval of the rules for measuring ships;

50) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

51) approval of the Rules for the certification of lifting equipment of ships;

52) approval of the Rules for the supply of ships' crews;

53) establishment of features for the regulation of working time and rest time of swimming convoy of the Naval Forces of the Republic of Kazakhstan in agreement with the authorized state body for labour;

54) establishment of features for the regulation of work of seafarers and their wages in agreement with the authorized state body for labour;

55) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

55-1) definition of the authorized organization for the provision of services in the field of navigation and communication in the field of maritime traffic;

55-2) approval of the Rules for state registration of ships and rights on them

- 55-3) approval of samples of professional diploma, diplomas confirm, rules of seafarers' certification;
- 55-4) approval of the list of dangerous cargo to be transported by vessels;
- 55-5) approval of a model of a seaman's book, the order of its registration, and issuance;
- 55-6) approval of the rules for issuing a permit for the operation of a ship flying the flag of a foreign state in the Kazakhstani sector of the Caspian Sea;
- 55-7) acceptance on the basis of international treaties of the Republic of Kazakhstan the solutions for recognition of a foreign classification society;
- 55-8) determination of the authorized organization for certification of educational institutions, carrying out training (retraining) and skills development of specialists of maritime transport, marine studying and training centers;
- 55-9) approval of the rules on the equipment of marine vessels;
- 55-10) approval of technical regulations in the field of merchant shipping;
- 55-11) approval of the rules of navigation and anchorage in the seaports of the Republic of Kazakhstan and the approaches thereto;
- 55-12) approval of the rules of the investigation of accidents with ships;
- 55-13) approval of the list of the ship's documents, the maintenance rules of ship's documents and requirements for ship's documents;
- 55-14) approval of the rules of transportation of passengers, baggage and cargo;
- 55-15) approval of the rules for the operation of seaports, including seaports having the status of international importance, port facilities and seaport water area;
- 55-16) establishing requirements for minimum crew of the ship;
- 55-17) approval of the rules for investigation of accidents with vessels, subject to the state registration in the ship's book;
- 55-18) approval of the rules for certification of skippers on the right to drive a small vessel;
- 55-19) approval of the rules for use of small vessels and bases (facilities) for their sites;
- 55-20) approval of the form and order of logging continuous registration of the vessel's history;
- 55-21) approval of the Charter of service on vessels of Maritime Transport of the Republic of Kazakhstan;
- 55-22) approval of the list of forms and certificates for training of specialists of maritime transport in accordance with the requirements of international treaties of the Republic of Kazakhstan in the field of merchant shipping;
- 55-23) determination of the order of placement of the seaports for their construction;
- 55-24) approval in consultation with the central authorized body on budget planning of the natural norms for the employees of the state control in the maritime transport by uniforms (without shoulder straps);

55-25) approval of the rules for issuance of certificate of insurance or other financial security of civil liability for oil pollution damage;

55-26) development and approval of the rules for technical supervision of decked small vessels;

55-27) approval of the order of keeping registers of seafarers' identity document of the Republic of Kazakhstan, professional diplomas, professional diplomas confirms, preferential permits, seafarers;

55-28) approval of the rules for medical examination of ship's crew members, requirements to their health status and physical fitness, as well as the form of medical conclusion in consultation with the authorized body in the field of health;

55-29) is excluded by the Law of the Republic of Kazakhstan dated 05.05.2017 № 59-VI (shall be enforced upon expiry of ten calendar days after its first official publication)

55-30) approval of the rules for certification of educational institutions, carrying out training (retraining) and skills development of specialists of maritime transport, marine studying and training centers and the requirements thereto;

55-31) approval of the rules for determining the authorized organization for the for certification of educational institutions, carrying out training (retraining) and skills development of specialists of maritime transport, marine studying and training centers;

55-32) excluded by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication);

55-33) excluded by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication);

55-34) excluded by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication);

55-35) approval of the port facility security assessment report and the port facility security plan and amendments thereto;

55-36) approval of the rules and requirements for the security of ships and port facilities;

55-37) definition of an authorized organization for the assessment of port facility security and the development of a port facility security plan;

55-38) approval of the list of water basins depending on the category of navigation areas for small vessels;

55-39) in agreement with the authorized body in the field of environmental protection, approval of the rules for prevention of pollution from ships;

55-40) participation in the investigation of accidents with ships on the territory of other states;

55-41) approval of the rules for granting the status of a seaport;

55-42) approval of the rules for the application of prices (tariffs) for mandatory services of the seaport;

55-43) approval of the rules for navigation in the territorial waters of the Republic of Kazakhstan;

55-44) approval of the rules for the survey of sea vessels;

55-45) approval of the rules for issuing and the form of a certificate of insurance or other financial security of liability for the removal of sunken ships;

55-46) approval of the rules for the removal of sunken property;

56) exercise other powers, stipulated by this Law, other laws of the Republic of Kazakhstan, the acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

3-1. Local executive bodies in the organization of construction and reconstruction of the objects of transport infrastructure in the field of merchant shipping shall coordinate projects with the authorized body.

3-2. The competence of the local executive bodies shall include:

1) the issuance of licenses to drive self-propelled small vessels;

2) recording of training courses for skippers of small vessels;

3) coordination of the design, location, construction and operation of coastal installations.

4. The competence of the Ministry of Defense of the Republic of Kazakhstan shall be:

1) implementation of navigation and hydrographic support of sea routes;

2) development and approval of the rules for the prohibition of navigation and temporarily dangerous areas for navigation;

3) development and approval of the provision on the service of hydrographic support of the Naval Forces of the Armed Forces of the Republic of Kazakhstan;

4) development of rules for navigation and hydrographic support of marine activities in the Kazakhstan sector of the Caspian Sea.

Footnote. Article 4, as amended by the Laws of the Republic of Kazakhstan dated 20.12.2004 № 13 (shall be enforced from 1 January 2005); dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication); dated 31 January, 2006 № 125; dated 29 December, 2006 № 209 (the order of enforcement see Art. 2); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.01.2011 № 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.01.2011 № 379-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 15.07.2011 № 461-IV (shall be enforced from 30.01.2012); dated 10.07.2012 № 35-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 № 124-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2014 № 159-V (shall be enforced upon expiry of ten calendar days after its first official publication). dated 16.05.2014 № 203-V (shall be enforced upon expiry

of six months after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2015 № 276-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.12.2016 № 34-VI (shall be enforced from 01.01.2017); dated 05.05.2017 № 59-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2017 № 69-VI (shall be enforced upon expiry of ten calendar days after its first official publication); № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication); № 184-VI as of 05.10.2018 (shall be enforced six months after its first official publication); dated 19.04.2019 № 249-VI (the order of enforcement see Art. 3); dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication); dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

Article 4-1. National sea carrier

1. The status of the National sea carrier is assigned by the authorized body to legal entities of the Republic of Kazakhstan that have, on the basis of ownership right or other legal grounds, ships (tankers, dry cargo ships, ferries, container ships) registered in the international ship register of the Republic of Kazakhstan for transportation in international traffic, in the manner and on conditions determined by the authorized body.

2. National sea carrier:

- 1) provides services for the carriage of passengers, baggage, mail, cargo in international traffic, including socially significant, strategic, humanitarian and special cargo;
- 2) participates in rescue operations and liquidation of oil and oil products spills from ships within the territorial waters of the Republic of Kazakhstan on a contractual basis;
- 3) takes measures to develop the Kazakhstani merchant fleet;
- 4) takes part in the training of national maritime transport specialists;
- 5) takes part in the implementation of international agreements in the field of merchant shipping.

Footnote. The Law is supplemented by Article 4-1 in accordance with the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 5. Cabotage

Cabotage is carried out by ships flying the State flag of the Republic of Kazakhstan, with the exception of ships registered in the international ship register of the Republic of Kazakhstan.

By the ships flying the flag of a foreign state, cabotage is carried out on the basis of a permit to operate a ship flying the flag of a foreign state in the Kazakhstani sector of the Caspian Sea, issued by the authorized body in the manner determined by it.

Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (the order of enforcement see Art. 3).

Article 5-1. Operation of ships flying the flag of a foreign state

In the Kazakhstani sector of the Caspian Sea, subject to the provisions of Article 5 of this Law, Kazakhstani shipowners may operate ships flying the flag of a foreign state, on the basis of a permit to operate a ship flying the flag of a foreign state in the Kazakhstani sector of the Caspian Sea to carry out activities related to operations on subsoil use, liquidation of the consequences of subsoil use, as well as with the construction of hydraulic structures and with the conduct of rescue operations.

A permit to operate a ship flying the flag of a foreign state in the Kazakhstani sector of the Caspian Sea is issued taking into account the protection of national interests, the safety of navigation of ships and environmental protection in the Kazakhstani sector of the Caspian Sea

Footnote. The Law is supplemented by Article 5-1 in accordance with the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (effective after ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (effective after twenty-one calendar days after the day of its first official publication).

Article 6. Licensing

Certain types of activities in the field of merchant shipping shall be subject to licensing under the legislative acts of the Republic of Kazakhstan.

Article 7. Insurance in the field of Merchant Shipping

1. Voluntary insurance in the field of merchant shipping is carried out by individuals and legal entities by virtue of their expression. Types, conditions and procedure for voluntary insurance shall be determined by agreement between the parties.

2. The types, subject to compulsory insurance of civil liability in the field of merchant shipping, shall include:

1) the risk of the carrier's liability for the obligations, arising from injury to life, health and property of the passenger;

2) **is excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 № 234-IV (shall be enforced from 09.08.2010);**

3) the risk of the carrier's liability for the carriage of dangerous cargo, as well as damage caused by marine pollution by oil from ships (in the carriage of oil in the amount of two thousand tons and more);

4) the risk of liability of the shipowner or shipowner for the removal of sunken property.

Conditions and procedures for compulsory insurance in the field of merchant shipping shall be determined by the legislative acts of the Republic of Kazakhstan.

Employees shall be subject to compulsory insurance against accidents in the performance of labour (service) duties in accordance with the legislative act of the Republic of Kazakhstan on compulsory insurance.

Footnote. Article 7, as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 № 234-IV (shall be enforced from 09.08.2010); dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 8. Confirmation of compliance

1. Confirmation of compliance of products, relating to the activities in the field of merchant shipping, and the processes of its life cycle shall be carried out in accordance with the legislation of the Republic of Kazakhstan.

2. Compliance certificate, issued by a foreign state shall be recognized in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 8 is in the wording – of the Law of the Republic of Kazakhstan dated 29 December, 2006 № 209 (the order of enforcement see Art. 2).

Chapter 1-1. General requirements for safety in the field of merchant shipping

Footnote. Chapter 1-1 is supplemented – by the Law of the Republic of Kazakhstan dated 29 December, 2006 № 209 (the order of enforcement see Art. 2).

Article 8-1. General requirements

1. Participants of the transportation process shall ensure the safe conditions for human life and health, the environment, as well as compliance with the safety requirements of merchant shipping.

2. Safety of merchant shipping is ensured by a complex of organizational and technical measures, aimed to protect human life and health, the environment, the creation of conditions of accident-free work of the participants of the transportation process, the maintenance of the waterways in seaworthy condition, and in good repair of ships, ports, coastal facilities and structures on inland waterways, as well as the prevention of accidents of ships.

The objects of technical regulation and standardization in the field of merchant shipping are:

1) ships, used for commercial navigation, ports and coastal installations and facilities on waterways;

2) production processes (construction, repair, reconstruction), operation of ships, used for commercial navigation, ports and coastal installations and structures on the waterways.

3. Navigational security of ships in seaports and approaches to them is carried out by the navigation center created in the organizational and legal form of the republican state enterprise.

Footnote. Article 8-1 as amended up to Law of the Republic of Kazakhstan dated 13.01.2015 № 276-V (shall be enforced from 01.01.2016); dated 05.05.2017 № 59-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated № 184-VI as of 05.10.2018 (shall be enforced six months after its first official publication).

Article 8-2. Safety requirements in the production (construction, repair, reconstruction) of ships, used for merchant shipping, ports, onshore facilities and structures on waterways

1. In the production (construction, repair, reconstruction) of ships of merchant shipping, it is necessary to ensure the compliance with the requirements of the design documents and the legislation of the Republic of Kazakhstan on merchant shipping.

2. In the production (construction, repair, reconstruction) of ships of merchant shipping, the manufacturer shall perform a full range of measures to ensure the safety, defined by the design documentation, and provide the ability to control the implementation of all technological operations that affect the safety of navigation.

3. If to ensure the safety during the process or after the production of ships of merchant shipping, the tests are required, they shall be carried out in full compliance with all requirements of the design documentation.

4. Every ship shall be marked with an identification number, painted on the body. The marking must be visible, legible and indelible.

5. The ship shall be designed in such a way as to minimize the risk of falling overboard and to ensure the salvation of people overboard.

6. The place of the main steering should provide all-round visibility.

7. The ship must be equipped with the instruction manual, in which special attention should be paid to the risk of fire and flooding.

8. The design, siting, construction and operation of onshore facilities shall be carried out in agreement with the local executive body.

Footnote. Article 8-2, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 8-3. Safety requirements for the operation of ships, used for commercial navigation, ports and coastal installations, and facilities on waterways

1. Ships, ports, coastal installations and facilities on the sea, related to the process of merchant shipping, are the high-risk areas and must meet the requirements of the legislative acts of the Republic of Kazakhstan and the acts of the Government of the Republic of Kazakhstan in the field of merchant shipping.

2. Individuals or legal entities, engaged in the operation of ships, ports and coastal installations, and facilities on the sea, shall ensure the compliance with the requirements of the legislative acts of the Republic of Kazakhstan and the acts of the Government of the Republic of Kazakhstan in the field of merchant shipping.

3. Operation of ships, used for commercial navigation, shall not have a negative impact on human life and health, and the environment.

4. Decked small vessels, subject to state registration in the vessel register, must comply with requirements of the rules for technical supervision of decked small vessels.

5. Is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication).

6. Using by the ships, subject to the state registration in the ship's book and bases (facilities) for their sites shall be in accordance with the Rules for the use of small size ships and bases (facilities) for their sites.

7. Navigators of self-propelled ships, subject to the state registration in the ship's book, must be trained in the training program for navigators and have a driving license for a small size ship.

Issuance of a driving license for a small size ship, agreement of the program of training navigators and registration of training courses for navigators of small size ships shall be carried by the authorized body in accordance with the rules of certification of navigators for the right to drive a small size ship.

Organizations, at the opening of training courses for navigators of small size ships, shall send to the territorial division of the authorized body a notice of commencement of activities with the application of:

1) copies of diplomas of higher or secondary technical education on the specialties in field of water transport teachers;

2) training programs for navigators of small size ships, developed on the basis of a model program for training navigators of small size ships under the rules of certification of navigators for the right to drive a small size ship;

3) a copy of the document, confirming the existence of the premises on the right of ownership or leased for the organization of the educational process.

The notification shall be made in accordance with the Law of the Republic of Kazakhstan "On administrative procedures".

Organizations, opened training courses for skippers of small size ships shall send to the territorial division of the lists of persons that successfully completed training in the training program for skippers of small size ships. The procedure for the provision of information about persons trained is determined by the rules of certification of skippers on the right to drive small size ships.

Footnote. Article 8-3 is in the wording of the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first

official publication); as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 16.05.2014 № 203-V (shall be enforced upon expiry of six months after the date of its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.05.2017 № 59-VI (shall be enforced upon expiry of ten calendar days after its first official publication); № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication).

Article 8-4. Organization of vessels traffic management

1. The navigation center of vessels is serviced in the following order of priority:

- 1) Emergency vessels, vessels following for relief, and vessels with critically ill people;
- 2) ferries and passenger ships following by schedule;
- 3) ships with perishable goods;
- 4) towed vessels with towed objects;
- 5) ships with dangerous goods;
- 6) line ships;
- 7) other vessels in accordance with the time of receipt of applications.

2. Radar wiring of vessels carried out by the navigation center on the request of the vessel under any conditions of visibility.

3. The order of the radar wiring shall coordinate with the seaport captain prior to the start of the radar wiring.

4. Traffic of vessels in the zones of a system of vessel traffic management (entry into the zone, anchoring, drop the anchor, approach and mooring to the berth and departure from it, re-mooring and others) carried out with the permission of the seaport captain.

5. Ships following from the sea, before approaching the zone of a system of vessel traffic management, establish radio communication on ultrashort waves with a navigation center regulating the traffic in this zone.

6. During the establishment of radio communication with the navigation center, the vessel reports:

- 1) type, name and nationality (flag) of the vessel;
- 2) time of approach to the zone;
- 3) manoeuvrable speed;
- 4) port of destination;
- 5) gross tonnage and main dimensions of the measurement certificate;
- 6) actual draft;
- 7) kind and quantity of cargo;
- 8) information on the status of the ship's radar;

9) information on the available restrictions affecting the safety of navigation and maneuvering.

7. Vessels on the move carry a constant radio duty (vigil) on the working channel of the navigation center in the zone of which they are, unless another channel is indicated.

8. Radio communication of the navigation center with vessels, as well as the current radar information shall be documented. The records shall be stored for three days. If there have been accidents or incidents, records are kept until the end of the investigation.

9. The use of the services of the navigation center is carried out on a paid basis at tariffs (prices) approved by the authorized body in accordance with the legislation of the Republic of Kazakhstan on state property.

Footnote. Chapter 1-1 shall be supplemented by 8-4 in accordance with the Laws of the Republic of Kazakhstan dated 13.01.2015 № 276-V (shall be enforced from 01.01.2016); as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 8-5. Forbidden areas for navigation and temporarily dangerous for navigation areas

1. In order to ensure the conduct of exercises, protection of the state interests of the Republic of Kazakhstan and protection of the environment, as well as during the conduct of an anti-terrorist operation and security measures in inland and territorial sea waters, the areas prohibited for navigation and areas temporarily dangerous for navigation, restricted for navigation, anchoring, extraction of marine mammals, fishing with near-bottom tools for harvesting (catching) of aquatic biological resources, underwater explosions, sailing with an etched anchor chain, span, hovering and landing (splashing down) of aircraft and other activities may be established.

2. In the areas forbidden for navigation, navigation of all vessels and floating equipment shall be prohibited. The decision on the establishment of forbidden areas for navigation and opening for navigation shall be taken by the Ministry of Defense of the Republic of Kazakhstan on the proposal of interested state bodies and organizations.

Decision on the establishment of forbidden areas for navigation during the conduct of an anti-terrorist operation and the opening thereof for navigation shall be taken by the head of the republican operational headquarters, and when carrying out protective measures shall be the head of the State Security Service of the Republic of Kazakhstan.

3. Temporarily dangerous for navigation areas established for a certain period. The decision to establish temporarily dangerous for navigation areas shall be taken by the Ministry of Defense of the Republic of Kazakhstan. The decision shall be enforced upon expiry of ten calendar days from the date of notification of the state bodies concerned.

Footnote. Chapter 1-1 shall be supplemented by 8-5 in accordance with the Laws of the Republic of Kazakhstan dated 13.06.2017 № 69-VI (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 23.02.2021 № 11-VII (for the procedure of enforcement see Article 2).

Article 8-6. Inspection of small ships

1. Inspections of small ships are carried out by officials of territorial divisions of the authorized body in order to identify the compliance of the small ship (regardless of the place of its state registration) and the navigator with the requirements of the legislation of the Republic of Kazakhstan on merchant shipping. Inspections of small ships can be carried out both at rest and on the move in the presence of the navigator of the small ship.

Inspection of small ships is carried out after clearing the area of operation of the ship from ice.

Control inspection of small ships is carried out during the operation of the ship no more than once every two months or when a transport accident occurs, as well as in the event of an administrative offense.

2. When inspecting small ships, the following are subject to inspection:

- 1) ship's ticket;
- 2) a certificate for the right to operate a self-propelled small ship;
- 3) passing the technical examination;
- 4) compliance with the norms of passenger capacity and carrying capacity, restrictions on the area and navigation conditions, the correct placement of passengers and cargo on a small ship;
- 5) availability of rescue, fire-fighting and drainage means;
- 6) the presence of a registration number on the sides;
- 7) the absence of through holes in the ship's hull, regardless of their location, the absence or depressurization of pressurized compartments and (or) air boxes of the ship;
- 8) the presence of the design details of fastening the steering device or damage to its component parts, failure to ensure the reliability of its operation;
- 9) absence of fuel leaks, vibration, damage to the engine remote control system, presence and serviceability of the muffler, ensuring reliable switching on (off) of the reverse gear, serviceability of the engine (motor) start blocking when the reverse is on;
- 10) compliance of the ship's configuration and equipment with the ship's type;
- 11) the presence, serviceability and compliance of side lights;
- 12) operation of the ship in the basins (areas) corresponding to the established class of the ship;
- 13) availability and serviceability of steering, signal, anchor and mooring devices;
- 14) compliance with the maximum power of the installed engine.

Upon the small vessel inspection results, an official of the authorized body's territorial unit shall make a report on inspection of the small vessel indicating the name (number) and registration number of the small vessel, the ship owner (shipmaster), and the date of inspection. In the event of detected breaches of the legislation of the Republic of Kazakhstan on merchant shipping, the official of the authorized body's territorial unit shall issue an

injunction indicating the list of breaches identified and the deadline for their elimination. In the absence of ship documents and in cases that threaten the safety of navigation, life and health of people, the environment, the safety of cargo, an official of the authorized body's territorial unit shall take prompt response measures referred to in paragraph 3 of this article.

When applying a prompt response measure, a supervision act shall be drawn up.

Officials of the territorial unit who conducted the inspection of the small vessel are responsible for the accuracy of the entries in the inspection act of the small vessel, in the injunction and the supervision act.

The act of inspection of the small ship and the instruction are drawn up in the forms approved by the authorized body, in two copies and signed by an official of the territorial division of the authorized body and the navigator. If the navigator refuses to sign the act of inspection of the small ship or the instruction, an entry is made indicating the stated reasons for the refusal.

The first copy of the act of inspection of small ship and the instruction is kept by the ship owner, the second - by the territorial division of the authorized body.

3. The prompt response measures provided for by this article shall include suspension and prohibition of the traffic (operation) of small vessels if there is a threat to the safety of navigation, life and health of people, the environment, and the safety of cargo.

4. The grounds for applying prompt response measures are violations of the requirements established by the legislation of the Republic of Kazakhstan, which are the subject of state control, in accordance with this article.

5. The authorized body's territorial units, during the inspection and (or) based on the results of the small vessel inspection, upon detection of violations of the requirements that are the ground for applying prompt response measures, shall draw up a supervision act.

The supervision act shall be drawn up and handed over to the subject of control and supervision in accordance with Article 153 of the Entrepreneur Code of the Republic of Kazakhstan.

6. In the event of refusal to accept the supervision act, when it is handed over, a corresponding entry and a video recording shall be made, recording the fact of refusal to accept the supervision act.

The supervision act shall be sent to the legal address, location or actual address of the subject of control and supervision by registered mail with acknowledgment of receipt.

7. Refusal to accept the supervision report shall not be a reason for its non-execution.

8. Violations of requirements identified during the inspection and (or) as a result of the inspection of a small vessel, which are the ground for applying prompt response measures, shall be reflected in the inspection act of the small vessel, as well as in the instruction to rectify the violations.

9. The subject of control and supervision is obliged to rectify the identified violations of the requirements, which are the ground for applying prompt response measures, within the time frame indicated in the instruction on rectifying the violations.

10. Upon expiration of the deadline for rectifying violations of the requirements identified in the inspection of the small vessel, an unscheduled inspection of the small vessel shall be carried out to monitor the elimination of the identified violations of the requirements, which are the ground for applying a prompt response measure.

The supervision act shall be cancelled if the authorized body's territorial unit confirms elimination of identified violations of the requirements, which are the ground for applying prompt response measures, upon the report on the results of unscheduled inspection of the small vessel in accordance with subparagraph 2-1) of paragraph 5 of Article 144 of the Entrepreneur Code of the Republic of Kazakhstan.

11. In the event of failure to rectify the identified violations of the requirements, which are the ground for applying prompt response measures, basing on the results of unscheduled inspection of the small vessel, steps shall be taken to bring to justice the persons who committed violations as prescribed by the laws of the Republic of Kazakhstan.

12. Before the expiration of the deadlines stipulated by the instruction to rectify the identified violations, the subject of control and supervision is obliged to provide information about the elimination of identified violations of requirements with the attachment of materials (if necessary) proving the fact of elimination of the violation.

If the information provided for in part one of this paragraph is submitted, an unscheduled inspection of the small vessel shall be conducted in accordance with the second part of paragraph 10 of this article.

13. In case of disagreement with the results of the inspection of the small vessel, which led to the prompt response measures, the subject of control and supervision may file a complaint to invalidate the supervision act and cancel it.

The complaint shall be sent to a higher official, state body in the manner prescribed by Chapter 29 of the Entrepreneur Code of the Republic of Kazakhstan, or to the court in the procedure established by the legislation of the Republic of Kazakhstan.

Filing of a complaint shall not suspend the execution of the supervision act.

14. The grounds for invalidating a supervision act and its cancellation shall be:

- 1) absence of grounds for the use of prompt response measures;
- 2) application of a prompt response measure on the grounds that do not correspond to this measure;
- 3) application by the authorized body's territorial units of the prompt response measures on matters outside their competence.

15. Information on the application of prompt response measures shall be sent to the state body that, within its competence, carries out activities in state legal statistics and special

records, in the manner determined by the Prosecutor General's Office of the Republic of Kazakhstan.

Footnote. Chapter 1-1 is supplemented with article 8-6 in accordance with the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

Chapter 2. Ship

Article 9. The right of ownership to the ship

1. Ships may be owned by:

- 1) the state;
- 2) the citizens and non-state legal entities of the Republic of Kazakhstan;
- 3) foreign states, foreigners, stateless persons, foreign legal entities, unless otherwise stipulated by legislative acts of the Republic of Kazakhstan.

2. The ship owner shall have the discretion to make in respect of the ship any action, including the alienation of the ownership of the ship to others, transfer to them, the right of ownership, use and disposal of the ship while remaining the owner, set a ship mortgage and encumber it in other ways, and dispose otherwise.

Article 10. The name of the ship. Procedure for individualization of the ship

1. The ship, subject to the state registration in the State ship registry of marine vessels or International Register of Ships of the Republic of Kazakhstan shall have its name.

The owner assigns and changes the name of the ship.

Assigning of the same names to the ships, are not allowed.

2. The owner of the ship shall immediately notify the mortgagees of the registered collateral of ship about the change of the ship's name.

3. The procedure for assignment of a call sign and the identification number of the ship's satellite station shall be determined by the authorized body in the field of communication.

Footnote. Article 10, as amended by the Laws of the Republic of Kazakhstan dated 22.10.2004 № 601 (shall be enforced from 01.01.2005); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 11. Nationality of the ship. The right to sail under the State flag of the Republic of Kazakhstan

1. A ship, exercising a right to sail under the State flag of the Republic of Kazakhstan, has the nationality of the Republic of Kazakhstan.

2. A ship, having the nationality of the Republic of Kazakhstan, is obliged to carry the State Flag of the Republic of Kazakhstan.

3. Ship acquires the right to sail under the State Flag of the Republic of Kazakhstan with the state registration of it in one of the registers of the ships of the Republic of Kazakhstan, referred to in paragraph 1 of Article 16 of this Law.

3-1. The right to sail under the State Flag of the Republic of Kazakhstan shall be given to ships, operating in the property of:

- 1) the state;
- 2) the citizens and non-state legal entities, registered in accordance with the legislation of the Republic of Kazakhstan;
- 3) foreign legal entities, operating in the Caspian Sea, in accordance with the Production Sharing Agreement (contracting companies, operator, agents), the features to provide the right to sail under the State Flag of the Republic of Kazakhstan for such ships, shall be defined by the Rules of the state registration of ships and the rights to them.

4. The ship, acquired in the property outside of the Republic of Kazakhstan shall enjoy the right to sail under the State flag of the Republic of Kazakhstan since the issuance of the consular service of the Republic of Kazakhstan an interim certificate, proving this right and shall be valid before the state registration of the ship in the State ship registry of marine vessels, international ship registry of the Republic of Kazakhstan or ship's book, but not more than one year.

5. The right to sail under the State Flag of the Republic of Kazakhstan on the basis of the decision of the authorized body in the manner, prescribed by the Rules of the state registration of ships and the rights to them, may be temporarily transferred to the ship, registered in the register of ships of a foreign state, lending under the bareboat charter to:

- 1) the Kazakhstan charterer;
- 2) the foreign legal entity, engaged in activity in the Caspian Sea through the branches, duly registered in the Republic of Kazakhstan in accordance with the Production Sharing Agreement (contracting companies, operator, agents, subcontractors).

6. For the rise of the National Flag of the Republic of Kazakhstan on the ship, that does not enjoy the right to sail under this flag, the guilty persons shall be liable under the legislative acts of the Republic of Kazakhstan.

Footnote. Article 11, as amended by the Laws of the Republic of Kazakhstan dated 22.10.2004 № 601 (shall be enforced from 1 January 2005); dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 12. Temporary transfer of the ship under the flag of a foreign state

When providing a ship, registered in the State ship registry of marine vessels, international ship registry of the Republic of Kazakhstan or a ship's book, for possession or use of a foreign charterer under the bareboat charter, such ship may be temporarily transferred

to the flag of a foreign country on the basis of the decision of the authorized body for a period not exceeding two years, with the right to renewal every two years, but not exceeding the term of the bareboat charter, with the registration in the relevant register and suspension of the right to sail under the State flag of the Republic of Kazakhstan.

Footnote. Article 12 is in the wording of the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 13. Transfer of the ship in trust management

1. The ship owner shall have the right to pass it to the trustee under the trust agreement for the implementation of ship management for fee in the interest of the owner, unless otherwise provided by the contract.

The ship that is in economic management or operational management cannot be transferred to the trust management without the consent of the owner or the authorized body.

Transfer of the ship in trust management shall not entail the transfer of ownership to the trustee.

2. Excluded by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

3. Excluded by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

4. Trust agreement of ship must comply with the requirement of the civil legislation of the Republic of Kazakhstan.

Footnote. Article 13, as amended by the Laws of the Republic of Kazakhstan dated 22.10.2004 № 601 (shall be enforced from 01.01.2005); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

Article 14. Ship documents

1. The ship must have the ship documents, the list, the order of reference and the requirements for which shall be determined by the authorized body.

The original of ship documents must be on the ship, except for the certificate of ownership to the ship, a copy of which must be certified by the body that issued the document or certified by a notary.

2. Ships, departing for a foreign voyage, in addition to documents, provided by the relevant rules for swimming in the waters of the Republic of Kazakhstan shall have the documents, required by the legislation of the Republic of Kazakhstan and the international treaties, ratified by the Republic of Kazakhstan.

3. Ships of foreign countries, entering the territorial waters of the Republic of Kazakhstan shall have the documents, required by the legislation of the Republic of Kazakhstan and the international treaties, ratified by the Republic of Kazakhstan.

Footnote. Article 14 is in the wording of the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 15. Technical supervision, ship survey and their classification

1. The ship may be allowed to swim only after it is determined that it meets the requirements of the safety of navigation.

2. Technical supervision, ship survey and their classification shall be made by the Register of Shipping or the foreign classification societies.

In this case, the powers on ship survey and the conditions for their provision by the foreign classification societies shall be defined in the agreements between the authorized body and the foreign classification societies.

Assigning a class to the ship shall be certified by the classification certificate, issued by the Register of Shipping or a foreign classification society.

It is prohibited to exercise technical supervision of the ships and the individual elements of the ship by other state bodies and legal entities of the Republic of Kazakhstan.

3. In the absence of the ship documents, or if the ship, sailing under a foreign flag, when visiting the seaport of the Republic of Kazakhstan does not comply with the requirements of safety of navigation, established by technical regulations, regardless of the presence of the relevant documents, the authorized body shall have the right to survey such ship on the same basis with the ships, sailing under the State flag of the Republic of Kazakhstan.

Footnote. Article 15 is in the wording of the Law of the Republic of Kazakhstan dated 28.12.2010 № 369 -IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 3. State registration of ships and the rights to them

Article 16. Register of Ships of the Republic of Kazakhstan

1. The ship is subject to the state registration in one of the registers of the ships of the Republic of Kazakhstan (hereinafter - the Register of Ships):

- 1) State ship registry of marine vessels;
- 2) a ship's book;
- 3) a bareboat charter registry;
- 4) International Ship Registry of the Republic of Kazakhstan.

2. The right of ownership and other property rights to the ship (encumbrance upon it) shall be subject to compulsory state registration in the State ship registry of marine vessels or ship's book.

The right of ownership and other property rights to the registered in the International ship registry of the Republic of Kazakhstan ship (except for those rights on a ship, chartered by the bareboat charterer), the restrictions (encumbrances) of these rights, their origin, transfer and termination shall be registered in the International ship registry of the Republic of Kazakhstan .

Registration in the International ship registry of the Republic of Kazakhstan of the ship, in respect of property rights and other rights to which the restrictions (encumbrances) are established, and the exclusion from the register of such ship shall be carried out with the written consent of the person in whose favor the appropriate restriction (encumbrance) is established.

3. The ship under construction, subject to the state registration shall be equivalent to real property.

The right of ownership to the ship under construction may be registered in the register of ships under construction subject to keel lay down or equivalent construction work, confirmed by expert opinions. For the state registration of the right of ownership to the ship under construction an appropriate certificate shall be issued.

3-1. Is excluded by the Law of the Republic of Kazakhstan dated 26.01.2021 № 412-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

4. Sea vessels, passenger and cargo ships, oil tankers, tugs, floating rigs, bulk carriers, floating cranes and ships of the fleet maintenance (dredging, etc.), as well as ships that are not small size ships shall be registered in the State ship registry of marine vessels.

5. Small size ships shall be registered in ship's books.

Small size ships, weighing up to two hundred pounds, inclusive, and engine power (in the case of installation) to eight kilowatts, inclusive, as well as sport and sailing ships, the length of which shall not exceed nine meters, that have no engines and that are not equipped with a place to stay, shall not be subject to the state registration.

6. Seaplanes, as well as boats and other floating equipment that are the ship accessories shall not be registered in the State ships registry of marine vessels and ship's books.

7. The ships that temporarily granted the right to sail under the State Flag of the Republic of Kazakhstan for a period of two years with a further extension of the temporary right to sail under the State Flag of the Republic of Kazakhstan, every two years, but not exceeding the term of the bareboat charter, shall be registered in the bareboat charter registry.

Extension of the registration of ships, operating under the simplified procedure shall be defined in the Rules of the state registration of ships and the rights to them.

8. For the state registration, re-registration and the issuance of a duplicate of the document , certifying the state registration of ships shall be charged fees in the manner and amount, established by the tax legislation of the Republic of Kazakhstan.

9. The ships, used for international carriage of goods, passengers and their baggage, towing, including the ships, provided for the use by the bareboat charterer shall be registered in the International ship registry of the Republic of Kazakhstan.

The ships shall not be subject to registration in the International ship registry of the Republic of Kazakhstan, if they are registered in the ship registers of foreign states and their age at the date of application for registration in the International ship registry of the Republic of Kazakhstan exceeds twenty years.

Footnote. Article 16, as amended by the Laws of the Republic of Kazakhstan dated 22 October, 2004 № 601 (shall be enforced from 1 January 2005); dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication); dated 26 July, 2007 № 311 (shall be enforced upon expiry of 10 calendar days after its official publication); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.03.2011 № 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.05.2017 № 59-VI (the order of enforcement see. art. 2); № 412-VI dated 26.01.2021 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 17. Change the information, entered in the Register of Ships

About any changes in the information to be entered in the register of ships, the owner or charterer of the bareboat charter shall, within two weeks, inform the Maritime Administration of the port, where the ship is registered.

Article 18. State registration of ships, used by state bodies

State registration of ships, owned by the Republic of Kazakhstan and used by state bodies to carry out their functions with the exception of warships, naval auxiliaries vessels and guard-ships, shall be made in the State ship registry of marine vessels or ship's book in accordance with the Rules of the state registration of ships and the rights to them.

Footnote. Article 18, as amended by the Laws of the Republic of Kazakhstan dated 22 October, 2004 № 601 (shall be enforced from 1 January 2005); dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 18-1. Re-registration of ships

In case of an accident or any other cause when the ship ceases to comply with the data, previously entered in the State ship registry of marine vessels or ship's book, the state re-registration of ship shall be made in accordance with the Rules of the state registration of ships and the rights to them, after the survey and obtaining a certificate of seaworthiness.

The basis for the re-registration of the ship is also the use of the ship, owned by the Republic of Kazakhstan and used by state bodies to carry out their functions, for commercial purposes.

Footnote. Chapter 3 shall be supplemented by Article 18-1, in accordance with the Law of the Republic of Kazakhstan dated 02.06.2005 № 55 (shall be enforced from the day of its official publication); as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 18-2. Exclusion of the ship from the State ship registry of marine vessels or ship's book

The ship that:

- 1) lost or missing;
 - 2) constructively lost;
 - 3) losses of the qualities of the ship as a result of restructuring or any other change;
 - 4) ceases to meet the requirements provided for in paragraph 3-1 of Article 11 of this Law
- , - shall be subject to exclusion from the State ship registry of marine vessels or ship's book.

Footnote. Chapter 3 shall be supplemented by Article 18-2, in accordance with the Law of the Republic of Kazakhstan dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication, with the exception of the third paragraph of subparagraph 12) of Article 1, which shall be enforced from 1 January 2010, see paragraph 2).

Article 18-3. Exclusion of the ship from the bareboat charter registry

The ship that:

- 1) lost or missing;
- 2) constructively lost;
- 3) losses the qualities of the ship as a result of restructuring or any other change;
- 4) ceases to meet the requirements provided for in paragraph 5 of Article 11 of this Law;
- 5) in respect of which the authorized body annulled the decision to temporarily grant the right to sail under the State flag of the Republic of Kazakhstan in accordance with the Rules of the state registration of ships and the rights to them, - shall be subject to exclusion from the bareboat charter registry.

Footnote. Chapter 3 shall be supplemented by Article 18-3 in accordance with the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 18-4. Exclusion of the ship from the International ship registry of the Republic of Kazakhstan

The ship that:

- 1) lost or missing;
- 2) constructively lost;
- 3) losses the qualities of the ship as a result of restructuring or any other change;
- 4) ceases to meet the requirements provided for in paragraph 3-1 of Article 11 of this Law

;

5) in respect of which the authorized body annulled the decision to temporarily grant the right to sail under the State flag of the Republic of Kazakhstan;

6) in respect of which revealed the fact of activities on it within the territorial waters of the Republic of Kazakhstan, - shall be subject to exclusion from the International ship registry of the Republic of Kazakhstan.

Footnote. Chapter 3 shall be supplemented by Article 18-4 in accordance with the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 18-5. Ship missing

A ship is considered to be missing, if there has been no news from the ship for a period, exceeding two times the period, required under normal conditions to move from the place where the last news received from the ship, to the port of destination. The period, necessary for the recognition of the ship as missing, cannot be less than one month from the date of the last news of the ship, and in terms of military action cannot be less than six months.

Footnote. Chapter 3 shall be supplemented by Article 18-5 in accordance with the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 19. Refusal in the state registration of the ship and the rights to it

The state registration of the ship and the rights to it shall be refused if:

1) an inappropriate person applied for the state registration;

1-1) a person included in the list of organizations and persons associated with financing of the proliferation of weapons of mass destruction, and (or) in the list of organizations and persons associated with financing of terrorism and extremism, in accordance with the legislation of the Republic of Kazakhstan, with the exception of a ship confiscated and (or) recovered by a court decision applied with an application on state registration;

2) the requirements of the Rules of the state registration of ships and the rights to them are not complied with;

3) the documents, submitted for the state registration do not meet the requirements of the legislation of the Republic of Kazakhstan.

Footnote. Article 19, as amended by the Laws of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.04.2012 № 15-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.05.2020 № 325-VI (shall be enforced upon expiry of six months after the day of its first official publication).

Article 20. Change of the port of the state registration of ship

Port of the state registration of ship can be changed at the request of the ship owner. Registration of changing the port of the state registration of ship shall be made in accordance with the Rules of the state registration of ships and the rights to them.

Footnote. Article 20, as amended by the Laws of the Republic of Kazakhstan dated 22.10.2004 № 601 (shall be enforced from 01.01.2005); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 21. Liability for violation of the rules of the state registration of ships

Person, evading to compulsory state registration of the ship, as well as a person that registered the ship in one of the registers of ships with violation of the order or violated the duty to inform of change in the information, entered in the register of ships, shall be liable under the legislative acts of the Republic of Kazakhstan.

Chapter 4. Ship crew

Article 22. Composition of the ship crew

1. The composition of the ship crew consists of the ship captain, other ship command staff and the ship crew.

2. Ship command staff includes captain's mates, mechanics, electrical officers, radio specialists and doctors. Other specialists can also be classified as ship command staff by the authorized body.

3. Ship crew consists of persons that are not related to the ship command staff.

Article 23. The minimum ship crew

1. Each ship shall carry on board the crew, the composition of which meets the requirements of the minimum manning of a ship crew to ensure the safe navigation of the ship and protection of the environment.

2. The minimum crew, depending on the type and purpose of the ship, as well as its swimming area and the location is established by the authorized body.

3. Certificate of minimum manning of crew, ensuring the safe navigation of the ship and the protection of the environment, shall be given by the seaport captain, where the state registration of the ship is made.

Footnote. Article 23, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 24. Requirements for crew members

1. To hold the positions of members of the ship crew, the persons, having the appropriate qualifications, confirmation of professional diplomas, certification of crew members medical reports, shall be allowed.

Members of the ship's crew on the basis of a preferential permit shall be allowed to hold the positions for which they do not have a relevant professional diploma for a period not exceeding six months.

2. Professional diplomas, confirmations of professional diplomas, preferential permits are issued by the maritime administration of the port.

3. Certificates of training of specialists in maritime transport are issued by educational institutions, carrying out training (retraining) and maritime transport specialists' skills development, marine training and training centers.

4. Confirmation of professional diplomas shall be expiring upon the expiration of professional diplomas.

Footnote. Article 24 is in the wording of the Law of the Republic of Kazakhstan dated 13.01.2015 № 276-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 25. Nationality of crew members

1. The ship crew, sailing under the State flag of the Republic of Kazakhstan, except for citizens of the Republic of Kazakhstan, may include foreigners and stateless persons.

The second part of paragraph 1 as suspended dated 01.01.2025 to 31.12.2027 in accordance with the Law of the Republic of Kazakhstan dated 10.02.2025 № 164-VIII.

Foreigners and stateless persons may not hold the positions of ship's captain, senior mate and chief engineer officer.

2. The conditions under which foreigners and stateless persons can be part of the ship's crew shall be determined by the authorized body in agreement with the authorized body for population migration in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 25, as amended by the Laws of the Republic of Kazakhstan dated 02.06.2005 № 55 (shall be enforced from the day of its official publication); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2024 № 115-VIII (comes into force ten calendar days after the date of its first official publication); dated 10.02.2025 № 164-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 26. Labour relations on the ship

The order of conclusion of the employment contract with the crew members, their rights and duties, working conditions and payment, as well as the procedure and grounds for termination of the employment contract with them are determined by the labour legislation of the Republic of Kazakhstan and this Law.

Footnote. Article 26 is in the wording of the Law of the Republic of Kazakhstan dated 15 May, 2007 № 253.

Article 27. Repatriation of crew members

1. Crew members, performing job duties outside the Republic of Kazakhstan, shall be entitled to repatriation in the case of:

- 1) expiration of the employment contract;
- 2) termination of employment contract at the initiative of the ship owner or crew member in accordance with the labour legislation of the Republic of Kazakhstan;
- 3) suspension from duty by ship captain in the manner prescribed by the labour legislation of the Republic of Kazakhstan;

- 4) shipwreck;
- 5) diseases, requiring treatment outside the ship;
- 6) inability to perform its duties by the ship owner in respect of the ship crew, provided the labour legislation of the Republic of Kazakhstan and the employment contracts, as a result of the bankruptcy, sale of the ship or changes in the state of registration of the ship;
- 7) direction of the ship without the consent of the crew members in a war zone or a zone of epidemiological risk.

2. Repatriation shall be made at the request of a crew member:

- 1) in the State where he resides;
- 2) to the port where he was recruited to the ship;
- 3) to another location, said at the conclusion of the employment contract.

3. The ship owner shall provide adequate and prompt repatriation. Repatriation shall be made by air transport, and in its absence or under the agreement of the parties by other modes of transport.

4. Repatriation costs shall be borne by the ship owner. Repatriation costs of the crew member include:

- 1) the cost of travel to the place of repatriation;
- 2) the cost of food and accommodation from the moment when a crew member leaves the ship, and until such time as a member of the crew arrives to the place of repatriation;
- 3) the cost of treatment of a crew member, if necessary, until such time as a crew member for health reasons will be eligible to travel to the place of repatriation;
- 4) the passage of thirty kilograms of luggage to the place of repatriation;
- 5) the fee for an employment contract from the moment when a crew member leaves the ship, and until such time as a crew member arrives to the place of repatriation.

5. If the causes of the repatriation of a crew member, appeared at his (her) own fault in the performance of his (her) job duties, or in the case of termination of the employment contract at the initiative of the crew member, the ship owner shall be entitled to recover the cost of repatriation.

Article 28. Duties of the ship owner

1. The ship owner shall ensure the crew members during their stay on the ship by:

- 1) the safe working conditions;
- 2) health care and medical assistance;
- 3) the availability of life-saving appliances;
- 4) an uninterrupted supply of food and water;

5) restrooms, food, medical treatment, cultural and consumer services, appropriate to hygiene requirements.

2. The ship owner is obliged to insure the ship crew from accidents in the performance of labour (service) duties in accordance with the legislative acts of the Republic of Kazakhstan on compulsory insurance.

3. In the case of loss or damage to the property of the crew member as a result of the accident with the ship, the ship owner shall reimburse damages to the crew member. Damage to the property of the crew member that is guilty of the incident with the ship, shall not be refundable.

4. The ship owner shall, within twenty-four hours after the receipt of the emergency, that happened to his (her) ship, inform the captain of the seaport, as well as assist in the investigation of the case of an emergency, that happened to his (her) ship.

5. The ship owner shall ensure by:

- 1) manning of the crew in accordance with the minimum ship's crew requirements;
- 2) each ship's crew member shall have documents, confirming his (her) qualification;
- 3) ship's crew member shall attend retraining and advanced training courses;

4) storage in the cabin of the master or the navigation cabin of the documentation, including medical reports, documents confirming the qualifications and experience of the ship's crew members;

5) acquaintance of ship's crew members with their rights and duties, characteristics and devices of the vessel;

6) coordination of the actions of the ship's crew in an emergency situation.

6. The shipowner, within twenty-four hours from the moment when he became aware of the detention of his ship in the port of a foreign state, is obliged to notify the maritime port administration and the consular office of the Republic of Kazakhstan about this in writing.

The message should contain:

1) data identifying the ship (name of the ship, port or place of registration, register number, type and class, tonnage of the ship);

2) last name, first name, patronymic (if it is indicated in the identity document) or the name of the ship owner;

3) the type and amount of cargo;

4) time, date and circumstances of detention;

5) the reason for the detention, as well as other information related to the detention of the vessel.

Footnote. Article 28, as amended by the Laws of the Republic of Kazakhstan dated 02.06.2005 № 55; dated 30.12.2009 № 234-IV (shall be enforced from 09.08.2010); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2015 № 276-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 28-1. Training (retraining) of specialists of maritime transport

1. Educational institutions and maritime studying and training centers carrying out training (retraining) and advanced training for maritime transport specialists after notification to the authorized body. The notification shall be accompanied by a positive opinion of the authorized organization determined by the authorized body.

The notification on the commencement or termination of activities for the training (retraining) and skills development for maritime transport specialists shall provide by the education institutions, marine training and training centers in the manner established by the Law of the Republic of Kazakhstan "On Permits and Notifications".

2. Educational institutions shall provide the organization of swimming practice in the training (retraining) of marine transport specialists.

Footnote. Chapter 4 is supplemented by Article 28-1 in accordance with the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); is in the wording of the Law of the Republic of Kazakhstan dated 13.01.2015 № 276-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 5. Ship captain

Article 29. Ship captain

1. Ship captain is assigned to control the ship, including seamanship, the adoption of measures to ensure the safe navigation of the ship, protection of the environment, maintaining the order on the ship, the prevention of harm to the ship, the people on the ship and the cargo.

2. In the absence of the ship owner, cargo owner or their legal representatives the ship captain is the representative of the ship owner and the cargo owner in the commission, where necessary, of transactions in relation to the ship, cargo, or swimming, as well as the presentation of claims against the property on the ship.

3. In exceptional cases (death, illness, and otherwise), preventing the ship captain to perform his or her duties as captain, the duties of the ship captain is assigned the chief captain's mate before obtaining the appropriate disposition of the ship owner.

Article 30. Rights of the ship captain

Captain within his (her) powers shall be entitled to:

- 1) give instructions to be executed by all persons on the ship;
- 2) in the case of threat to loss the ship after taking all measures by the ship crew to ensure the safety of passengers, allow the ship crew to abandon the ship;
- 3) apply the promotion and impose penalties on members of the crew in accordance with the labour legislation of the Republic of Kazakhstan;
- 4) remove crew members from duty;
- 5) isolate a person, endangering the ship and (or) people, and property, located on it, including in a mandatory manner a person, suspected of having a communicable disease;

6) detain a person, suspected of committing a crime under the criminal legislation of the Republic of Kazakhstan, and keep it in a specially adapted room before passing it to the competent authorities at the first port of the Republic of Kazakhstan, where the ship enters;

7) pass to the competent authorities of a foreign state, if it is stipulated by an international treaty, ratified by the Republic of Kazakhstan, a person suspected of committing a crime against the safety of maritime navigation, except a citizen of the Republic of Kazakhstan, as well as the stateless persons with permanent residence in the Republic of Kazakhstan;

8) if necessary to certify the will of the citizen that is in accordance with the legislation of the Republic of Kazakhstan on notaries shall be equated to the notarized. The ship captain that signed the will, shall, within ten days from the date of its certificate, if it is impossible for legitimate reasons, by emergence of such an opportunity, pass one copy of the will certified to a notary for storage by the permanent residence of the testator;

9) certify the authenticity of signatures of witnesses in accordance with the matrimonial legislation of the Republic of Kazakhstan.

Article 31. Duties of the ship captain

1. The ship captain shall:

1) comply with the orders of the ship owner and the charterer in accordance with Article 129 of this Law;

2) provide assistance to a person in distress at sea, if the assistance can be provided without serious danger to his (her) own ship, his (her) crew and passengers;

3) in the collision of ships take appropriate measures to save another ship, if these measures can be taken without serious danger to his (her) own ship, his (her) crew and passengers, saying if possible, the names of their ships, ports of their registration, as well as the ports of departure and destination;

4) if the person on board of the ship is in need of emergency medical care that cannot be provided while the ship is at sea, go to the nearest port or take measures for the delivery of such person to the nearest port, notifying the ship owner; when approaching a ship in a foreign port or delivery of such a person in a foreign port, notify the consular office as the Republic of Kazakhstan;

5) in the case of hostilities in the area of the port of departure or the port of destination or in the region through which the ship must pass, and in other cases of the danger of war, take all measures to ensure the safety of the persons on board, the prevention of death and seizure of the ship, the safety of the ship documents, cargo and other property;

6) in the case of threat to loss of the ship, take measures to ensure the safety of passengers on board and the safety of ship and other documents;

7) the last leave the ship in case of threat of loss of the ship after taking all measures to ensure the safety of passengers by the ship crew;

8) if necessary, direct the person referred to in subparagraph 6) of Article 30, together with the materials of inquiry to the Republic of Kazakhstan on another ship, sailing under the State flag of the Republic of Kazakhstan;

9) where feasible, if possible, before the ship entered the territorial waters of a foreign country, send to its competent authorities the notice of intention to convey to them the person, referred to in subparagraph 7) of Article 30 and the reasons for his (her) transfer, as well as submit the above authorities the evidence;

10) in the case of detection on the ship during its stay in the port of the Republic of Kazakhstan of the elements of crime under the criminal legislation of the Republic of Kazakhstan, immediately report it to the law enforcement authorities;

11) perform the functions of the body of inquiry, in accordance with the criminal procedure legislation of the Republic of Kazakhstan in the case of detection on the ship, which is located on a long voyage, the elements of crime under the criminal legislation of the Republic of Kazakhstan;

12) make an entry in the logbook of the facts of birth or death of a citizen;

13) in the case of death of the person, notify the wife (husband), or one of his (her) close relatives, as well as ensure the safety of the body and property of the deceased on board to transfer them according to the inventory of the captain of the first port of the Republic of Kazakhstan, where the ship will go;

14) take measures to decontaminate the corpse of the deceased person or animal in the case of suspension on quarantine or particularly dangerous infectious diseases;

15) take measures to preserve and send the corpse home. In the absence of such an opportunity to bring the dead body to the ground or cremate it and send urn in his (her) homeland;

16) on the case of an emergency, report to the ship owner, and in accordance with the Rules of the investigation of accidents with ships on the arrival of the ship or its crew in the first Kazakh port:

within a day submit to the port captain a statement on the accidents and a technical report;

within three days submit to the port captain a detailed report on emergency, an extract from the ship documents, explanations of persons involved and witnesses.

17) inform the maritime port administration about the detected pollution in the territorial waters of the Republic of Kazakhstan;

18) inform the maritime port administration about an incident with the vessel, which caused pollution of the territorial waters of the Republic of Kazakhstan or created a threat of such pollution.

A message is submitted in any case when an incident entails:

discharge from a ship or possible discharge of oil, harmful substances and waters containing them for any reason and in any form and packaging;

damage, breakdown or accident to a vessel the length of 15 meters or more that affects the safety of the ship, including collision, grounding, fire, explosion, structural failure, flooding and displacement of cargo, and also leads to a deterioration in the safety of navigation, including damage or destruction of the steering mechanism, power plant, electrical supply system, and the need for additional assistance from another ship to ensure navigation.

In exceptional cases, if the ship should be for a long time in the open sea and the body of the deceased cannot be saved, bring the dead body to the sea with the marine traditions with the preparation of the relevant act.

2. For the breach of the duty, referred to in subparagraph 2) of paragraph 1 of this Article, the ship captain shall be responsible in accordance with the legislative acts of the Republic of Kazakhstan.

Footnote. Article 31, as amended by the Laws of the Republic of Kazakhstan dated 2 June , 2005 № 55 (shall be enforced from the day of its official publication); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 6. Sea port

Article 32. Legal status and types of sea ports

1. The legal status of the sea port is defined by this Law and other regulatory legal acts.

2. Seaports may be owned by the state, as well as by citizens and non-state legal entities.

Seaports, with the status of international importance, shall not be subject to privatization and may be transferred in payment for the shares of the national management holding company, national holding, national company on the terms and in the manner established by the Government of the Republic of Kazakhstan.

The status of a seaport of international importance is determined by the authorized body.

3. Seaports are objects of common use and are classified as intended for retail and specialized (fish, oil, etc.).

4. Provision of land to the sea port, as well as the withdrawal of these land plots shall be made in the manner, prescribed by the land legislation of the Republic of Kazakhstan.

5. For the construction, reconstruction of the seaports of national importance, established by the Government of the Republic of Kazakhstan, the land plots may be withdrawn from the owner or user in the manner, prescribed by the land legislation of the Republic of Kazakhstan.

6. The local executive bodies define the boundaries of the sea port, including the seaport water area.

Footnote. Article 32, as amended by the Law of the Republic of Kazakhstan dated 01.03.2011 № 414-IV (shall be enforced from the day of its first official publication); dated 10.07.2012 № 35-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days

after its first official publication); dated 05.07.2024 № 115-VIII (comes into force ten calendar days after the day of its first official publication).

Article 33. Observance of the regime of the sea port

During the stay in the sea port the ship crew shall comply with the legislation of the Republic of Kazakhstan to ensure the safety of navigation in the port, the requirements of the state bodies, exercising control and supervisory functions, stipulated by the legislation of the Republic of Kazakhstan.

The owner of the seaport (operator of the seaport) is obliged to provide access to ships arriving at the seaport for the exercise of control and supervisory functions of officials of the relevant state bodies (transport, border, sanitary and quarantine, phytosanitary, state revenue bodies and others).

Footnote. Article 33, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 № 248-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 34. The use of the sea port

The owners of buildings, structures and (or) facilities in the seaport shall provide to the state bodies, performing functions assigned to them, the necessary buildings, structures and (or) the facilities and services on a contract basis in accordance with the legislation of the Republic of Kazakhstan.

Article 35. The services, provided in the sea port

1. Seaport performs loading (unloading) and maintenance of ships in the order of their arrival, freight forwarding and warehouse operations with cargoes, transshipment to the maritime transport of goods from other modes of transport and back, service of the ship's passengers, as well as the carriage of passengers, baggage and cargo on the ships of ports and by other modes of transport.

2. Handling and other technical operations can be performed by the operator of the sea terminal.

At seaports, owned by the state, at least two operators of the sea terminals must be.

3. The list of mandatory services of the seaport is determined by the authorized body. Establishment of prices (tariffs) and their limits on mandatory services of the seaport shall be made in accordance with the legislation of the Republic of Kazakhstan.

3-1. When ships assigned to this port call in to carry out off-cargo operations (replenishment, bunkering, waste delivery or other forced necessity) due to being at sea beyond the period of autonomous operation of the ship, the owner of the seaport (operator of the sea terminal) provides discounts on compulsory services of the seaport on the terms and in the manner determined by him, with the exception of services regulated by the state.

3-2. The owner of the seaport and the navigation center have the right to apply risk coefficients to the tariffs for mandatory services of the seaport in relation to ships (substandard or over twenty years old), including foreign ones, entering the water area of this seaport.

Risk coefficients are set by the owner of the seaport or the authorized body of the relevant industry (in relation to navigation services) in the manner determined by the rules for application of prices (tariffs) for mandatory seaport services.

4. The fee for services, not included in the list of mandatory, is defined by the agreements, concluded in accordance with the legislation of the Republic of Kazakhstan.

5. Use of tugboat services when navigating in the water area of the home port for ships (except for ships with dangerous goods on board and ships over twenty years old) registered in the International Ship Register of the Republic of Kazakhstan and carrying out international transportations, if they have a bow thruster that allows independently carry out shunting operations, and the experience of sailing in the water area of this port with the captain of the ship for at least twelve months is optional and is carried out in agreement with the administration of this port (operator of the sea terminal).

Footnote. Article 35, as amended – by the Law of the Republic of Kazakhstan dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication, with the exception of the third paragraph of paragraph 12) of Article 1, which shall be enforced from 1 January 2010 - see paragraph 2); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 36. Liability of the seaport (operator of the sea terminal)

1. Seaport (operator of the sea terminal) shall be liable for loss, shortage or damage (or deterioration) of cargo, as well as for delay in its delivery from the time of adoption in its charge to the time of transmission.

2. Damage, caused as a result of the technical operations of the seaport (operator of the sea terminal) shall be repaired:

1) in case of loss or shortage of cargo to the value of the lost or missing cargo;

2) in case of damage (deterioration) of cargo to the amount by which its value was reduced, and if it is impossible to restore the damaged goods at the amount of its value.

3. Responsibility of the seaport (operator of the sea terminal) for the delay in delivery of cargo is determined by the contract.

Article 37. Securing obligations

1. Seaport (operator of the sea terminal) has the right to retain the goods in ensuring the due payments for the exercise of loading and unloading and other technical operations, and implement it in the manner prescribed by the civil legislation of the Republic of Kazakhstan.

2. Seaport (operator of the sea terminal) is not entitled to sell the containers and (or) other similar means of transportation and packing, that do not belong to the carrier or to the sender, except as the reimbursement for the repair or improvement of these facilities.

Article 38. Restrictions in the application of measures to ensure claims

Application by the courts and other competent bodies of measures to ensure the claims in the form of seizure of property of the seaport in common use, the usual procedure for the use of such property shall be ensured.

Chapter 7. State control and supervision in the seaport and in sea transport

Footnote. The title of Chapter 7 as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 39. Seaport administration

1. Seaport administration is a territorial subdivision of the authorized body.

State control and supervision shall be exercised by the seaport maritime administration.

State control and supervision shall be carried out in the form of preventive control with a visit to the subject (object) of control and supervision, unscheduled inspection in accordance with the Entrepreneur Code and this Law.

In the course of the state control and supervision, the seaport administration may apply operational response measures in accordance with this Law.

State control envisaged by subparagraph 3) of paragraph 4 of Article 129 of the Entrepreneur Code of the Republic of Kazakhstan shall be exercised by inspecting the vessel in accordance with Articles 41 and 41-1 of this Law.

2. Seaport administration shall carry out the following functions:

1) maintaining the State ship registry of marine vessels, bareboat charter registry and International ship registry of the Republic of Kazakhstan and the state registration of ship, issuance of the relevant ship documents;

2) state registration of ownership of the ship and the ship under construction, mortgage of the ship or the ship under construction and other rights to them, the issuance of the relevant documents;

3) keeping registers and issuing seafarers' identity cards of the Republic of Kazakhstan, seaworthy books, as well as issuing, suspending the validity period, seizing professional diplomas, confirming professional diplomas, preferential permits;

4) checking of the ship documents, diplomas, qualification certificates and evidence of qualification to the diplomas and qualification certificates;

5) control and supervision of compliance with the requirements for the entry of ships in port and their exit from port;

- 6) registration of the arrival of ships in port and leaving the port;
- 7) control and supervision over the activities of pilotage service and the ship traffic management system;
- 8) is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication);
- 9) issuance of permissions for deletion sunken property;
- 10) issuance of permits to conduct the construction, hydraulic engineering and other works in the port;
- 11) notification of the authorized body of the emergency, the collection of necessary information and evidence for the investigation of accidents with the ships in accordance with the rules, approved by the authorized body;
- 12) determination of the location of the state bodies (customs, border, sanitary and quarantine, phytosanitary, veterinary and others) at the seaport;
- 13) control and supervision of the technical state of the port facilities and their operation;
- 14) is excluded by Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication);
- 15) preparation of protocols for implementation of proceedings on administrative offences in accordance with the legislation of the Republic of Kazakhstan on Administrative Offences;
- 16) application of prompt response measures in cases and on the grounds stipulated by this Law;
- 17) control and supervision over compliance with the conditions specified in paragraph 2 of the Article 25 of this Law.

Footnote. Article 39, as amended by the Laws of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.01.2011 № 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 № 248-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2015 № 276-V (shall be enforced upon expiry of ten calendar days after its first official publication) ; № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication); dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication); dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication); dated 10.02.2025 № 164-VIII (shall enter into force upon expiry of ten calendar days after the date of its first official publication).

Article 40. Captain of the sea port

1. Captain of the seaport heads the seaport administration and carries out its activities under the legislation of the Republic of Kazakhstan.

2. A person who has a higher education in the specialty of navigation (diploma of a navigator) and work experience in the specialty for at least five years is appointed to the position of a seaport master.

3. Captain of the seaport shall be appointed and dismissed by the authorized body in accordance with the legislation of the Republic of Kazakhstan.

4. Captain of the seaport shall within its powers have the right to:

1) issue orders, binding for all ships, individuals and legal entities in the port, including declare the permissible maximum draft of ships in the waters and approach channel of the port;

2) attract ships, located in the port to participate in the rescue of people and ships that are in distress within the port waters;

3) impose administrative penalties in accordance with the legislation of the Republic of Kazakhstan on Administrative Offences;

4) establish the compulsory pilotage of ships;

5) provide the ship inspection in the cases, established by the legislation of the Republic of Kazakhstan;

6) carry out the check inspection of the ship in order to verify the elimination of disadvantages, preventing the issue of permit for the ship to leave the seaport;

7) in the cases, provided by the legislation of the Republic of Kazakhstan, take decisions on entry to and exit from the port;

8) perform other functions, provided by the legislation of the Republic of Kazakhstan.

5. Captain of the seaport shall:

1) exercise control and supervision over the ships, going out to the sea;

2) give permission for the ship to leave the seaport;

3) refuse permission for the ship to leave the seaport in the cases, established by this Law;

4) publish in the media information about the deadlines set for deletion sunken property;

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

Footnote. Article 40, as amended by the Laws of the Republic of Kazakhstan dated 02.06.2005 № 55 (shall be enforced from the day of its official publication); dated 06.01.2011 № 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 41. State control and supervision of ships sailing under the National Flag of the Republic of Kazakhstan

Footnote. Title of Article 41 as amended by the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

1. When exercising state control and supervision over vessels going to sea, an official of the seaport maritime administration shall check:

- 1) availability of ship's documents, diplomas, qualification certificates and confirmations to diplomas and qualification certificates and their validity period;
- 2) compliance of the main characteristics of the ship with the ship's documents;
- 3) compliance with the requirements for the manning of the ship's crew;
- 4) compliance with the conditions specified in paragraph 2 of Article 25 of this Law.

2. A ship flying the State flag of the Republic of Kazakhstan is subject to mandatory inspection no more than once every six months, except for the cases provided for in paragraph 3 of this article.

In the absence of the documents provided for in subparagraph 1) of paragraph 1 of this article, or presence of sufficient grounds to believe that the ship does not meet the safety requirements of navigation established by the legislation of the Republic of Kazakhstan, an official of the maritime port administration subjects the ship to an inspection.

3. A ship flying the State Flag of the Republic of Kazakhstan is subject to mandatory inspection in the following cases:

- 1) its first call at the seaport of the Republic of Kazakhstan;
- 2) if six and more months have passed since the last inspection of the ship by an official of the maritime port administration;
- 3) if the ship was a participant in the collision, there was a touch of the ground or grounding on the way to the seaport;
- 4) availability of information on the alleged pollution of the territorial waters of the Republic of Kazakhstan by the ship;
- 5) if the ship was maneuvering in a disorderly or unsafe manner, or was navigated in any other way that poses a threat to the safety of navigation, life and health of people, as well as the threat of causing damage to the marine environment;
- 6) if the obligatory certificates for the structure and equipment of the vessel, as well as the classification certificates, were issued by an organization not recognized by the Republic of Kazakhstan;
- 7) if the ship's class has been suspended or withdrawn for safety reasons during the preceding six months;
- 8) the presence of written information from the Register of shipping or a foreign classification society that the ship does not meet the requirements for the safety of navigation;
- 9) availability of information on the detention of the ship at the previous port of call;

10) availability of information from the authorized body on the likelihood of the ship causing harm to human life and health, the legitimate interests of individuals and legal entities, the environment.

Based on the results of the inspection of the ship, an act of inspection of the ship is drawn up.

If violations of safety requirements are revealed, which is the basis for refusing to issue a permit to the vessel to leave the seaport, an official of the maritime port administration draws up an instruction to eliminate the identified violations, indicating the time frame for their elimination. The instruction is drawn up in two copies, one of which is issued to the ship master or a person replacing him.

4. In order to verify the elimination of the revealed violations that prevent the issuance of a permit for the ship to leave the seaport, an official of the maritime port administration conducts a control inspection of the ship.

Based on the results of the control inspection of the ship, an act of inspection of the ship is drawn up.

Footnote. Article 41 as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication); dated 10.02.2025 № 164-VIII (shall enter into force upon expiry of ten calendar days after the date of its first official publication).

Article 41-1. State control and supervision of ships flying the flag of a foreign state in a seaport

Footnote. Article 41-1 as amended by the Law of RK dated 06.04.2024 № 71-VIII (enacted sixty calendar days after the day of its first official publication).

1. When exercising state control and supervision over vessels going to sea, an official of the seaport maritime administration shall check:

- 1) availability of ship's documents, diplomas, qualification certificates and confirmations to diplomas and qualification certificates and their validity period;
- 2) compliance of the main characteristics of the ship with the ship's documents;
- 3) compliance with the requirements for the manning of the ship's crew.

2. In the absence of the documents provided for in subparagraph 1) of paragraph 1 of this article, or presence of sufficient grounds to believe that the ship does not meet the safety requirements of navigation established by the legislation of the Republic of Kazakhstan, an official of the maritime port administration subjects the ship to an inspection.

3. A ship flying the flag of a foreign state is subject to inspection without fail in the following cases:

- 1) its first call at the seaport of the Republic of Kazakhstan;

2) if six or more months have passed since the day of its last inspection by an official of the maritime port administration, or another period established by an international treaty of the Republic of Kazakhstan, except for the cases provided for by paragraph 2 of this article;

3) if the ship was a participant in the collision, there was a touch of the ground or grounding on the way to the port;

4) availability of information on the alleged pollution of the territorial waters of the Republic of Kazakhstan by the ship;

5) if the ship's class has been suspended or withdrawn for safety reasons during the preceding six months;

6) if the ship was maneuvering in a disorderly or unsafe way, or was navigated in any other way that poses a threat to the safety of navigation, life and health of people, as well as a threat of damage to the marine environment;

7) if the compulsory certificates for the structure and equipment of the vessel, as well as the classification certificates, were issued by an organization not recognized by the authorized body;

8) failure to fulfill the instruction of the maritime port administration or the maritime authorities of foreign states to comply with the requirements for the safety of navigation, protection of human life at sea and protection of the marine environment from pollution.

4. Based on the results of the inspection of the ship, an act of inspection of the ship is drawn up indicating the identified deficiencies, which is drawn up in two copies, one of which is issued to the ship master or a person replacing him.

5. In order to verify the elimination of the identified deficiencies that impede the issuance of a permit for a ship to leave the seaport, an official of the maritime port administration may conduct a control inspection of the ship.

Based on the results of the control inspection of the ship, an act of inspection of the ship is drawn up.

6. If the identified deficiencies cannot be eliminated in the seaport, the official of the maritime port administration allows the ship to go to another seaport if the necessary conditions for the safe trip of the ship to the seaport are determined. At the same time, the official of the maritime port administration must make sure that the competent authority of the next seaport of call and the state of the flag are notified of this.

Footnote. Chapter 7 is supplemented with Article 41-1 in accordance with the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 06.04.2024 № 71-VIII (enacted sixty calendar days after the day of its first official publication).

Article 41-2. Prompt response measures and their application procedure

1. Prompt response measures shall be applied by the port maritime administration officials if the activities of control and supervision subjects (objects) pose a direct threat to navigation safety, human life and health, environment, cargo safety.

2. Measures of prompt response shall be methods of influencing the subjects (objects) of control and supervision, applied in the course of implementation and (or) by the results of inspection, preventive control with a visit to the subject of control and supervision, the types of which are stipulated by this Article.

3. Operational response measure includes suspension of operation of the port facility (wharf).

4. The grounds for applying prompt response measures are violations of the requirements established by the legislation of the Republic of Kazakhstan, which are the subject of state control in accordance with Article 143 of the Entrepreneur Code of the Republic of Kazakhstan.

5. In the course of inspection and (or) on state control results, when violations of requirements are detected, which are the grounds for applying prompt response measures, the port administration shall execute a supervision act.

The act of supervision shall be executed and delivered to the subject of control and supervision in accordance with Article 153 of the Entrepreneur Code of the Republic of Kazakhstan.

6. In the event of refusal to accept a supervisory act upon its delivery by hand, an appropriate entry shall be made in it and a video recording shall be made to record the fact of refusal to accept the supervisory act.

The act of supervision shall be sent to the legal address, location or actual address of the subject of control and supervision by registered mail with notification of its delivery.

7. Refusal to receive the supervision act shall not be a ground for its non-execution.

8. The violations of requirements revealed in the course of inspection and (or) as a result of state control, which are the ground for applying prompt response measures, shall be reflected in the act on preventive control results with a visit to the subject (object) of control and supervision and (or) inspection, also in the instruction to rectify the revealed breaches of the legislation of the Republic of Kazakhstan on merchant shipping.

9. The subject of control and supervision shall be obliged to rectify the revealed violations of the requirements, which are the grounds for applying prompt response measures, within the terms specified in the instruction to rectify the revealed violations of the legislation of the Republic of Kazakhstan on merchant shipping.

10. Upon expiry of the deadlines for rectifying violations of the requirements revealed by the preventive control with a visit to the subject (object) of control and supervision and (or) inspection, an unscheduled inspection shall be conducted to control elimination of the revealed violations of the requirements, which are the ground for applying prompt response measures.

The supervision act shall be terminated if the seaport administration confirms rectification of revealed violations of requirements, which are the grounds for applying prompt response measures, based on the act on the unscheduled inspection results in accordance with

subparagraph 2-1) of paragraph 5 of Article 144, paragraph 5 of the Entrepreneur Code of the Republic of Kazakhstan.

11. In case of failure to rectify the revealed violations of the requirements, which are the grounds for applying prompt response measures, based on the unscheduled inspection results, steps shall be taken to bring the persons who committed the violations to liability as prescribed by the laws of the Republic of Kazakhstan.

12. Before the expiration of the terms provided for by the instruction to rectify the revealed violations of the legislation of the Republic of Kazakhstan on merchant shipping, the subject of control and supervision shall be obliged to provide information on elimination of the revealed violations of the requirements with attached materials (if necessary) proving the fact of elimination of the violation.

In case of provided information stipulated by part one of this paragraph, an unscheduled inspection shall be conducted in accordance with part two of paragraph 10 of this Article.

13. In case of disagreement with the results of state control, which entailed application of prompt response measures, the subject of control and supervision may file a complaint to recognize the act of supervision as invalid and cancel it.

The complaint shall be filed with a higher state body as prescribed by Chapter 29 of the Entrepreneur Code of the Republic of Kazakhstan, or with the court as prescribed by the legislation of the Republic of Kazakhstan.

Filing a complaint shall not suspend the execution of the supervision act.

14. The grounds for invalidating a supervisory act and its revocation shall be:

- 1) absence of grounds for applying prompt response measures;
- 2) application of a prompt response measure on the grounds that do not correspond to this measure;
- 3) application of prompt response measures by the seaport administration on the matters that are outside their competence.

15. Information on the application of prompt response measures shall be sent to the state body that, within its competence, pursues activities in state legal statistics and special records, in the manner determined by the Prosecutor General's Office of the Republic of Kazakhstan.

Footnote. Chapter 7 has been complemented by Article 41-2 pursuant to the Law of the Republic of Kazakhstan dated 06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

Article 42. Permission for ships to leave the sea port

1. Each ship, prior to leaving the seaport, must obtain permission for this from an official of the maritime port administration.

2. An official of the maritime port administration refuses to issue a permit for the ship to leave the seaport in the following cases:

- 1) non-compliance of the ship with safety requirements in the field of merchant shipping established by technical regulations, the legislation of the Republic of Kazakhstan;
- 2) violation of the requirements for loading, procurement, manning or the presence of other defects of the ship, creating a threat to the safety of navigation, life and health of the persons on board, as well as the threat of harm to the marine environment;
- 3) violation of the requirements to the ship documents;
- 4) presence of the requirements of the relevant state bodies (customs, border, sanitary and quarantine, phytosanitary and other);
- 5) failure to pay for mandatory services of the seaport.

Footnote. Article 42, as amended by the Laws of the Republic of Kazakhstan dated 29.12.2006 № 209 (the order of enforcement see Article 2); dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 № 248-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 43. Detention of the ship

1. Captain of the seaport at the request of the claimant, arising in connection with the rescue, with the collision of ships, with damage to port facilities, water reservoirs, navigable waterways and aids to navigation, or otherwise in connection with harm, may delay the release of the ship to secure the obligations of the ship owner, the cargo owner.

2. The detention order of the ship under the requirements, listed in paragraph 1 of this Article shall be valid for seventy-two hours, except for days, officially regarded as non-working. If during this period, the ship is not arrested by the competent authorities, it shall be released immediately.

3. Responsibility for damages, caused to unjustified detention of the ship, shall bear the person at whose request the detention took place.

Article 43-1. Procedure for preventive control without visiting the subject (object) of control and supervision

Footnote. The title of Article 43-1 with the change introduced by the Law of RK from 06.04.2024 № 71-VIII (enacted on the expiration of sixty calendar days after the day of its first official publication).

1. Preventive control without visiting the subject (object) of control and supervision shall be carried out by the authorized body on the basis of analysis and data from information systems, as well as other information on the activities of the subject (object) of control and supervision.

2. The subjects of control and supervision are shipowners, individuals or legal entities engaged in activities related to the operation of ships, ports, port facilities, onshore facilities and offshore structures.

3. The objectives of preventive control without visiting the subject (object) of control and supervision are timely suppression and prevention of violations, granting the subject of control and supervision the right to independently rectify violations identified in preventive control without visiting the subject (object) of control and supervision, and reducing the administrative burden on the subject of control and supervision.

4. To give the subjects of control and supervision the right to independently rectify violations, preventive control without visiting the subject (object) of control and supervision shall be carried out only for those violations, the consequences of which can be rectified in accordance with the legislation of the Republic of Kazakhstan.

5. Upon results of preventive control without visiting the subject (object) of control and supervision, a recommendation to rectify the identified violations without initiating administrative proceedings shall be drawn up with mandatory explanation to the subject of control and supervision their elimination procedure.

6. A recommendation shall be delivered to the subject (object) of control and supervision by hand against receipt or in any other form confirming its dispatch and receipt.

7. A recommendation sent using one of the below indicated methods is deemed to be served if sent:

- 1) by courier – on the date of the acknowledgement of receipt in the recommendation;
- 2) by mail - by registered mail;
- 3) electronically - on the date the authorized body sent it to the electronic address of the subject of control and supervision specified in a letter upon request.

8. Recommendation on rectifying violations revealed in the preventive control without visiting the subject (object) of control and supervision shall be executed within twenty working days from the date following the day of its delivery.

9. In the event of disagreement with violations specified in the recommendation, the subject of control and supervision has the right to send an objection within five working days of the day following the day of the recommendation's delivery to the authorized body that sent the recommendation.

10. Non-fulfillment within the established time limit of the recommendation on rectifying the violations identified in the preventive control without visiting the subject (object) of control and supervision shall entail appointment of preventive control with a visit to the subject (object) of control and supervision by inclusion in the semi-annual list of preventive control with a visit to the subject (object) of control and supervision in accordance with the Entrepreneur Code of the Republic of Kazakhstan.

11. Preventive control without visiting the subject (object) of control and supervision shall be conducted not more than once a year.

Footnote. Chapter 7 is supplemented with Article 43-1 in accordance with Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated

06.04.24 № 71-VIII (effective sixty calendar days after the date of its first official publication).

Article 44. Construction in the area of navigation aids

Construction of hydrographic structures on the coast and in the Kazakhstan sector of the Caspian Sea in the area of navigation aids of the sea routes shall be agreed with the Ministry of Defense of the Republic of Kazakhstan.

Footnote. Article 44 is in the wording of the Law of the Republic of Kazakhstan dated 13.06.2017 № 69-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 7-1. Investigation of accidents

Footnote. The Law was supplemented with Chapter 7-1 in accordance with the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 44-1. General provisions for investigation of accidents

1. Accidents with ships flying the State flag of the Republic of Kazakhstan in international and territorial waters, as well as under the flag of a foreign state in the territorial waters of the Republic of Kazakhstan, shall be subject to mandatory investigation in the manner determined by the rules for investigating accidents with ships.

2. The objectives of the investigation are to establish the causes and (or) contributing factors, develop recommendations to prevent an accident in the future and ensure the safety of navigation.

3. Investigation of accidents is carried out by a commission created by the authorized body, except for the cases established by paragraph 4 of this article.

The Commission for the Investigation of Accidents shall include an authorized investigator, who is an official of the authorized body, territorial subdivisions of the authorized body, shipowners and interested parties.

4. Certain types of accidents, the list of which is established by the rules for investigating accidents with ships, are investigated by shipowners. Upon completion of the investigation by the shipowner, the materials are submitted to the authorized body and the maritime port administration.

5. The work of the Accident Investigation Commission is conducted under the chairmanship of the Investigator-in-charge.

6. The Investigator-in-charge organizes and coordinates the work of the Accident Investigation Commission, as well as all aspects related to them, at the scene of the accident.

7. In order to maintain a professional level and improve qualifications, the Investigator-in-charge periodically undergoes training in the manner prescribed by the legislation of the Republic of Kazakhstan.

8. Individuals and legal entities, government agencies are obliged to provide, at the request of the Accident Investigation Commission, information and (or) documentation related to the investigation.

9. The Accident Investigation Commission conducts accident investigations separately and independently from other types of investigations conducted by other government agencies

10. During the investigation, it is not allowed to interfere in the activities of the commission for the investigation of accidents by the individuals and (or) legal entities, other state bodies, except for cases directly provided for by the laws of the Republic of Kazakhstan.

Footnote. Article 44-1 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect sixty calendar days after the day of its first official publication).

Article 44-2. Rights and obligations of the Accident Investigation Commission

1. The Accident Investigation Commission has the right:

1) to interact with representatives of other state bodies, interested parties to ensure the independence and objectivity of the investigation, as well as to avoid the loss or change of evidence related to the investigation;

2) to have unimpeded access to the accident site and to all documentation related to the operation of the ship, to the personnel involved in its maintenance and security, to conduct an inspection and further survey of the accident site, objects and wreckage, spare parts and any other objects that are the cause or could have contributed to, influence the occurrence of the accident;

3) to search, restore, retrieve, read data from objective control devices or any other device of the data carrier on the ship, as well as records of technical means of traffic maintenance and full control over the storage of the data obtained. The extraction and reading of the records of the objective control or any other device of the information carrier must be made without any delay using the appropriate means in the Republic of Kazakhstan;

4) to interrogate eyewitnesses, personnel and other persons involved in the accident, appoint research and tests necessary to establish the causes of the accident and (or) the contributing factors;

5) to involve experts in the work, request their reports related to the investigation of the accident;

6) to be, in agreement with the ship master and (or) the shipowner, on the ship en route to the place of the accident.

2. The Accident Investigation Commission is obliged to comply with the legislation of the Republic of Kazakhstan.

Chapter 8. Sea Pilots

Article 45. Pilotage of ships

1. Pilotage of ships is carried out in order to ensure the safety of navigation and the prevention of accidents with ships, as well as the environmental protection in accordance with the rules, approved by the authorized body.

2. Citizens of the Republic of Kazakhstan upon the condition of their compliance with the qualification requirements, established by the authorized body, may be allowed to work as sea pilots.

3. The authorized body establishes the areas of compulsory and optional pilotage of ships, and brings information on these areas to the public at seaports and sailing directions.

4. Procedure of pilotage of ships in seaports, having adjacent waters is established by captains of the sea ports.

Footnote. Article 45, as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 46. Compulsory pilotage of ships

1. The ship shall not be entitled to sail without a pilot in the areas of compulsory pilotage of ships, except for categories of ship that are exempt from compulsory pilotage in accordance with the Rules of the pilotage of ships.

2. Information about the categories of ships, exempted from compulsory pilotage of ships shall compulsorily be communicated to the public in the seaports.

Footnote. Article 46, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 47. Optional pilotage of ships

1. In areas, where pilotage of ships is optional, the captain of the ship has the right to take a pilot on the ship.

2. In areas, where pilotage of ships is optional, the seaport captain may establish compulsory pilotage of ships in the following cases:

1) if the ship or cargo transported by it may cause harm to the marine environment;

2) if the ship is seriously damaged the hull, machinery or equipment, which may significantly affect the safety of navigation in the port. In this case, the captain of the ship shall be notified by the seaport captain that his (her) ship must follow the compulsory pilotage

Article 48. The liability of the pilot and the ship's captain

The presence on board the pilot does not exclude the liability of the ship's captain for the management of the ship. If there are sufficient reasons to doubt the correctness of the recommendations of the pilot, the ship's captain is entitled to refuse the services of a pilot for the safe navigation of the ship. If pilotage of ship is compulsory, the captain of the ship shall require replacement of the pilot.

Article 49. The liability for the improper pilotage of ship

1. Liability of the organization, which employee is a pilot, for improper pilotage of ship is limited by the amount equal to ten times the payment for such services.

2. Organization, which employee is a pilot, shall be liable in full, if it is proved that the damage caused to the ship as a result of improper pilotage, was the result of action (or inaction) of the pilot or the organization, which employee he (she) is, committed intentionally or through gross negligence.

3. Pilot, guilty of improper pilotage of ship may be disqualified on such terms and conditions as defined in the Rules of the pilotage of ships.

Footnote. Article 49, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 49-1. Reporting of sunken property, locating and marking of sunken property

1. The sunken property, which is the result of an accident, shall include:

1) sunken or stranded ship;

2) any part of a sunken or stranded ship, including any object that is aground, sunk or drifting in the territorial waters of the Republic of Kazakhstan;

3) any object that was lost from a ship at sea and which is aground, sunk or drifting in the territorial waters of the Republic of Kazakhstan;

4) a ship that almost sank or ran aground, or sinks or runs aground, if measures to assist the ship or other property are no longer taken.

2. The owner and captain of a vessel that sank in the case of an emergency in the territorial waters of the Republic of Kazakhstan shall be obliged to immediately inform the seaport administration of information about the sunken property in the manner prescribed by the authorized body.

3. The Hydrographic Support Service of the Naval Forces of the Armed Forces of the Republic of Kazakhstan ensures the adoption of measures to establish the location and designate the sunken property with navigational signs.

Footnote. Chapter 9 is supplemented by Article 49-1 in accordance with the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Chapter 9. Sunken property

Article 50. Removal of sunken property by its owner

Footnote. The heading of Article 50 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

1. The owner of the sunken property must notify the captain of the nearest seaport of his/her intention to remove such property in accordance with the rules for the removal of sunken property. within one year from the date the property sank.

2. The captain of the seaport, within three months from the date of receipt of the application of the owner of the sunken property, shall set the term for removal of the sunken property. The owner of the sunken property has the right to remove it within one year from the date of receipt of the permit.

3. In cases where the sunken property poses a threat to the safety of navigation or damage to the marine environment by pollution or interferes with the fishing of aquatic biological resources, port activities and work in the port, the owner of the sunken property shall be obliged, upon request and within a reasonable time, established by the captain of the seaport, to remove it.

4. If the owner of the sunken property is not known, the Harbor Master publishes information in the mass media about the deadlines set for the removal of the sunken property. If the flag of the sunken ship is known, the captain of the seaport shall send a corresponding notification to the diplomatic or consular person of the state to which the ship belongs.

5. In cases where the owner of the sunken property does not make a statement or does not remove the property within the established period, the things constituting such property shall be recognized as ownerless.

Note. For this chapter, the owner of the sunken property is the shipowner or the owner of the ship sunk in the territorial waters of the Republic of Kazakhstan.

Footnote. Article 50 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect sixty calendar days after the day of its first official publication).

Article 51. Removal of sunken property by the maritime port administration

Footnote. The heading of Article 51 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

1. The Port Maritime Authority has the right to remove the sunken property in cases where:

1) the owner of the sunken property within one year from the date when the property is sunk, is not set;

2) the owner has not fulfilled or improperly fulfilled its obligations as provided in paragraph 3 of Article 50 of this Law;

3) the owner of the sunken property to remove uses means that do not meet the technical safety requirements established by the legislation of the Republic of Kazakhstan;

4) the owner of the sunken property is not set in order to prevent an accident, disaster or catastrophe that may result in loss of life, damage to their health, the environment and economic facilities, significant financial losses and disruption of living conditions of the population, according to the legislation of the Republic of Kazakhstan on civil protection.

2. Removal of sunken property in the cases provided for by paragraph 1 of this article, at the expense of the owner of the property, except for the cases provided for in subparagraphs 1) and 4) of paragraph 1 of this article.

3. Sunken property removed in accordance with subparagraph 3) of paragraph 1 of this article, may be claimed by its owner after reimbursement by him/her of the costs of removing the sunken property, provided that from the moment of removal sunken property has passed no more than one year.

Footnote. Article 51, as amended by the Law of the Republic of Kazakhstan dated 11.04.2014 № 189-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 51-1. Responsibility of the owner of the sunken property

1. The owner of the sunken property shall be liable for the costs of locating, marking and removing the sunken property, except for the following cases when the damage is caused to the sunken property:

1) as a result of military action, hostilities, civil war, insurrection or an inevitable and irresistible natural phenomenon;

2) intentional action (inaction) of third parties with the intent to cause damage;

3) as a result of improper operation of lights or other navigation aids outside the ship, caused by non-performance or improper performance of work on their maintenance.

2. The amount of liability of the owner of the sunken property in connection with the location, marking and removal of the sunken property arising from the same accident, shall be limited to the total amount calculated in the following order:

1.51 million units of account - for a ship with a capacity of not more than 2000 register tons inclusive;

for a ship with a tonnage exceeding 2,000 gross tons, the following amount shall be added to the amount specified in the second paragraph of this paragraph:

for each ton from 2001 to 30000 tons inclusive - 604 units of account;

for each ton from 30,001 to 70,000 tons inclusive - 453 units of account; and

for each ton over 70,000 tons - 302 units of account.

3. The owner of a ship with a gross tonnage of 300 gross tonnages and more shall be obliged to insure the risk of liability for the removal of sunken property or provide other financial security for liability for the removal of sunken property in the amount determined in accordance with paragraph 2 of this article.

4. A ship entering the territorial waters of the Republic of Kazakhstan must have on board a certificate of insurance or other financial security for liability for the removal of sunken ships.

5. For ships sailing under the State Flag of the Republic of Kazakhstan, a certificate of insurance or other financial security for liability for the removal of sunken ships shall be issued by the port's maritime administration in the manner and the form established by the authorized body.

Footnote. Chapter 9 is supplemented by Article 51-1 in accordance with the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 52. The right of the Hydrographic Support Service of the Naval Forces of the Armed Forces of the Republic of Kazakhstan and the maritime administration of the port to full reimbursement of expenses incurred

1. The following entities shall have the right to full reimbursement of expenses incurred:

1) The Hydrographic Support Service of the Naval Forces of the Armed Forces of the Republic of Kazakhstan - for the costs incurred in establishing the location and marking the sunken property with navigational signs;

2) the maritime administration of the port - for the costs incurred in connection with the removal of the sunken property, carried out in accordance with paragraph 1 of Article 51 of this Law.

2. Reimbursement of expenses incurred shall be carried out at the expense of:

1) the amount received from the sale of the remote sunken property, in the manner prescribed by the legislation of the Republic of Kazakhstan, the remaining amount shall be transferred to the owner of the sunken property;

2) the owner of the sunken property if the amount received from the sale of the sunken property shall not cover the costs incurred for establishing the location, marking the sunken property and removing it.

Funds received from the reimbursement of expenses incurred shall be credited to the State

Footnote. Article 52 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect sixty calendar days after the day of its first official publication).

Article 53. Accidentally removed sunken property (find)

Footnote. The heading of Article 53 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Sunken property accidentally removed in the territorial waters of the Republic of Kazakhstan or on the high seas when carrying out operations related to merchant shipping must be delivered to the nearest seaport of the Republic of Kazakhstan. The maritime

administration is obliged to take measures concerning such property, provided for by civil legislation of the Republic of Kazakhstan.

Footnote. Article 53 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Chapter 10. The contract of carriage of cargo

Article 54. The contract of carriage of cargo

1. According to the contract of carriage of cargo, the carrier undertakes to deliver the cargo, entrusted to him (her) by the sender to the destination port and give to the person, authorized to receive the cargo (the recipient), and the sender or the recipient is obligated to pay for the carriage of cargo fee according to the contract or rate, and ensure the acceptance of the goods.

2. The contract of carriage of cargo shall be entered into with a condition, providing for the carriage of cargo by sea the whole ship, its parts or certain areas of the ship (charter), as well as the absence of such condition.

Article 54-1. Carriage of cargo in direct mixed

The relations of carriers, as well as other persons participating in carriage of cargo in direct mixed by different modes of transport under a single consignment note (single bill of lading), shall determine by the legislative acts of the Republic of Kazakhstan on transport.

Footnote. Chapter 10 1 shall be supplemented by article 54-1 in accordance with the Law of the Republic of Kazakhstan dated 27.10.2015 № 363-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 55. Form of the contract for carriage of cargo

Contract of carriage of cargo is issued by a bill of lading, charter, sea waybill. Form of a bill of lading, charter, sea waybill is set by the shipping rules.

Article 56. Long-term contract on the organization of carriage of cargo by sea

1. The carrier and sender, if necessary, to carry out systematic transportation of cargo may enter into long-term contracts for the organization of carriage of cargo by sea.

Under the contract on the organization of carriage of cargo by sea the carrier shall within the prescribed period accept, and the sender shall present cargo for carriage in the stipulated amount.

The contract on the organization of carriage of cargo by sea determines the volume, timing, quality of transportation and other conditions of the provision of vehicles and the presentation of the cargo for transportation, as well as other terms of the organization of transportation, not provided for by legislative acts of the Republic of Kazakhstan.

2. Conditions of carriage of cargo, agreed in the long-term contract for the organization of carriage of cargo by sea, are deemed to be included in the contract of carriage of cargo, if the parties have not agreed otherwise.

If the conditions of the contract of carriage of cargo contradict the conditions of the long-term contract on the organization of carriage of cargo by sea, the conditions of the contract of carriage of cargo shall apply.

3. Conditions of the long-term contract on the organization of carriage of cargo by sea, not included in the bill of lading, shall not be binding on a third party, if it is not the charterer.

Article 57. The content of the Charter. Assignment of rights under Charter

1. Charter shall contain the name of the parties, the name of the ship, an indication of the kind and type of cargo, the amount of freight, port of loading, place of loading cargo, as well as the port of destination or direction of the ship. The other conditions may be included in the charter by agreement of the parties.

2. In the carriage of cargo under the charter, the charterer is entitled, with the consent of the carrier to assign their rights under the contract of carriage of cargo by sea to third parties. The charterer, as well as third party to whom he (she) assigned his (her) rights, shall be jointly and severally liable to the carrier for breach of the contract of carriage of cargo by sea, unless otherwise provided by the charter.

Article 58. The ratio of the charter and the bill of lading

Relations between the carrier and the recipient that are not a party to the contract of charter shall be determined by the bill of lading. Charter terms shall be binding for the recipient, if the bill of lading contains a reference to them.

Article 59. Ensuring the seaworthy condition of the ship under the contract of carriage of cargo by sea

1. The carrier shall before the commencement of the voyage, bring the ship in the seaworthy condition: ensure the safety and technical suitability of the ship, properly equip the ship, complement it by crew and provide all necessary, as well as bring the holds and other spaces of a ship, which carried cargo, in a condition that ensures the proper reception, transportation and safety of cargo.

2. The parties' agreement, contrary to paragraph 1 of this Article shall not apply, if the shipping is carried out on the basis of the bill of lading or the bill of lading is issued in accordance with the charter and governs the relationship between the carrier and the holder of the bill of lading that is not the charterer.

Footnote. Article 59, as amended – by the Law of the Republic of Kazakhstan dated 29 December, 2006 № 209 (the order of enforcement see Article 2).

Article 60. Replacement of the ship

If the cargo must be transported on a specific ship, the cargo may be shipped to another ship only with the consent of the charterer or the sender, except for trans-shipment due to technical necessity that arose after it starts loading.

Article 61. Notice of readiness of the ship for cargo loading

1. In the carriage of cargo under the charter, the carrier shall notify in writing the charterer or the sender, if he (she) is specified as the charterer, that the ship is ready or will be ready at

a certain time for cargo loading. Such notification may be filed only if the ship is in the port of loading or in normal for this port waiting area.

2. Day and hour of filing of the notice, referred to in paragraph 1 of this Article shall be determined by the agreement of the parties and in the absence of the agreement by the customs of the port.

3. If the ship is not ready to load cargo at a time, specified in the notice, the losses incurred in connection with it shall be reimbursed to the charterer by the carrier.

Article 62. Place of cargo loading

1. In the carriage of cargo under the charter, the carrier shall make a ship available at the place of cargo loading, specified by the charterer. The charterer must indicate the safe and suitable for cargo loading place, where the ship may be staying afloat. If the charterer specified the place unsuitable for cargo loading, or the several charterers indicated different places of cargo loading, the carrier is entitled to make a ship available at the place of cargo loading, commonly used in the port, warning the charterers about it in advance.

The charterer has the right to require that the ship shall be delivered to another place for cargo loading at his (her) own expense.

2. When transporting goods in the linear communication, the place of cargo loading is determined by the carrier. The carrier shall inform the sender about the place of cargo loading, when the loading of cargo is carried in an unusual location for this port.

Article 63. Deadline for submission of the ship

In the carriage of cargo under the charter, the carrier shall make a ship available by the charter time. In case of failure to provide ship within the specified period, the charterer shall have the right to withdraw from the contract of carriage of goods by sea and claim damages.

Article 64. Laytime

1. Laytime is determined by the agreement between the parties, in the absence of such agreement, by the terms that are usually taken at the port of loading.

2. Laytime is calculated in working days, hours and minutes, starting from the day following the direction of the sender, the charterer a notice of the readiness of the ship for cargo loading.

3. The time during which the loading of the cargo was not carried out for reasons beyond the control of the carrier, or due to force majeure or meteorological conditions that endanger the safety of the cargo or impeding its safe loading, shall not be included in the laytime.

The time during which loading of cargo was not carried out for reasons beyond the control of the charterer shall be included in the laytime.

4. In the case when the loading of cargo began before the calculation of the laytime, the time actually spent on the loading of cargo should be counted as the laytime.

5. The rules, established by this Article shall also apply when unloading cargo at the port of unloading.

Article 65. Lay days

1. Duration of lay days shall be determined by the agreement of the parties, and in its absence by the terms, usually accepted in the port of loading.

2. Lay days shall be calculated in calendar days, hours and minutes since the end of the lay time.

3. Lay days shall include Sundays and officially established public holidays, declared as a non-working time in the port, as well as breaks in the loading of cargo caused by force majeure or hydro-meteorological conditions, endangering the safety of cargo or impeding its safe loading. The time during which the loading of cargo is not carried out for reasons beyond the control of the carrier, shall not be included in lay days.

4. The rules, established by this Article, as well as Articles 66-68 of this Law shall apply when unloading cargo at the port of unloading.

Article 66. Demurrage

Demurrage shall be determined by the agreement between the parties, in the absence of such agreement, in accordance with the rates, generally accepted in the relevant port. In the absence of such rates demurrage shall be determined by the cost for maintaining the ship and its crew.

Article 67. Dispatch

Dispatch can be established by the agreement between the parties. In the absence of such agreement, the amount of dispatch shall be equal to one-half of demurrage.

Article 68. The right of the carrier to send a ship to sail after expiration of lay days

1. The carrier shall have the right after expiration of lay days to send a ship to sail, even if the whole agreed cargo is not loaded on the ship, for reasons beyond the control of the carrier. In this case, the carrier retains the right to receive the full freight.

2. In the case of the provision of all ship for the carriage of cargo, the carrier may not refuse to receive the cargo, delivered before the end of the demurrage time or lay days, with an agreement to this time, although the adoption and stowage can detain the ship beyond the established period.

3. In the case if all ship is not provided for the carriage of cargo, the carrier shall be entitled before the expiration of the demurrage or lay days with an agreement to this time, to refuse to accept the cargo, which is due to its late presentation can be loaded on the ship properly and without damage to other cargo only with a delay of the ship. In this case, the carrier retains the right to receive the full freight.

Article 69. Temporary suspension or restriction of reception of goods for carriage

1. In emergency of social, natural and man-made the cargo reception may be temporarily suspended or restricted by the order of the seaport administration with immediate notification of the authorized body which establishes the validity of the temporary termination or restriction of receipt of goods for carriage in consultation with the relevant state bodies.

2. On the temporary suspension or restriction of receipt of goods for carriage, the seaport administration shall immediately notify the senders of goods during carriage of cargo in direct mixed or direct maritime traffic and organization of transport of other types.

Footnote. Article 69, as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 № 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Law of the Republic of Kazakhstan dated 27.10.2015 № 363-V (shall be enforced upon expiry of ten calendar days after its first official publication).

70. Compensation for losses for the delay of the ship

For the delay of the ship over the lay days the sender, the charterer shall compensate the carrier for losses caused, if the delay of the ship is due to reasons beyond the control of the carrier.

Article 71. The early sending of the ship to sail upon request of the charterer

If the charterer is provided the all ship for the carriage of goods, the carrier shall, upon request of the charterer, send a ship to sail, even if the whole cargo is not loaded. In this case, the carrier retains the right to full freight.

Article 72. Packaging and marking of cargo

1. Cargo that needs containers and packaging to ensure their complete safety during transportation must be submitted for transportation in serviceable containers and packaging, including dangerous cargo, packed in accordance with the requirements of international treaties of the Republic of Kazakhstan. Containers and packaging must comply with the mandatory safety requirements established by technical regulations and international treaties of the Republic of Kazakhstan.

2. The sender must properly mark the cargo and provide the necessary details of it to the carrier. If the cargo requires special handling, the sender shall inform the carrier about the properties of the cargo and the order of handling.

Footnote. Article 72, as amended – by the Law of the Republic of Kazakhstan dated 29 December, 2006 № 209 (the order of enforcement see Article 2); dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 73. Deck cargo

1. The carrier is entitled to carry cargo on deck only in accordance with the agreement between the carrier and the sender.

2. In the case, if the carrier and the sender have agreed that the cargo shall or may be carried on deck, the carrier shall make an indication on the achievement of such an agreement in the bill of lading or other document, evidencing the contract of carriage of goods by sea. If the carrier does not make such an indication, he (she) shall prove that the contract for carriage

of cargo on deck is concluded between him (her) and the sender. The carrier is not entitled to rely on such an agreement against a third party that acquired the bill of lading in good faith, including in relation to the recipient.

3. In the case, if the cargo is carried on deck in violation of the rules, set forth in paragraphs 1 and 2 of this Article, the carrier may not refer to the contract for carriage of cargo on deck and shall be liable for the loss, shortage or damage (or deterioration) of the cargo or delay in delivery, solely caused by carriage of cargo on deck. In this case, the rules, provided for in Article 102 of this Law shall not apply.

The extent of the carrier's liability shall be determined in accordance with Articles 104 and 105 of this Law.

4. Carriage of cargo on deck, if there is a contract for carriage of cargo in the hold, is regarded as an action (inaction) of the carrier, entailing the loss of the carrier's right to limitation of the liability in accordance with Article 105 of this Law.

Article 74. Dangerous cargo

1. In the case of providing incorrect information about the name of the dangerous cargo at their delivery and the inability of the carrier to verify its properties by external examination, the carrier shall be entitled at any time and at the expense of the sender to carry out unloading, destruction and disposal of such goods without compensation of losses.

The sender shall be liable to the carrier for the losses, caused as a result of the loading of the cargo.

Freight for the carriage of dangerous cargo shall not be returned. In the case of non-payment of the freight, the carrier is entitled to recover the cost from the sender in full.

2. Ship, intended to the carriage of dangerous cargo, should have a document of compliance for the carriage of dangerous cargo, issued by a foreign classification society.

In the absence of a document of compliance for the carriage of dangerous cargo, the carriage of dangerous cargo by sea shall not be allowed.

3. If the dangerous cargo, with the consent of the carrier are on the ship, would endanger the ship, for people on it and cargo, the carrier shall be entitled depending on the circumstances to carry out the unloading, destruction or disposal of such goods without compensation for losses to the sender, except in cases of general average.

The carrier is entitled to receive freight in the amount, proportional to the distance, actually traveled by the ship with dangerous cargo.

Footnote. Article 74, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 № 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 75. Replacement of cargo

Cargo, kind or species as defined in the charter, may be replaced to the goods of another kind or species only with the consent of the carrier.

Article 76. Removal of foreign cargo

1. In the case of providing for the carriage of cargo of all the ship, its parts or certain ship facilities, the sender shall have the right to require the removal of a foreign cargo from the ship, part of the ship or ship facilities at the port of departure, in the case of providing for carriage of cargo of all the ship - in any port of call.

2. If the cargo has not been removed from the ship, part of the ship or ship facilities in a timely manner, the charterer shall be entitled to demand a corresponding reduction in freight, as well as compensation for losses to the charterer.

Article 77. Documents, accompanying the cargo

The sender shall give the carrier the documents, necessary for the smooth carriage of cargo, provided by the legislation of the Republic of Kazakhstan (certificate, license, veterinary certificate, customs declarations and other).

The sender shall be liable to the carrier for the losses, caused due to late transmission, uncertainty or incompleteness of such documents.

Footnote. Article 77, as amended by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced from 30.01.2012).

Article 78. Issuance of a sea waybill

The sender shall be entitled to require the carrier to issue a sea waybill instead of a bill of lading. The rules, set out in this Chapter, except for Article 80, paragraph 2 of Article 81, Articles 83, 84 and paragraph 2 of Article 85 of this Law, relating to the bill of lading as a document of title, shall apply to the sea waybill.

Article 79. Issuance of a bill of lading

1. Upon receipt of the cargo for carriage, the carrier upon request of the sender shall issue a bill of lading to the sender.

The bill of lading shall be made on the basis of the document, signed by the sender, which shall contain the information specified in subparagraphs 3) -8) of paragraph 1 of Article 81 of this Law.

2. The sender ensures to the carrier the reliability of the data, provided for inclusion in the bill of lading, and shall be liable for losses, caused to the carrier due to the unreliability of such data.

The carrier's right to compensation of losses by the sender does not eliminate the liability of the carrier under the contract of carriage of goods by sea to the party, other than the sender.

Article 80. Types of Bill of Lading

The bill of lading may be issued in the name of a specific recipient (nominal bill of lading), to the order of the sender or recipient (order bill of lading) or to the bearer. Order bill of lading that does not contain instructions for its issuance to the order of the sender or recipient, shall be considered as issued to the order of the sender.

Article 81. The content of the bill of lading

1. The bill of lading shall include the following information:

1) the name of the carrier and its location;

- 2) the name of the port of loading under the contract of carriage of goods by sea and the date of receiving the goods by the carrier at the port of loading;
- 3) the name of the sender and its location;
- 4) the name of the port of unloading under the contract of carriage of goods by sea;
- 5) the name of the recipient, if it is specified by the sender;
- 6) the name of the goods, necessary for identification of the goods, the major brands, an indication, where appropriate, to the dangerous nature or special characteristics of the goods, the number of packages or pieces, and the weight of the goods or its quantity expressed otherwise. In this case, all data shall be specified as they are presented by the sender;
- 7) the apparent condition of the goods and their packaging;
- 8) the freight to the extent, payable by the recipient, or other indication that freight should be paid to them;
- 9) the time and place of issue of a bill of lading;
- 10) the number of original bills of lading, if they are more than one;
- 11) the signature of the carrier or the person, acting on his behalf. A bill of lading, signed by the captain of the ship, is considered to be signed on the carrier's behalf.

Other data may be included to the bill of lading by agreement of the parties.

2. After the goods are loaded on board of the ship, the carrier at the request of the sender shall issue a board bill of lading, where in addition to the information, provided for in paragraph 1 of this Article shall be stated that the goods are on board of the ship or ships, as well as the date of loading cargo.

3. If the carrier prior to loading cargo on board of the ship issues a bill of lading to the sender for the cargo, received for carriage or other document of title, related to this cargo, the sender shall, upon request of the carrier, return the document in exchange for a board bill of lading.

4. The carrier may satisfy the requirements of the sender to the board bill of lading by amending any previously issued document, provided that the amended such document includes all the information that the bill of lading must contain.

Article 82. Clause in the bill of lading. Evidentiary effect of the bill of lading

1. If the bill of lading contains data, concerning the cargo name, its main brands, the number of packages or pieces, the weight or quantity of the cargo and in respect of which the carrier or the other person, issuing bills of lading on behalf of it knows or has reasonable grounds to believe that such data does not match the actually received or loaded cargo in the issuance of the board bill of lading, or the carrier or the other such person had no reasonable means for checking the specified data, the carrier or the other such person shall add to the bill of lading a clause, specifying inaccuracies, grounds for belief or lack of reasonable possibility to check the specified data.

2. If the carrier or other person, issuing bills of lading on its behalf fails to note on the bill of lading the apparent condition of the cargo, it is believed that the proper apparent condition of the cargo is specified in the bill of lading.

3. With the exception of data in respect of which included a clause, valid in accordance with paragraph 1 of this Article, the bill of lading certifies, unless proven otherwise, the receipt of cargo for carriage by the carrier, as described in the bill of lading. Proving of a carrier the other is not allowed, if the bill of lading transferred to a third person, and those on the basis of the description of the goods, contained in the bill of lading, acted in good faith.

Article 83. Multiple copies of bill of lading

At the request of the sender, he (she) may be given a few copies (originals) of bills of lading, and in each of them the number of existing original bills of lading, are noted. After delivery of the goods on the basis of the first of the presented original bills of lading, the other originals are invalidated.

Article 84. Transfer of bill of lading

The bill of lading shall be transferred with the following rules:

- 1) the bill of lading may be transferred by personal endorsement or otherwise in accordance with the rules, applicable to the form of assignment of the claim;
- 2) the order bill of lading may be transferred by special or blank endorsement;
- 3) the bill of lading to the bearer may be transferred by mere delivery.

Article 85. The right of control

1. The sender has the right to dispose of the goods until delivery to the recipient or transfer of such rights to the recipient or a third party.

2. The sender has the right to demand the return delivery of cargo at the place of departure until the departure of the ship, the delivery of cargo at an intermediate port or issuance of it not to the recipient, specified in the document of carriage, subject to the submission of all original bills of lading, issued to the sender or provision of the appropriate security and in compliance with the requirements, provided for in Articles 89 and 91 of this Law.

Article 86. Obligations of the carrier in respect of cargo

1. The carrier from the receipt of cargo for carriage to the date of its issuance, shall duly carry out loading, carriage and unloading of cargo, and ensure the safety of cargo.

2. If the cargo, accepted for carriage by virtue of its special properties needs special handling, specified in the contract of carriage of goods by sea, the carrier shall ensure the safety of the cargo pursuant to such instructions.

3. The contracts, concluded in violation of the requirements stipulated in paragraph 1 of this Article, shall be invalid.

Article 87. Term and route of carriage of cargo

The carrier shall deliver the passenger, baggage and cargo in the port (point) of destination on time and route that established by the agreement of the parties. In the absence of such an agreement, delivery must be made within a reasonable time and on a regular route.

Article 88. Barriers to the entry of the ship in the port of destination

1. In the case, if due to reasons beyond the control of the carrier, the ship may not enter the port of destination, the carrier shall immediately notify about it the sender or the charterer or the person, authorized to dispose of cargo, when such a person is known to the carrier.

2. In the case, if for carriage of cargo all the ship is provided and within a reasonable time from the date of sending the notification by the carrier, there is no instructions on how to dispose of the cargo, the ship captain has the right to unload the cargo in one of the nearest port or to return the cargo to the port of departure, depending from the fact that, according to the captain of the ship it is more beneficial to the sender or the charterer or the person, authorized to dispose of the cargo.

3. In the case, if for carriage of cargo all the ship is not provided, and within three days from the date of sending the notification by the carrier, there is no instructions on how to dispose of the cargo, the ship captain has the right to unload the cargo in one of the nearest ports and notify about it the sender or the charterer or the person, authorized to dispose of the cargo. The ship captain has the right to do so in the case if the order, he (she) received cannot be done without harming the other owners of cargo on board.

4. In the case of waiting by the carrier for the orders of the sender or the charterer or the person authorized to dispose of the cargo, the carrier shall be entitled to reimbursement of costs, associated with this expectation, as well as freight in the amount, proportional to the actual driven distance of the ship.

Article 89. Failure of the parties to perform the contract of carriage of goods by sea

1. Each of the parties to the contract of carriage of goods by sea has the right to refuse to perform it without compensation of losses the other party upon the occurrence of the following circumstances to the ship's departure from the place of loading of the goods:

- 1) military and other actions that endanger the seizure of the ship or cargo;
- 2) blockade of the place of departure or destination;
- 3) detention of a ship, for reasons beyond the control of the parties to the contract of carriage of goods by sea;
- 4) involvement of a ship for public use under the circumstances of extraordinary character ;
- 5) prohibition of the export of goods that is designed to carry from the place of departure or entry of the goods to the place of destination.

The circumstances, provided for by subparagraphs 3) and 5) of this paragraph, may be a ground for refusing to perform the contract of carriage of goods by sea without compensation other party of loss, if the delay of the ship is expected to be for the short term.

The carrier shall not compensate the cost of unloading the goods in the occurrence of the circumstances, provided for in this paragraph.

2. Each of the parties to the contract of carriage of goods by sea has the right to refuse to perform it due to the occurrence of any of the circumstances, provided for in paragraph 1 of

this Article, also during the voyage. In this case, the sender or the charterer shall compensate the carrier all expenses for the goods, including the cost of its unloading, as well as freight in the amount proportional to the actual driven distance of the ship.

Article 90. Failure of the carrier to perform the contract of carriage of cargo by sea

The carrier has the right to refuse to perform the contract of carriage of cargo by sea before the ship in voyage, if the value of the cargo loaded does not cover freight and other expenses of the carrier for the cargo, and the sender or the charterer does not made freight in full before departing the ship, or does not provide the additional security. In this case, the sender or the charterer shall pay the carrier one half of full freight, and in the presence of inactivity, the fee for downtime and reimburse other expenses of the carrier. Unloading of the cargo is made at the expense of the sender or the charterer.

Article 91. Failure of the sender or the charterer to perform the contract of carriage of cargo by sea

1. In providing the whole ship for the carriage of cargo, the sender or the charterer has the right to refuse to perform the contract of carriage of cargo by sea, subject to the payment of:

1) one-half of the full freight, in the presence of inactivity, the fee for downtime, made by the carrier at the expense of the cargo and not included in the freight cost, if the failure of the sender or the charterer came before the expiration of the demurrage or lay days or before the ship in voyage, depending on whether which of the following occurs first;

2) full freight, other amounts referred to in subparagraph 1) of this paragraph, if the failure of the sender or the charterer came after one of the times, specified in subparagraph 1) of this paragraph, and the contract of carriage of cargo by sea, concluded for a voyage;

3) full freight for the first voyage, other amounts referred to in subparagraph 1) of this paragraph, and one-half of the freight for other voyages, if the failure of the sender or the charterer came after one of the times, specified in subparagraph 1) of this paragraph, and the contract of carriage of cargo by sea, concluded for several voyages.

In case of refusal of the sender or the charterer to perform the contract of carriage of cargo by sea before the ship in voyage, the carrier shall issue the cargo to the sender or the charterer , even if unloading of the cargo may delay the ship over the specified time.

In case of refusal of the sender or the charterer to perform the contract of carriage of cargo by sea during the voyage, the charterer or the sender has the right to require the delivery of cargo only in the port where the ship must go in accordance with the contract of carriage of goods by sea or gone out due to necessity.

2. In the case, if not the whole ship is provided for the carriage of cargo, the sender or the charterer has the right to refuse to perform the contract of carriage of cargo by sea, subject to the payment of full freight, the fee for downtime, reimbursement of expenses, made by the carrier at the expense of the cargo and not included in the freight. The carrier shall, upon request of the sender or the charterer issue the cargo before its delivery at the destination port only if it is not caused damage to the carrier and the other sender or the charterer.

Article 92. Termination of obligations under the contract of carriage of cargo by sea due to the impossibility of performance

1. The contract of carriage of cargo by sea shall be terminated without obligation of one party to pay the other party losses due to termination of the contract, if after its conclusion and to the ship's departure from the place of loading of the cargo, as a result of the circumstances beyond the control of the parties:

- 1) the ship will perish or be forcibly seized;
- 2) the ship is recognized to be unseaworthy;
- 3) the individually defined cargo will perish;
- 4) the unascertained cargo will perish, after its delivery to loading to the port by the sender, and the sender does not have time to deliver another cargo for loading.

2. In the case of termination of the obligation on the carriage due to the impossibility of its performance during the voyage under the circumstances, referred to in paragraph 1 of this Article, the carrier shall be paid the freight in the amount proportional to the actual driven distance of the ship, based on the amount of the saved and deposited or issued to the recipient cargo.

Article 93. A person, entitled to receive the cargo

1. Cargo, the carriage of which is carried out on the basis of the bill of lading, shall be issued by the carrier at the port of unloading, upon presentation of the original bill of lading:

- 1) the bill of lading – to the recipient, which is indicated in the bill of lading, or to the person to whom the bill of lading is transferred by endorsement or otherwise in accordance with the rules, established for the assignment of the claim;
- 2) the order bill of lading – to the person to whose order the bill of lading is made, if there are endorsements in the bill of lading – to the person, named in the latest of a continuous series of endorsements, or to the bearer of the bill of lading with the last blank inscription;
- 3) the bill of lading to bearer to the bearer of the bill of lading.

2. If the carriage of cargo is carried out on the basis of the sea waybill or on the basis of other document, the carrier shall be entitled to issue the cargo to the recipient, specified in this document, or the recipient specified by the sender.

Article 94. Delivery of the cargo for storage

1. In providing the part of the ship for the carriage of cargo, if at the port of unloading the recipient did not claim the cargo or refused it or kept it so that the cargo cannot be unloaded at the established time, the carrier may deliver the cargo for storage at the expense of the person, authorized to dispose of the cargo by notifying the sender or the charterer, as well as the recipient, as he (she) is known to the carrier.

2. In providing the whole ship for the carriage of cargo, the unloading and delivery of the cargo for storage shall be carried out by the carrier at the end of the demurrage and lay days,

and provided that during the demurrage or lay days the other order of the sender or the charterer, or the person authorized to dispose of the cargo is not received. The time of the carrier to deliver the cargo for storage, is regarded as downtime.

3. If within two months from the date of arrival of the ship at the port of unloading, the cargo, delivered for storage will not be in demand and the sender or the charterer, or the person authorized to dispose of the cargo, does not pay the carrier due for the shipping charges, the carrier shall be entitled to sell the cargo in the prescribed order. Unclaimed perishable cargo, as well as the cargo, the storage costs of which exceed its value, may be sold before the expiration of that period, but not earlier than the date of delivery.

4. Proceeds from the sale of the cargo less the amount due to the carrier payments and expenses for storage and sale of the cargo shall be transferred to the sender or the charterer.

If the proceeds of the sale are not sufficient to cover due to the carrier payments and expenses for storage and sale of the cargo, the carrier shall be entitled to recover the uncollectable amount from the sender or the charterer.

Article 95. Payment for the delivery of cargo to the recipient. Lien on cargo

1. The recipient in the delivery of cargo to him (her) shall reimburse the expenses, incurred by the carrier due to the cargo, pay a fee for the downtime at the port of unloading, as well as pay the freight and pay a fee for downtime at the port of loading, if it is provided in a bill of lading or other document on the basis of which the carriage of cargo is made, and in the case of general average shall make an emergency payment or provide the appropriate security.

2. The carrier shall be entitled to retain the cargo until payment of the sums or provision of security, provided for in paragraph 1 of this Article.

In the case of delivery of the cargo for storage at the warehouse that does belong to the recipient, the carrier shall reserve the right to retain the cargo, subject to immediate notification of the owner of this warehouse.

3. After the delivery of the cargo to the recipient, the carrier loses the right to claim from the sender or charterer of the amounts, not paid by the recipient, unless the carrier is able to exercise a right of retention of cargo due to circumstances beyond his (her) control.

4. Requirements of the carrier, retaining the cargo shall be satisfied at the expense of its value to the extent and in the manner, established by the legislation of the Republic of Kazakhstan.

5. The proceeds from the sale of cargo less the amounts owed to the carrier in accordance with paragraph 1 of this Article and the costs, associated with the sale of the cargo shall be transferred to the recipient.

If the proceeds from the sale of cargo are insufficient to pay the amounts owed to the carrier in accordance with paragraph 1 of this Article, the carrier shall be entitled to recover for uncollectable amount from the sender or the charterer.

Article 96. The cargo inspection or checking of its condition

In case of actual or suspected loss, shortage or damage (deterioration) of the cargo, the sender and the carriers shall provide each other the opportunity to inspect the cargo, or check its condition before the delivery of cargo to the recipient. The costs of inspection of the cargo or checking its condition shall be borne by the party that required inspection or check. If as a result of inspection of the cargo or checking its condition, carried out at the request of recipient of the cargo, the loss, shortage or damage (or deterioration) of the cargo is found, that are under the responsibility of the carrier, the cost of inspection of the cargo or checking its condition shall be reimbursed by the carrier.

Article 97. Statement about the loss, shortage or damage (deterioration) of the cargo

1. In case, if before delivery of the cargo or at the time of its delivery, the recipient does not make a statement in writing to the carrier about the loss, shortage or damage (deterioration) of the cargo and does not indicate general loss, shortage or damage (deterioration) of the cargo, it is believed that the cargo is received in accordance with the terms of the bill of lading in the absence of evidence to the contrary.

2. If the loss, shortage or damage (deterioration) of the cargo could not be established by the usual method of its acceptance, the statement to the carrier may be made by the recipient within three days after delivery of the cargo.

3. The recipient shall have the right not to make a statement, referred to in paragraph 1 of this Article, if he (she) together with the carrier inspected cargo or checked its condition at the time of delivery of the cargo.

Article 98. Payments for carriage of cargo

All payments due to the carrier shall be paid by the sender or by the charterer. In cases, stipulated by the agreement between the sender or the charterer and the carrier, and when including the data on this in the bill of lading, the transfer of payments to the recipient shall be allowed.

Article 99. The amount of freight

1. The amount of freight is established by agreement of the parties. In the absence of agreement between the parties, the amount of freight is calculated based on the rates, applicable at the place and time of loading of the cargo.

2. In the case when the cargo is loaded on a ship in a larger amount than specified in the contract of carriage of goods by sea, the amount of freight increases correspondingly.

3. In the case if instead of the cargo under the contract of carriage of goods by sea, the another cargo is loaded on the ship, the amount of freight for the carriage of which is greater than that provided by the contract of carriage of goods by sea, the freight shall be paid for the carriage of cargo loaded indeed.

4. In the case if the amount of freight for the carriage of cargo loaded is really less than the freight for carriage of cargo, under the contract of carriage of goods by sea, the freight, under the contract of carriage of goods by sea shall be paid.

Article 100. Freight for the cargo, lost during carriage

1. For the cargo, lost during carriage, freight shall not be charged or shall be refundable. If the lost cargo shall be saved, the carrier shall be entitled to freight in the amount proportional to the distance traveled by ship.

When calculating the freight for the distance actually traveled by ship, the ratio of the path traveled by ship with the cargo, with all the length of the path caused by the sailing of the ship shall be taken into account.

2. For the cargo, the loss, shortage or damage (or deterioration) of which occurred as a result of its natural properties, or the circumstances, depending on of the sender, the freight shall be paid in full.

Article 101. Liability of the carrier

1. The carrier shall be liable for loss, shortage or damage (or deterioration) of the cargo, accepted for carriage, as well as for delay in delivery from the time of the acceptance of the cargo before the date of issue.

2. Carrier is recognized as having delayed the delivery of the cargo, if the cargo is not issued at the port of unloading, stipulated in the contract of carriage of goods by sea, at the time, which is defined by the agreement between the parties, and in the absence of such agreement – at the period which is required in comparable circumstances.

3. A person, entitled to make a claim against the carrier in connection with the loss of the cargo may consider the cargo as lost, if the cargo is not issued at the port of unloading to the person, authorized to receive the cargo, within thirty calendar days after expiration of the date for issuance of the cargo, specified in paragraph 2 of this Article.

4. Exemption of the carrier from the liability or limitation of the amount of its liability by the agreement between the parties is not allowed, except in cases provided for in Article 105 of this Law.

Article 102. Exemption from liability of the carrier

1. The carrier shall be exempted from liability for loss, shortage or damage (deterioration) of the cargo, as well as for delay in delivery, if he (she) proves that the loss, shortage, damage (deterioration) or the delay occurred due to:

- 1) force majeure;
- 2) the dangers or accidents on the sea and other navigable waters;
- 3) measures to rescue persons or property at sea;
- 4) fire, resulting no fault of the carrier;
- 5) actions or orders of the state bodies (detention, arrest, quarantine and other);
- 6) military operations;
- 7) action (or inaction) of the sender or recipient;
- 8) latent defects of the cargo, its properties or natural loss;
- 9) latent defects of containers or packaging of the cargo;
- 10) insufficient or unclear labeling of the cargo;

11) strikes or other circumstances that caused the suspension or restriction of work of the seaport in whole or in part;

12) other circumstances that arisen through no fault of the carrier, its servants or agents.

2. The carrier shall be exempted from liability for loss, shortage or damage (deterioration) of the cargo, if the recipient cannot prove that the loss, shortage or damage (deterioration) of the cargo, received for carriage, occurred through the fault of the carrier, in the case of arrival at the port of destination:

1) in serviceable cargo spaces with intact seals of the sender;

2) in proper packaging without opening marks on the way;

3) accompanied by a representative of the sender or recipient;

4) in other circumstances, evidencing no fault of the carrier.

Article 103. The extent of liability of the carrier for loss, shortage or damage (deterioration) of the cargo

1. Damage, caused during carriage of cargo shall be reimbursed by the carrier in the case of:

1) loss or shortage of cargo - in the amount of the value of the lost or missing cargo;

2) damage (deterioration) of cargo - in the amount by which its value was reduced, and if it is impossible to restore the damaged (deteriorated) cargo - in the amount of its value;

3) loss of the cargo, delivered to the carriage with the announcement of its value - in the amount of the declared value of the cargo.

2. In addition to the compensation of the established value, caused by the loss, shortage or damage (deterioration) of the cargo, the carrier shall return to the sender (the recipient) freight, collected for carriage of the lost, missing or damaged (deteriorated) cargo, if it is not included in the cost of the cargo.

3. The value of the cargo, delivered to carriage is determined on the basis of its price, specified in the seller's account or under the contract, and in the absence of account or the price specified in the contract - based on the price, which in comparable circumstances (in the same place and on the same day, when the cargo was discharged or had to be landed in accordance with the contract of carriage of goods by sea) is usually charged for similar goods.

4. From the amount, payable to compensate the loss, shortage or damage (deterioration) of cargo, the cost of carriage of cargo (freight, duty, etc.) deducted, which should be made by the cargo owner, but due to the loss, shortage or damage (deterioration) of cargo was not made.

Article 104. Limitation of liability of the carrier

1. If the type and variety, as well as the value of such cargo are not declared by the sender before the loading of the cargo and are not included in the bill of lading, the extent of the carrier's liability for loss, shortage or damage (deterioration) of the cargo, accepted for

carriage shall not exceed 666.67 units of account per package or other shipping unit, or two units of account per kilogram of gross weight of the lost, missing or damaged (deteriorated) cargo, depending on which amount is higher.

2. The carrier's liability for delay in delivery of the cargo, accepted for carriage may not exceed the amount of freight payable under the contract of carriage of goods by sea.

3. The total amount to be reimbursed by the carrier in accordance with paragraphs 1 and 2 of this Article may not exceed the amount of liability that would be established in accordance with paragraph 1 of this Article for the complete loss of the cargo in respect of which such liability was incurred.

4. If the container is used for the transportation of cargo, a special device (pan and other), the number of packages or shipping units, listed in the bill of lading as transported in such a device is considered to be the number of packages or shipping units. In other cases, such device shall be considered as the package or unit.

5. Parties to the contract of carriage of goods by sea may by their agreement establish the extent of liability in excess of those provided for by paragraphs 1-3 of this Article.

Article 105. Loss of right to limit liability

The carrier is not entitled to limitation of liability provided for in Article 104 of this Law, if it is proved that the loss, shortage or damage (deterioration) of the cargo, accepted for carriage or delay in its delivery resulted from his (her) actions (or inaction) committed intentionally or through gross negligence.

Article 106. Liability of the actual carrier

1. The rules, established by this Chapter in respect to the carrier's liability shall also apply to the liability of the actual carrier for the carriage of cargo, performed by him (her).

2. The carrier shall be liable for all shipping in accordance with the rules, established by this Chapter, even if the carriage of cargo or its part performed by the actual carrier.

3. The agreement, under which the carrier assumes obligations not provided for by this Chapter, or waives the rights conferred under this Chapter, shall apply the actual carrier only if he (she) gives his (her) consent in writing.

4. If the carrier and the actual carrier bear the liability, their liability shall be joint and several.

5. The extent of liability of the carrier and the actual carrier for loss, shortage or damage (deterioration) of cargo, accepted for carriage or delay in its delivery shall not exceed the maximum amount of liability, provided for in this Chapter.

Article 107. Through shipping

1. If the carrier issues a through bill of lading, which provides that part of the carriage of goods shall be carried out not by the carrier, and the other person, a through bill of lading can be provided that the carrier is not liable for loss, shortage or damage (or deterioration) accepted for carriage cargo or delay in delivery caused by circumstances that took place while the goods were in charge of the other person in the exercise of part of the consignment. The

burden of proving that the loss, shortage or damage (damage) received for the carriage of goods or delay in delivery caused by such circumstances rests upon the carrier.

2. Person acting as part of the carriage of goods shall be liable for loss, shortage or damage (deterioration) received by him for the carriage of goods or for delay in delivery caused by an occurrence which takes place while the goods are in his charge, in accordance with the rules set out in this chapter on the liability of the carrier.

Article 108. Liability of the sender and the charterer

The sender and the charterer shall be liable for any losses to the carrier, unless they prove that the losses were caused not by their fault or the fault of the persons for actions (inaction) of which they are responsible.

Chapter 11. The contract of carriage of passengers by sea

Article 109. Definition of the contract of carriage of passengers by sea

Under the contract of carriage of passengers by sea the carrier undertakes to carry the port (point) of destination of the passenger and baggage in case of putting of it by the passenger, and issue baggage to the passenger or the person, authorized to receive, and the passenger is obliged to pay the fare, and when checking in – pay for baggage transportation.

Article 110. Form of contract of carriage of passengers by sea

The contract of carriage of passenger by sea is issued by a ticket, and when checking in – by a baggage check. Form of ticket and baggage check is set by shipping rules, approved by the authorized body of the Republic of Kazakhstan.

Footnote. Article 110 is in the wording of the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 111. Baggage and cabin baggage

1. The passenger has the right to bring to the port (point) of destination the baggage and cabin baggage.

2. If under the terms of the contract of carriage of passenger by sea the transportation of the vehicle is carried out, the baggage, located in (on) a motor vehicle is also considered as cabin baggage.

Article 112. Fare for carriage of the passengers and their baggage

1. Fare for carriage of the passengers and their baggage is determined by agreement between the parties.

2. Fare for carriage of the passenger and their baggage by vehicles for general use is determined by the carrier.

3. The passenger has the right to:

1) carry with them for free without the right to a separate place one child under the age of seven years, and in international traffic - up to five years;

2) purchase tickets for children between the ages of seven to fifteen years with payment of fifty percent of the total cost of the ticket to the carriage, performed by the carrier of the Republic of Kazakhstan;

3) purchase tickets for children aged five to twelve years in international traffic with payment of fifty percent of the total cost of the ticket;

4) transport with them a free cabin baggage within the established norms;

5) pass the baggage for a set fee.

Article 113. Periods of carriage of passengers and baggage

1. Carriage of passengers and baggage includes the following periods:

1) in respect of a passenger and his (her) cabin baggage – the period of landing, disembarkation and staying of a passenger, as well as cabin baggage on board. The period for carriage of passengers and baggage includes the delivery period by sea from shore to ship or vice versa, if its cost is included in the fare or if the ship for auxiliary transportation is placed at the disposal of the passenger by the carrier;

2) in respect of cabin baggage, passed by the passenger for delivery to the ship or on the quay (station) in the port (point) of destination – the period since the adoption of cabin baggage by the carrier, his (her) employee or agent prior to its delivery to the passenger on board of the ship or in port (point) of destination;

3) in respect of baggage - the period from the date of receipt of the baggage by the carrier, his (her) employee or agent on shore or on board until the delivery of baggage to the passenger or the person, authorized to receive the baggage.

2. In respect of the passenger, carriage does not include the period during which the passenger is in a marine station, quay or other port facilities.

Article 114. Withdrawal from the contract of carriage of passenger by sea

1. The passenger shall have the right to withdraw from the contract of carriage of passengers by sea before departure of the ship, as well as after the start of the journey in any port, where the ship will go to pick up or drop passengers.

2. The carrier shall have the right to withdraw from the contract of carriage of passenger by sea upon occurrence of the following circumstances, beyond his (her) control:

1) military or other actions that endanger the seizure of the ship;

2) blockade of the port (point) of departure or port (point) of destination;

3) involvement of the ship for public use;

4) loss of the ship or its capture;

5) recognition of the ship as unseaworthy;

6) emergency of social, natural and man-made character;

7) in other cases, stipulated by the legislative acts of the Republic of Kazakhstan.

3. The carrier, refused to perform the contract of carriage of passenger by sea upon occurrence of the circumstances provided for in this Article, shall, at his (her) own expense,

deliver the passenger on his (her) request to the port (point) of departure or reimburse the costs incurred by the passenger.

4. In case of refusal of the passenger from the contract of carriage by sea before departure of the ship, he (she) shall be returned the entire amount, paid for the travel and baggage, and after the start of the journey – the part of the amount paid for the travel and baggage at a rate proportional to the distance for which the carriage of a passenger is not carried out.

5. Return of fares and baggage allowances is carried out in the manner, determined by the authorized body.

Footnote. Article 114, as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 № 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 115. Change in contract of carriage of passengers by sea

1. The carrier shall have the right to delay the ship's departure, change the route of carriage of passengers, place of landing and (or) disembarkation of the passenger, if such action is necessary due to emergency situations of social, natural and man-made character in the port (point) of departure, port (point) of destination or transit route of carriage of passengers, as well as due to other circumstances beyond the control of the carrier.

In the cases, referred to in this paragraph, the carrier shall at his (her) own expense deliver the passenger on his (her) request to the port (point) of departure or reimburse costs, incurred by the passenger.

2. The rules, established by paragraph 1 of this Article shall not affect the rights of passengers to withdraw the contract of carriage of passengers by sea.

Footnote. Article 115, as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 № 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 116. The carrier's liability for damage to life and health of the passenger

1. The carrier shall be liable, under the legislative acts of the Republic of Kazakhstan for the obligations, arising from damage to life and health of the passenger, unless he (she) proves that the damage was caused due to the intent of the victim or force majeure.

The carrier shall not be liable for damage, if he (she) proves that the ship dropped out of his (her) possession as a result of illegal actions of others. The liability for damage, caused to life and health of a passenger in such cases shall bear the persons unlawfully taken possession of the ship. In the presence of the carrier's fault in the wrongful seizure of the ship from his (her) possession the liability may be imposed on the carrier, and the persons, holding the ship.

2. The carrier may be exempted from liability partially, if he (she) proves that the gross negligence of the passenger was the cause of his (her) death or damage to health, or contributed to his (her) death, or damage to health.

Article 117. Liability of the carrier for loss, shortage or damage (deterioration) of baggage

1. The carrier shall be liable for loss, shortage or damage (deterioration) of the passenger's baggage, unless he (she) proves that the loss, shortage or damage (deterioration) of baggage were not his (her) fault.

2. Damage, caused during carriage of baggage shall be compensated in accordance with the procedure, established by the civil legislation of the Republic of Kazakhstan.

3 The carrier shall not be liable for loss, shortage or damage (deterioration) of money, securities, gold, silverware, jewellery, ornaments, works of art or other valuables, if such values were not deposited with the carrier that agreed to keep them in intact. The carrier shall be liable in full for deposited values. The contract may provide the maximum amount of liability in excess of the specified in Article 104 of this Law.

Article 118. Application of the loss, shortage or damage (deterioration) of baggage

1. The passenger shall submit an application in writing to the carrier or its agent within the following terms:

1) in the loss, shortage or damage (deterioration) of cabin baggage - before or at the time of disembarkation of the passenger;

2) in the loss, lack of baggage - within fifteen days from the date of disembarkation of the passenger or from the date when the baggage is to be issued;

3) in case of damage (deterioration) of baggage - at the time of its issuance;

4) in the concealed damage (deterioration) of baggage or cabin baggage - within fifteen days from the date of its issuance.

2. If the passenger fails to comply with the requirement provided for in this Article, it is assumed, unless proven otherwise, that the passenger received the baggage undamaged.

3. Application of the passenger in written form is not required, if the baggage inspected or its condition checked by the carrier together with the passenger at the time of receipt of the baggage and about what the appropriate act is made.

Article 119. Disposal of the baggage after deadlines for storage

If the passenger fails to receive baggage for reasons beyond the control of the carrier, the carrier shall be entitled to pass it to the sea port, where the carriage of passengers finished in accordance with the ticket.

The procedure for the storage and disposal of such baggage is set by shipping rules and other regulatory legal acts.

Article 120. The carrier's liability for delay in the departure of the ship or the ship arriving late

For the delay in the departure of the ship carrying passengers, or the late arrival of the ship at the port (point) of destination, the carrier shall pay a penalty to the passenger equal to three percent of the ticket price for each hour of delay, but not more than fifty per cent of passenger fares and charges for carriage of baggage, unless it is proved that the delay in the departure of the ship or its late arrival was due to circumstances beyond the control of the carrier.

Article 121. The actual carrier

1. If the performance of the carriage of the passenger or part thereof entrusted to an actual carrier, the carrier shall be liable under this Chapter, for the entire carriage of the passenger. In this case, the actual carrier shall have the rights and obligations, provided for in this Chapter in respect of passenger carriage, performed by him (her).

2. In respect of passenger carriage, performed by the actual carrier, the carrier shall be liable for the actions (inaction) of the actual carrier, his (her) employees or agents, acting within the scope of their duties (powers).

3. Additional obligations of the actual carrier are established by agreement in writing.

4. If the carrier and the actual carrier bear the liability, their liability shall be joint and several.

Article 122. Time bill of carriage of passengers

Carriage of passengers by passenger ship is organized by the carrier on schedule.

Change of time bill of the carriage of passengers shall be in accordance with the rules of traffic.

Article 123. Organization of the carriage of passengers on the proposals of the interested parties

Carriage of passengers can be arranged on the proposals of the interested parties with conclusion of the appropriate contract. The fee for such carriage, including payment for carriage of passengers and their baggage, shall be determined by agreement between the parties.

Chapter 12. Contract of charter with crew (time charter)

Article 124. The contents of a time charter

The time-charter must include the names of the parties, the name of the ship, its technical and operational data (loading capacity, cargo capacity, speed, etc.), swimming area, the purpose of the charter, time, place, the place of transfer and return to the ship, freight rate, term of the contract.

Article 125. Sub-charter contract (sub-time charter)

1. If the time charter provides otherwise, the charterer within the rights, provided for by time charter shall have the right to conclude on its own behalf sub-time charter. Conclusion of sub-time charter does not exempt the charterer from fulfillment of a time charter, concluded with the charterer.

2. The rules, provided for in this Chapter shall apply to sub-time charter.

Article 126. Ensuring seaworthiness of the ship on time-charter

1. The freighter shall render a ship seaworthy at the time of its transfer to the charterer, take measures to ensure the workability of the ship (its hull, engine and equipment) for the purposes of the charter, stipulated by time charter, for the staffing of the ship and the proper equipment of the ship.

2. The freighter shall also, during the term of the time charter, maintain the ship in a seaworthy condition, pay the cost of insurance of the ship and its own responsibility, as well as for the maintenance of the ship's crew.

Footnote. Article 126, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 127. Obligations of the charterer for commercial operation of the ship and its return

1. The charterer shall use the ship and the services of its crew members in accordance with the objectives and conditions of the provision, stipulated by time-charter. The charterer pays for the costs, related to the commercial operation of the ship.

Income, received as a result of using the chartered ship and the services of its crew members is the property of the charterer, except for income, received from the rescue, which is distributed between the freighter and the charterer in accordance with Article 132 of this Law.

2. Upon expiry of the time-charter the charterer shall return the ship to the freighter in the same condition in which it is received by it, subject to normal wear and tear of the ship.

3. In late return of the ship, the charterer pays for the delay of the ship the amount of freight under time charter, or the amount corresponding to the market rate of freight, if it exceeds the freight rate, provided by time charter.

Article 128. Liability of the charterer to the cargo owner

In case, if the ship provided to the charterer for carriage of cargo, the charterer has the right to enter into contracts of carriage of cargo on his (her) own behalf, sign charters, issue bills of lading, sea waybills. In this case, the charterer shall be liable to the cargo owner in accordance with the provisions of Articles 101-108 of this Law.

Article 129. Subordinacy of the crew members

1 The ship's captain and other crew members are subject to the orders of the charterer, relating to the management of the ship, including for general navigation, internal regulations for the ship and its crew members.

2. Orders of the charterer on the commercial operation of the ship are binding to the captain and other crew members.

Article 130. Exemption of the charterer from liability for losses, caused by salvage, destruction or damage to the ship

The charterer shall not be liable for losses, caused by salvage, destruction or damage to the chartered ship, unless it is proved that the losses caused by the fault of the charterer.

Article 131. Payment of Freight

1. The charterer shall pay the freight to the freighter in the manner and time, stipulated in time charter. The charterer shall be exempted from payment of freight and the cost of the ship for the time, during which the ship was unsuitable for operation due to unseaworthiness.

In the case of unsuitability of the ship for operation by the fault of the charterer, the charterer shall be entitled to freight, provided in time charter, regardless of the compensation of losses, caused the freighter by the charterer.

2. In case of delay in payment of freight by freighter more than fifteen calendar days, the ship owner shall have the right without notice to withdraw the ship from the charterer and recover losses from him (her) caused by the delay.

3. In the case of loss of the ship, the freight shall be payable on the date provided in time charter, on the day of loss of the ship or, if that date cannot be established, on the date of receipt of the last news of the ship.

Article 132. Remuneration for the provision of services for the rescue

Remuneration due to the ship for rescue services, rendered before the expiration of the time charter, shall be divided equally between the freighter and the charterer, less the costs to rescue and share of compensation due to the crew of the ship.

Chapter 13. Contract of bareboat charter (bareboat charter)

Article 133. Contents of the bareboat charter

The bareboat charter shall include the names of the parties, the name of the ship, its class, flag, technical and operational data (loading, cargo capacity, speed, etc.), the amount of consumable fuel, navigation area, the purpose of the charter, the time, place of transfer and return of the ship, freight rate, term of the contract.

Article 134. Contract of sub-charter of the ship (sub-bareboat charter)

1. If the bareboat charter provides otherwise, the charterer within the rights, granted by the bareboat charter shall be entitled to conclude on his (her) own behalf sub-bareboat charter. Conclusion of sub-bareboat charter does not exempt the charterer from execution of the bareboat charter that he (she) concluded with the freighter.

2. The rules, provided for in this Chapter shall apply to sub-bareboat charter.

Article 135. Ensuring seaworthiness of the ship under the bareboat charter

1. The freighter shall make the ship in seaworthy condition at the time of its transfer to the charterer and take measures to ensure the life of the ship (its hull, engine and equipment) for the purposes of the charter, provided in bareboat charter.

2. The charterer shall during the term of the bareboat charter maintain the ship in seaworthy condition, and the elimination of hidden defects of the ship is the duty of the charterer.

Article 136. Ship manning under the terms of the bareboat charter

The charterer carries out ship manning. The charterer has the right to equip the crew with the persons that are not previously members of the crew of the ship, or in accordance with the terms of the bareboat charter by the persons that were the members of the crew of the ship. Regardless of the method of ship manning, the ship's captain and other crew members are subject to the orders of the charterer.

Article 137. Obligations of the charterer for operation of the ship and its return

1. The charterer shall operate the ship in accordance with the terms of the bareboat charter and shall bear all the costs, related to the operation, including the costs for the maintenance of the crew members.

2. Upon the expiration of the bareboat charter the charterer shall return the ship to the freighter in the same condition in which it was received by them, subject to normal wear and tear.

Article 138. Liability of the charterer to third parties

The charterer shall be liable to third parties for their claims, arising in connection with the operation of the ship, except for claims for compensation of damages from marine pollution by oil from ships and damage in connection with the carriage of dangerous cargo by sea.

Article 139. The losses, caused by salvage, loss or damage of the ship

The charterer shall bear losses, caused by salvage, loss or damage to the ship unless he (she) proves that the losses are not caused by his (her) fault.

Article 140. Payment of freight to the freighter

1. The charterer pays the freight to the freighter one month in advance at the rate, agreed by the parties. The charterer shall be exempted from payment of freight and the costs of the ship for the time, during which the ship was unsuitable for service due to unseaworthiness, unless unsuitability of the ship has not come through the fault of the charterer.

2. In case of delay in payment of freight over fifteen calendar days, the freighter has the right without notice to withdraw the ship from the charterer, except in the case provided for in Article 141 of this Law, and to recover from the charterer losses, caused by such delay.

3. In the case of loss of the ship, the freight shall be payable from the date, provided for in bareboat charter, on the day of loss of the ship or, if that date cannot be established, on the date of receipt of the last news of the ship.

Article 141. Prohibition of removal of ship

Under the bareboat charter with the condition of redemption of ship in accordance with the rules, set out in Article 142 of this Law, the freighter is not entitled to withdraw the ship from the charterer in the case of late payment of freight more than fifteen calendar days, unless such delay is caused by circumstances, beyond the control of the charterer, but is entitled to recover from the charterer losses, caused by the delay.

Article 142. Redemption of ship

Under the bareboat charter with the condition of redemption of ship by the charterer, and at the expiration of the bareboat charter the ship becomes the property of the charterer, if the charterer fulfilled his (her) obligations under the bareboat charter and made the last payment of freight in accordance with paragraph 1 of Article 140 of this Law.

Article 143. Liability for defects of the purchased ship

The charterer shall be responsible for any defects of the purchased by the charterer ship, including latent defects, if the charterer proves that such defects arose before the transfer of the ship or by reasons, arising before the transfer.

Chapter 14. Towing contract

Article 144. Towing contract

Under the towing contract the owner of one ship shall, at a remuneration tow another ship or other floating object at a certain distance or maneuver within the port water area, including entry of the ship or other floating object to the port or its departure of port.

Article 145. Obligations of the parties to the towing contract

Each of the parties to the towing contract shall, in advance, bring its ship or other floating object in a state suitable for towing.

Article 146. Liability for marine towing

1. Marine towing is controlled by the captain of the towing ship.

The owner of the towing ship shall bear the liability for damage, caused by marine towing to the towed ship or other floating object, or the people or property on it, unless he (she) proves that the damage is not caused by his (her) fault.

2. The parties to the towing contract shall be entitled by agreement in writing to assign the liability for the management of marine towing on the captain of the towed ship or other floating object. In this case, the owner of the towed ship or other floating object shall bear the liability for the damage, caused by marine towing to the towed ship or the people or property on it, unless he (she) proves that the damage is not caused by his (her) fault.

Article 147. Liability in port towing

1. Port towing is controlled by the captain of the towed ship or other floating object.

The owner of the towed ship or other floating object shall bear the liability for damage, caused by port towing to the towed ship or the people or property on it, unless he (she) proves that the damage is not caused by his (her) fault.

2. The parties to the contract shall be entitled by agreement in writing to assign the liability for management of the port towing to the captain of the towed ship. In this case, the owner of the towed ship shall bear the liability for the damage, caused by port towing to the towed ship or other floating object or the people or property on them, unless he (she) proves that the damage is not caused by his (her) fault.

Article 148. Liability for towing in ice conditions

The owner of the towed ship shall not be liable for damage, caused by towing in ice conditions to the towed ship or other floating object or the people or property on them unless it is proved that the damage caused by his (her) fault.

Chapter 15. Contracts of freight forwarding, sea agency services, marine mediation

Article 149. Contract of freight forwarding

1. Freight forwarding contract is concluded in accordance with the Civil Code of the Republic of Kazakhstan, this Law and the Rules of forwarding activities in maritime transport, approved by the authorized body.

2. Under the contract of freight forwarding, one party (freight forwarder) undertakes for compensation and at the expense of the other party (the client, the sender or the consignee) to perform or arrange for the performance of services, related to shipping and provided in the contract of freight forwarding, including to negotiate on behalf of the client or its own behalf a contract of carriage of cargo.

Footnote. Article 149, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 150. The contract of sea agency services

1. The contract of sea agency services is a contract of freight forwarding, concluded between the marine agent and the ship owner.

2. Under the contract of sea agency services, the marine agent undertakes for compensation and at the expense of the ship owner to perform or arrange for the performance of services, related to shipping, provided in the contract.

Within the powers, specified in the contract, the marine agent on its own behalf or on behalf of the ship owner:

1) performs the necessary actions, associated with the arrival of the ship in port, stay in port and out port of the ship;

2) pays the amounts, payable in connection with the stay of the ship in port;

3) assists the ship's captain in the organization of supply of the ship and its maintenance in the port;

4) enters into a contract of carriage of goods by sea;

5) prepares documents for the cargo;

6) receives the amount, due to the ship owner for claims, arising from the contract of carriage of goods by sea;

7) performs other actions in accordance with the contract.

3. Marine agent shall have the right to perform legal and other actions with the consent of the ship owner, as well as in favor of the other party, authorized him (her) to do so.

4. In order to perform the contract, the marine agent shall be entitled to enter into contracts of marine agency with others, while remaining accountable to the ship owner for the actions of the marine subagent. Marine subagent may not conclude transactions with a third party on behalf of the ship owner, unless marine subagent does not act on the basis of substitution.

5. Marine agent shall:

1) in good faith carry out activities in favor of the ship owner, and in accordance with the practice of marine agency;

2) act within its powers;

3) inform the ship owner at its request all data on the execution of orders;

4) transfer the ship owner without delay all received in the transaction;

5) keep records of spending;

6) provide to the ship owner a report on the implementation of orders with the relevant documents, if it is required by the nature of the orders.

6. The ship owner, unless otherwise provided by the contract, shall:

1) provide marine agent sufficient funds to carry out actions in accordance with the contract of marine agency;

2) reimburse the marine agent of his (her) expenses;

3) be responsible for the consequences of the actions of the marine agent, if the marine agent makes them on behalf of the ship owner and within the limits of his (her) powers;

4) pay the marine agent fee in the amount and in the manner, prescribed by the contract of marine agency;

5) implement without delay all executed by the marine agent in accordance with the contract.

7. In the case, if a contract of marine agency is concluded for an indefinite period, each party may terminate this contract by notifying the other party not later than three months before the termination of the contract.

Article 151. The contract of marine mediation

1. Under the contract of marine mediation, the mediator (marine broker) undertakes by order of principal on his (her) behalf and at his (her) expense to provide mediation services at the conclusion of contracts of sale of ships, chartering, towing of ships, as well as marine insurance contracts for a fee, set in the contract of marine mediation.

2. Marine broker shall have the right to represent both parties in conclusion of contract, if the parties have authorized it. In this case, marine broker shall inform each party that he (she) also represents the other party and in the provision of mediation services acts in the interests of both parties.

Chapter 16. General average

Article 152. The concept of general average and the principles of its distribution

1. General average is losses and (or) the expenses, to be shared between the ship, cargo and freight in proportion to the cost of the ship, cargo and freight in the day and in the end of the joint marine adventure in accordance with the rules of shipping, incurred for general security and preservation of property in the joint marine adventure of the total risk.

The losses, recognized as general average are:

1) losses, caused by the adoption of measures to rescue;

- 2) losses, caused by damage or loss of cargo, fuel, supplies, loss of freight;
- 3) losses, caused by damage to the ship, its machinery or equipment.

The expenses, recognized as general average are:

- 1) expenses, caused by the setting of the ship in a place of refuge;
- 2) expenses, arising from temporary repairs of the ship;
- 3) expenses, caused by delay of the ship for the common safety;
- 4) expenses, caused by the consequences of the recognition of the ship as unseaworthy or refusal of the ship to continue the voyage;
- 5) expenses of the rescue;
- 6) expenses, arising from measures to prevent environmental damage.

As general average is recognized any additional expenses, incurred instead of expenditures, charged to the general average (substitute costs). Substitute costs shall be reimbursed only for the amount of avoided costs, regardless of the savings, generated by any of the participants in the joint marine adventure.

2. As general average is recognized only those losses that are a direct result of the actions, referred to in paragraph 1 of this Article.

3. General average shall be distributed between the ship, cargo and freight in proportion to their cost on the day and in the end the joint marine adventure in accordance with the rules of shipping.

4. Joint marine adventure also occurs if one or more ships are towed or pushed to another ship or other ships, provided that they are all involved in the commercial activities, but not in the rescue operation.

The ship shall not be subject to a common danger, along with another ship or ships, if as a result of a simple disconnection from another ship or other ships it is safe. If disconnection is an act of general average, the joint marine adventure continues.

Article 153. The expenses, incurred by entering the ship in a place of refuge

1. As general average is recognized the expenses on ship's arrival at the port or other place of refuge or return of the ship to a port or other place of loading of the cargo, as a result of an accident or other emergency which led to such entry or return for the general safety.

2. In cases, where the expenses of ship's arrival to a place of refuge or return it to the place of loading of the cargo are recognized as general average, it also includes the expenses, related to the departure of the ship with the cargo or part cargo from such a place.

3. Expenses on salaries and allowances of the crew members, fuel and supplies, incurred in connection with the extension of the flight as a result of a ship entering in a place of refuge or return it to the place of loading of the cargo in the circumstances, described in paragraph 1 of this Article, shall be recognized as general average.

4. The rules, established by paragraphs 1-3 of this Article shall be applied against the expenses of moving the ship from a place of refuge, where the ship went down, and where

repairs cannot be carried out, in another port or another place, as well as for the expenses due to the temporary repair of the ship, its towing and lengthening of flight.

Article 154. The expenses, incurred by temporary repairs the ship

The expenses on temporary repairs of the ship, held in the loading of cargo, the place of entering the ship or a place of refuge of the ship for the common safety or to repair damage, caused as a result of general average contributions, refer to the general average. The expenses on temporary elimination of accidental damage, necessary to complete the voyage, shall be reimbursed in the amount of the avoided costs that would have been charged to general average, if such elimination would not be carried out.

Article 155. The expenses, caused by delay of the ship for general safety

1. As general average is recognized the expenses on salaries and allowances of the crew of the ship, caused by delay of the ship in any port or place as a result of an accident or other emergency expenses for the common safety or to repair damage, caused by such an accident or other emergency, if such elimination is necessary for the safe prosecution of the voyage. The expenses for fuel, supplies and the port expenses, incurred during such delay shall be reimbursed in the order of distribution of general average, except for the expenses of repairing damage not related to a general average.

2. The rules, established by paragraph 1 of this Article shall not apply to the expenses, caused by the delay of the ship due to the elimination of damage, not related to any accident or other emergencies, occurring during flight. Such expenses shall not be recognized as general average, even if the elimination of damage is necessary for the safe prosecution of the voyage.

Article 156. The expenses, incurred by the consequences of recognition of the ship as unseaworthy or refusal of the ship to continue the flight

In the case of recognition of the ship as unseaworthy or refusal of the ship to continue the flight, as general average is recognized only the expenses (for storage, insurance, salaries to crew of the ship and its allowances, fuel, supplies, port expenses), incurred prior to the recognition of the ship as unseaworthy or refusal of the ship to continue the voyage, or until the end of unloading of the cargo, provided that the unloading of the cargo is not complete.

Article 157. The expenses for rescue

1. The expenses for rescue, made by participating in the joint marine adventure parties, if the rescue is carried out for the purposes, specified in paragraph 1 of Article 152 of this Law, shall be recognized as general average, regardless of whether the rescue carried out by contract or otherwise.

2 The expenses, referred to in paragraph 1 of this Article shall include the remuneration for the rescue, in determining the amount of which the conditions, laid down in subparagraph 2) of paragraph 1 of Article 183 of this Law are taken account.

Special compensation, to be paid by the ship owner to the rescuer in the amount, provided for in paragraph 4 of Article 184 of this Law, shall not be recognized as general average.

Article 158. The expenses, resulting from measures to prevent or minimize damage to the environment

The expenses, resulting from measures to prevent or minimize damage to the environment, refer to the general average, if they are produced in one of the following cases, or in all of the following cases:

1) as part of a transaction that is carried out for the purpose of common safety, but which, if it had been made by a party out of the joint marine adventure, would give the party the right to remuneration for rescue;

2) provided that a ship enters a port or the ship leaves the port or the place in the circumstances provided for in Article 153 of this Law;

3) when delaying the ship in the port or the place in the circumstances, provided for in Article 153 of this Law. If in fact there is a leak or discharge of pollutants from the ship, the expenses incurred in connection with the additional measures to prevent or minimize damage to the environment, shall not be recognized as general average;

4) in connection with the unloading, warehousing or reloading of cargo, if the expenses for these operations shall be recognized as general average.

Article 159. The losses, caused by the adoption of measures to rescue

As general average in the presence of the grounds, mentioned in Article 152 of this Law, in particular, is recognized:

1) the losses, caused by removing the cargo overboard, as well as losses, caused to the ship or cargo as a result of donations for the common safety, in particular due to the penetration of water into the hold through the open hatches to jettison or other openings made for this;

2) the losses, caused to the ship or cargo in connection with firefighting on board, including the losses from held for these purposes discharge of ship to shore or flooding burning ship;

3) the losses, caused to the ship or cargo by intentional grounding, regardless of whether the ship could be made grounding itself;

4) the losses, caused to the ship by damage of engines, and other machinery or boilers of the ship when removing the ship aground;

5) extraordinary expenses for the relief of a grounded ship by overloading of cargo, fuel or supplies from the ship to the lighters, for hiring of lighters and their reloading onto the ship, as well as other losses, incurred as a result of this.

Article 160. The losses from damage or loss of cargo, fuel or supplies, loss of freight

1. The losses from damage or loss of cargo, fuel or supplies, incurred as a result of moving them on the ship, unloading from the ship, reloading to the ship and packing, as well as a result of storage, shall be recognized as general average in cases, where the expenses of these operations are recognized as general average.

2. The losses of freight due to loss of cargo are recognized as general average, in cases where the loss of the cargo shall be compensated in the order of distribution of general average. At the same time the expenses, which for the purpose of receiving it would be made by the ship owner, but because of the donations were not made, should be excluded from the freight.

Article 161. The losses, caused by damage to the ship, its machines or equipment

1. The losses of general average from damage to the ship, its machinery or equipment are determined on the basis of the cost of repair, improvement or replacement of damaged or lost. In this case, a discount for “new for old” shall be in accordance with Article 163 of this Law.

2. If repair of the ship has not been made, the losses from damage to the ship shall be determined in the amount by which the value of the ship decreased as a result of damage and which according to estimates is not higher than the cost of ship repair.

Article 162. The losses, not recognized as general average (private accident)

1. The losses, not covered by the signs of general average, established by paragraph 1 of Article 152 of this Law, as well as the losses, referred to in paragraph 2 of this Article shall be recognized as private accident. Such losses cannot be distributed between the ship, cargo and freight, and a person, that has suffered, or the one that is responsible for causing them, shall bear it.

2. Even in the presence of the grounds, mentioned in paragraph 1 of Article 152 of this Law:

1) the value of the cargo thrown overboard, and carried in the ship in violation of the rules and customs of merchant shipping;

2) the losses, incurred in connection with firefighting on board due to the impact of smoke or heat;

3) the losses, caused by cutting away wreck or parts of the ship, previously demolished or actually lost due to marine hazard;

4) the losses, caused by forcing the engines or other engines work, other machinery or boiler of the ship that is afloat;

5) the loss or damage, incurred by the ship or cargo due to the increased duration of the flight (the losses of down time, price changes, etc.), - shall not be recognized as general average.

Article 163 Discounts for “new for old”

1. If in the repair of the ship, the age of which is not more than fifteen years, old materials or parts of the ship are replaced with new, the cost of repairs related to the general average in accordance with Article 161 of this Law shall be reduced by one-third of the cost of repair, with the exception of the cases, provided in paragraphs 2-4 of this Article.

2. Discounts “new for old” shall not be made with the cost of temporary repairs to the ship, which is recognized as general average in the presence of fault of one of the ships in a collision, as well as from the cost of food, supplies, anchors and anchor chains.

3. If it is necessary to repair the ship, the expenses of the dry dock, slipway and the movement of the ship shall completely related to general average.

4. The expenses of cleaning, painting and coating the hull at its repair shall be recognized as general average in the amount of fifty percent, if the previous colour and coating the hull took place in the last twelve months prior to the general average act.

5. To apply the discount “new for old” the age of the ship shall be calculated from 31 December of the year end of its construction prior the day of the general average act. With regard to insulation and other rescue boats, communications equipment, navigation instruments and equipment, machinery and boilers of the ship, their actual age is taken into account.

Article 164. Average statement and average adjusters

Establishing the presence of the general average at the request of the interested parties entails compiling the average statement by the average adjusters.

Article 165. The evidence and materials on the basis of which the average statement is drawing up

1. A Party that requires distribution of general average shall prove that the alleged losses really should be considered as general average.

2. A person whose interests may be affected by the drawing up of the average statement shall submit to the average adjuster a statement in writing on the losses or expenses, the reimbursement of which it requires within a period of twelve months from the date of completion of the joint marine adventure.

If such a statement is not filed or within twelve months after the request for such a statement a person fails to submit evidence in order to justify the claimed requirements or data on the cost of the property, the average adjuster shall have the right to draw up average statement based on information available to it. In this case, the average statement can be challenged only on the grounds that it is clearly wrong.

3. If during drawing up of the average statement there are issues, requiring for their resolution specialized knowledge (in the field of navigation, shipbuilding, ship repair, assessment of ships and cargoes, as well as other specialized knowledge), the average adjuster shall have the right to entrust the preparation of an appropriate opinion to an expert, appointed by him (her). This opinion is estimated by the average adjuster along with other evidence.

4. Materials on the basis of which the average statement is drawing up shall be open to inspection, and the average adjuster at the request of the interested persons must provide them at their own expense the certified copies of these materials.

Article 166. Fee for drawing up the average statement

For drawing up the average statement the fee shall be charged, which is included in the average statement and distributed among all the interested parties in proportion to their participation in the general average.

Article 167. Amendment and challenging the average statement

1. Errors in the calculations, found in the average statement after its registration in the register of the average statement, can be corrected by the average adjuster on its own initiative or at the request of persons between which general average is distributed, by making additions to the average statement (addendum), which is a part of it.

2. The persons between which, the general average is distributed, may challenge the average statement in court within six months from the date of receipt of the average statement or addendum thereto with mandatory notice to the average adjuster by sending him (her) a copy of the statement of claim.

3. The average adjuster shall be entitled to or, if necessary, shall take part in the settlement of a dispute about the average statement in court and give an explanation on the merits.

4. The court, considering the dispute over the average statement may leave the average statement in force, make amendments or abolish it, and entrust the average adjuster to make new average statement in accordance with the decision of the court.

Article 168. Execution of average statement

If the average statement is not challenged within the period, prescribed by paragraph 2 of Article 167 of this Law, or challenged, but the court left it in force, the penalty for it may be produced in accordance with the legislation of the Republic of Kazakhstan.

Chapter 17. Compensation for damage in the collision of ships

Article 169. Liability for damage, caused by the collision of ships

1. The damage, caused in the collision of ships, shall be compensated in accordance with the Civil Code of the Republic of Kazakhstan.

2. The liability shall be determined in the same order, when the collision occurred through the fault of pilot, including at the compulsory pilotage.

3. If the collision of ships occurred through the fault of two or more parties, the liability for the damage shall be determined in proportion to the degree of fault of each of them. If it is impossible to establish the degree of fault of each party based on the circumstances of the collision, the liability shall be shared between them equally.

4. The ship owners shall be liable to the victims or persons, who, in accordance with the civil legislation of the Republic of Kazakhstan have the right to compensation of damages, jointly and severally liable for the harm caused to the life and health of the citizen.

The ship owner, compensated jointly caused damage shall be entitled to request from each of the causer of the share paid to the victim compensation in the amount corresponding to the degree of fault of the causer.

Article 170. Circumstances, excluding liability

1. If there is no fault of the parties in causing damage in the collision of ships, random collision, collision due to force majeure or impossibility to establish the causes of the

collision, neither party has right to claim damages. Each of the parties in this case, shall bear the risk of losses, incurred by it.

2. The rules, established by paragraph 1 of this Article shall also apply in the case when the ships or one of them at the time of the collision were at anchor or was fixed in any other way.

Chapter 18. Liability for damage, caused by the carriage of dangerous cargo and marine pollution by oil from ships

Article 171. Liability of the ship owner

1. The ship owner from the time of the incident due to the carriage of dangerous cargo and (or) of marine pollution by oil from ships shall be liable for the harm and damage, caused to the injured person, except for the cases, provided in Article 175 of this Law.

2. Damage in connection with the carriage of dangerous cargo shall be:

- 1) causing by dangerous cargo harm to the life and health of the citizen on board or outside the ship;
- 2) the loss, shortage or damage (deterioration) of the property, caused by the dangerous cargo on board or outside the ship;
- 3) damage from environmental pollution, caused by dangerous cargo, limited by spending on remedial measures, as well as loss of profit as a result of such damage;
- 4) the expenses of preventive measures and consequential damages, caused by such measures.

3. Damage from marine pollution by oil from ships, carried as cargo or the ship's own fuel shall be:

- 1) damage, caused outside the ship by contamination, resulting from the leaks or discharge of oil from the ship, wherever such leaks or discharge may occur, limited by spending of remedial measures, as well as loss of profit as a result of such damage;
- 2) the expenses of preventive measures and consequential damages, caused by such measures.

Article 172. Joint and several liability of the owners of two or more ships

In the case of damage from pollution as a result of an incident involving two or more ships, all owners of ships, involved in the incident, if the owners are not exempted from liability under Article 175 of this Law, shall be jointly and severally liable for all the damage from pollution.

Article 173. Full liability of the ship owner

The ship owner shall be liable in full, if:

- 1) it is proved that the pollution damage resulted from his (her) own actions (or inaction), committed intentionally or through gross negligence;
- 2) he (she) does not fulfill the requirements for the creation of a liability limitation fund, provided for in Article 176 of this Law.

Article 174. Limitation of liability of the ship owner

1. The extent of the ship owner's liability in connection with the carriage of dangerous cargo is limited in relation to one incident to total amount, calculated as follows:

- 1) ten million units for a ship with a capacity of not more than two thousand tons;
- 2) for a ship with a capacity of more than two thousand tons by the amount, specified in subparagraph 1) of this paragraph, for each subsequent ton capacity, provided that the total amount does not exceed one hundred million units, added:
from two thousand one to fifty thousand tons and a half thousand units of account;
more than fifty thousand three hundred sixty tons of units of account.

2. The ship owner is entitled to limit its liability for damage, caused by oil pollution at sea in relation to the same incident by the total amount of one hundred thirty three units of account for each ton of the ship's tonnage. The total amount may not exceed fourteen million units of account.

Article 175. Exemption from liability of the ship owner

1. The ship owner shall not be liable for damage resulting from the carriage of dangerous cargo and oil pollution at sea, if he (she) proves that the damage caused:

- 1) as a result of military operations, natural disasters;
- 2) by intentional action (or inaction) of a third party;
- 3) as a result of improper operation of navigational aids outside the ship.

2. If the ship owner proves that the damage was caused intentionally or by gross negligence of the injured person, the amount of compensation for damage can be reduced or compensation for damages may be denied.

3. In causing harm to life and health of the citizen, the complete denial from compensation is not allowed.

Article 176. Mandatory liability limitation Fund

1. Pursuant to the compensation obligations for the carriage of dangerous cargo and (or) marine pollution by oil from ships, the ship owner shall establish a liability limitation fund for a total amount equal to the amount of his (her) liability.

Liability limitation fund may be established by placing the money due from it under the terms of the deposit in the name of court or provide a bank guarantee or other financial security, recognized by the court as sufficient.

2. The expenses of the ship owner to prevent or reduce the damage caused by the carriage of dangerous cargo and marine pollution by oil from ships give him (her) the same rights with respect to the liability limitation fund, which have other lenders.

3. The insurer or the person, providing financial security of obligations or the ship owner shall have the right to establish a liability limitation fund in accordance with the rules, provided for in this Article. Establishment of a fund shall not apply to the rights of the victim against the ship owner.

4. The rules, provided for in Article 202 of this Law, on the distribution of a liability limitation fund shall apply to the liability limitation fund established in accordance with paragraph 1 of this Article.

Claims for compensation of damage to life and health of the citizen, shall take priority over other claims to the extent that the total amount of such claims does not exceed the total amount, specified in paragraph 1 of Article 174 of this Law.

5. In the case of establishment of a liability limitation fund by the ship owner, levy of execution on claims for compensation of damages on other property of the ship owner, is not allowed. The measures to ensure that a claim for compensation of damages on carriage of dangerous cargo and marine pollution by oil from ships, including seizure shall not be applied by court.

Article 177. An insurance or financial security of liability

1. The ship owner, carrying dangerous cargo, as well as oil in excess of two thousand tons, shall insure the risk of liability for pollution or provide financial security for performance of the obligation, stipulated by the legislation of the Republic of Kazakhstan or the contract, in the amount of liability for pollution damage, determined in accordance with Article 174 of this Law.

2. (is excluded – № 55 dated 06.06.2005).

3. The ship must have on board a certificate, confirming the insurance or financial security of the liability. The certificate is issued by the authority for the state registration of the ship in the manner, prescribed by the authorized body.

Footnote. Article 177, as amended – by the Law of the Republic of Kazakhstan dated 2 June, 2005 № 55 (shall be enforced from the day of its official publication, with the exception of the third subparagraph of paragraph 12) of Article 1, which shall be enforced from 1 January, 2010 – see p.2).

Article 178. A claim for compensation for pollution damage

1. Submission of claims for compensation for pollution damage to the ship owner, insurer or the person, providing financial security for performance of the obligation by the ship owner shall be in accordance with the legislative acts of the Republic of Kazakhstan.

2. The insurer or the person, providing financial security for performance of the obligation by the ship owner, acting in court as a defendant, shall have the right to present at trial any objections made by the ship owner, except in cases of bankruptcy and liquidation. If pollution damage caused by the ship owner as a result of willful misconduct, the ship owner may be held by the court as co-respondent.

Chapter 19. Rescue of ships and other property

Article 179. Contracts for the rescue

The captain of the ship shall have the right to conclude contracts on the rescue for rescue operations on behalf of the ship owner. The captain of the ship or ship owner shall have the right to conclude such agreements on behalf of the owner of the property on board.

Article 180. Invalidity of contracts or their amendment

Contract or any of its conditions may be declared as invalid or amended if:

- 1) the contract is concluded under undue influence or the influence of danger and its conditions are inequitable;
- 2) the payment under the contract is overly exaggerated or too small for the services actually rendered.

Article 181. Obligations of the salvor, the ship owner and the captain of the ship

1. In relation to the owner of the endangered ship or the owner of the endangered other property, a salvor shall:

- 1) carry out rescue operations, with required by the circumstances of the case care and diligence;
- 2) take measures to prevent or minimize damage to the environment;
- 3) if necessary, due to the circumstances of the case, seek assistance from other salvors;
- 4) agree to the participation of other salvors, when it is required by the captain of the endangered ship or its owner or the owner of another endangered property, provided that this does not affect the amount of compensation of the salvor and it is not recognized that such a requirement is illegal.

2. With respect to the salvor, the captain of the endangered ship and its owner or the owner of the other endangered property shall:

- 1) cooperate with him (her) in the course of rescue operations;
- 2) exercise due care to prevent or minimize damage to the environment;
- 3) take a ship or other property after it has been delivered in a safe place, if the salvor required it.

Article 182. Terms of payment of remuneration

1. The salvor, carried out the rescue operations, which led to a positive result for the person concerned, shall have the right to receive remuneration.

2. The remuneration shall not be paid, if the rescue operations do not have a positive result, except in the case provided for in Article 184 of this Law.

Article 183. The criteria for determining the amount of remuneration

1. The amount of remuneration for carrying out rescue operations shall be determined based on the following criteria:

- 1) salvaged value of the ship and other property;
- 2) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
- 3) the degree of success, achieved by salvors;
- 4) the nature and degree of risk;

- 5) the skill and efforts of the salvors in rescue of ship, other property and life;
- 6) the time, spent by salvors and expenses and losses incurred;
- 7) the risk of liability and other risks of the salvors or their equipment;
- 8) the speed of rendering services;
- 9) the availability and use of ships or other equipment, intended for rescue operations;
- 10) the state of readiness of the salvor's equipment, efficiency and cost of the equipment.

2. The remuneration, established in accordance with paragraph 1 of this Article shall be paid by all persons, interested in the ship and other property, in proportion to the salvaged value of the ship and other property.

3. The amount of remuneration, except for losses and legal costs, payable in connection with the payment of remuneration, shall not exceed the salvaged value of the ship and other property.

4. Establishment of the remuneration in the amount of the maximum salvaged value of the ship and other property is not allowed, before determining the special compensation, provided for in Article 184 of this Law.

Article 184. Special compensation

1. The salvor, carried out the rescue operations in respect of the ship, which (or its cargo), posed a threat of damage to the environment, and not having the right to receive remuneration in accordance with Article 183 of this Law shall have the right to require the owner of the ship to pay special compensation in the amount, specified in paragraph 3 of this Article.

2. If in the presence of the circumstances provided for in paragraph 1 of this Article, the salvor prevented or reduced damage to the environment as a result of his (her) rescue operation, the special compensation, paid by the owner in accordance with paragraph 1 of this Article to the rescuer can be increased to a maximum of thirty percent of the his (her) incurred expenses. The court or the arbitral tribunal may, with regard to the criteria provided for in paragraph 1 of Article 183 of this Law, increase the amount of the special compensation to the full amount of expenses, incurred by the rescuer in the rescue operation.

3. In determining the amount of special compensation the actual expenses of the salvor, incurred in carrying out rescue operations, and the pay for equipment and personnel, reasonably used in the rescue operation, taking into account the criteria set forth in subparagraphs 8) -10) of paragraph 1 of Article 183 of this Law, shall be taken into account.

4. Special compensation shall be paid only in such a case and to the extent in which such compensation exceeds the remuneration that can be obtained by the salvor under Article 183 of this Law.

5. Special compensation shall not be paid in full or shall be paid partially, if the salvor is not able to prevent or reduce damage to the environment due to his (her) negligence.

Footnote. Article 184 with the change introduced by the Law of the Republic of Kazakhstan dated 08.04.2016 № 489-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 185. Distribution of remuneration between salvors

Distribution of remuneration between several salvors shall be made in proportion to the degree of participation of each of them in the rescue operation, taking into account the criteria set out in Article 183 of this Law.

Article 186. Distribution of remuneration between the ship owner and the crew members

1. Distribution between the ship owner and the crew members of the remuneration for the implementation of the rescue operation shall be made after deducting the expenses, incurred by the ship owner and the crew members in connection with the implementation of the rescue operation, in the following order:

1) three-fifths of the remuneration shall be paid to the ship owner, two-fifths distributed among the members of the crew;

2) share, due to the members of the crew in accordance with subparagraph 1) of this paragraph shall be distributed among them in proportion to the degree of participation in the rescue operation and the salary of each.

In exceptional cases, when there are special circumstances, a different procedure for the distribution of remuneration can be applied.

2. The rules, established by paragraph 1 of this Article shall not apply to the distribution of remuneration for the implementation of rescue operations by ships, engaged in such operations as a professional activity.

Article 187. Salvage of people

1. It is not allowed to claim for compensation from people, saved during a rescue operation.

2. The salvors, participated in the provision of services in connection with the incident that caused the need for the salvage of people, shall be entitled to share in the amount, owed to salvors for the rescue of the ship and (or) other property or for preventing or reducing damage to the environment.

3. Rescue operations in the Kazakhstani sector of the Caspian Sea shall be carried out by the authorized body, the authorized body in the field of civil protection, the Ministry of Defense and the National Security Committee in accordance with the jointly approved rules for conducting rescue operations in the Kazakhstani sector of the Caspian Sea.

4. Reception of distress signals from ships and their transmission (duplication) to the services of the interested state bodies responsible for conducting rescue operations shall be provided by the marine rescue and coordination center operating on the basis of the navigation center.

Note. For the purposes of this Article, a rescue operation shall be the works undertaken to search for and rescue passengers and crew members of ships suffering or suffered distress in the Kazakhstani sector of the Caspian Sea.

Footnote. Article 187 as amended by the Law of the Republic of Kazakhstan dated 19.04.2019 № 249-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 188. Payment for services, rendered in the performance of contract of rescue

The remuneration shall not be paid, if the expenses incurred for services rendered exceed the amount of the expenses that have arisen with proper execution of the contract of rescue.

Footnote. Article 188, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 189. Consequences of improper execution of rescue operations

The salvor, improperly executed the rescue operations may be fully or partially denied payment of special compensation, depending on the degree of his (her) guilt (the emergence of the need for the implementation of additional rescue operations, complications during rescue operations, etc.).

Article 190. Consequences of prohibition of the rescue operations by the interested person

The rescue operations, committed contrary to the prohibition of the ship owner and (or) the captain of the endangered ship or the owner of other endangered property, shall not entail for such persons, the obligations to pay remuneration to the salvor or third parties.

Article 191. The ships, belonging to the same owner

The rules, established by this Chapter shall also apply if the rescued ship and the ship, engaged in rescue operations belong to the same owner.

Article 192. Ensuring the requirements of the salvor

1. At the request of the salvor, a person responsible for the payment of remuneration and (or) special compensation, provides ensuring the performance of his (her) obligations.

2. The owner of the rescued ship shall not have the right to issue the saved cargo before making by the sender (recipient) the appropriate ensuring of the salvor's requirements.

3. Without the consent of the salvor, the rescued ship and other property cannot be moved out of the sea port or the place, where such ship and property originally delivered after the completion of the rescue operations, before provision of the appropriate ensuring of the salvor's requirements to the relevant ship or property.

Article 193. Advance payment

The salvor shall be entitled to demand the payment of advance payment in respect of expenses, incurred by him (her) at the rescue. In the case of its payment, the subsequent ensuring of the salvor's requirements shall be reduced accordingly.

Article 194. Participation of state bodies in the rescue operations

1. State bodies shall participate in the rescue operations in accordance with the rules, established by this Chapter.

2. State bodies, engaged in the rescue operations in accordance with the competence, established by the legislation of the Republic of Kazakhstan, shall not be entitled to receive remuneration.

Footnote. Article 194 is in the wording of the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 20. Limiting the extent of liability for maritime claims

Article 195. Persons, entitled to limit the extent of liability for maritime claims

1. The extent of liability of the ship owner and the salvor shall be limited to maritime claims, provided for in Article 196 of this Law. In this case, a salvor is a person that directly provides services for the implementation of the rescue operations, including the operations provided for in subparagraph 4) of paragraph 1 of Article 196 of this Law.

2. If a maritime claim under Article 196 of this Law presented to the person for whose actions (inaction) the persons, referred to in paragraph 1 of this Article are responsible, the extent of liability of the person shall be limited in accordance with the rules, provided for in this Chapter.

3. The amount of the insurance payment to the insurer under an insurance contract may not exceed the extent of liability of the insured for maritime claims, limited in accordance with the rules established by this Chapter.

Article 196. Criteria for the limitation of liability

1. Subject to the rules, established by Article 197 of this Act, the liability shall be limited for the following maritime claims:

1) required in connection with harm to human life or health, or the loss, shortage or damage (or deterioration) of the property, including in connection with damage to port facilities, water reservoirs, waterways and aids to navigation of situation that occurred on board of the ship or in the direct connection with the operation of the ship or the rescue operations;

2) for compensation of damages, caused as a result of delay in delivery for maritime carriage of passengers, baggage and cargo;

3) for compensation for other damages, caused by the breach of the rights, arising not from the contract and in connection with the operation of the ship or with the implementation of the rescue operations;

4) a person other than the person responsible for the damage, caused by the measures taken by them to prevent or minimize damage in respect of which, the person responsible for the damage may limit his (her) liability in accordance with the standards, established by this Chapter, and the subsequent damage caused by such measures.

2. The requirements, provided for in paragraph 1 of this Article shall be subject to limitation of liability, even if they are presented as recourse or based on warranty, arising from the contract or otherwise.

The requirements under subparagraph 4) of paragraph 1 of this Article shall not be subject to limitation of liability to the extent that they relate to remuneration under the contract with the person responsible for the damage.

Footnote. Article 196, as amended – by the Law of the Republic of Kazakhstan dated 29 December 2006 № 209 (the order of enforcement see Article 2).

Article 197. Non-application of the limitation of liability

1. The rules, established by this Chapter shall not apply to the requirements:

1) for compensation of harm, caused to life and health of the ship's passengers, in cases where the ship owner and passengers are citizens or entities of the Republic of Kazakhstan;

2) for compensation of harm, caused to life, health or property of a citizen in a direct connection with the operation of the ship or rescue operations, in cases where the ship owner, salvor and victim are citizens or entities of the Republic of Kazakhstan;

3) for compensation of harm, caused to life, health or property of employees of the ship owner or salvor, whose employment duties are connected with the ship or rescue operations, their heirs, as well as persons who are in their dependents, or those, who are entitled to receive allowances from them;

4) for remuneration for the implementation of the rescue operations, including the payment of special compensation in accordance with Article 183 of this Law, or contribution in general average;

5) for compensation of damage from marine pollution by oil from ships;

6) for compensation of damages in connection with the carriage of dangerous cargo by sea ;

7) for compensation for nuclear damage;

8) in connection with the removal of sunken property;

9) in connection with the removal, destruction or the rendering harmless of the cargo from the ship.

2. The person, responsible for the damage, shall not be entitled to limitation of liability, if it is proved that the damage resulted from his (her) actions (or inaction), committed intentionally or through gross negligence.

Footnote. Article 197 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 198. Total liability

1. The total liability for claims other than those referred to in Article 199 of this Law and which arose from the same incident, is calculated as follows:

1) for claims for compensation for harm, caused to life and health of the citizen:

two million units of account for a ship with a capacity of not more than two thousand tons ;

for a ship with a capacity of more than two thousand tons by the amount, specified in the second paragraph of this subparagraph, for each subsequent ton, the capacity is added:

from two thousand one to thirty thousand tons eight hundred units of account;

from thirty thousand one to seventy thousand tons six hundred units of account;

over seventy thousand tons four hundred units of account;

2) for any other claims:

one million units of account for a ship with a capacity of not more than two thousand tons ;

for a ship with a capacity of more than two thousand tons by the amount, specified in the second paragraph of this subparagraph, for each subsequent ton, the capacity is added:

from two thousand one to thirty thousand tons four hundred units of account;

from thirty thousand one to seventy thousand tons three hundred units of account;

over seventy thousand tons two hundred units of account.

2. If the amount, calculated according to the claims for compensation of harm, caused to life and health of the citizen, in accordance with subparagraph 1) of paragraph 1 of this Article is insufficient to pay all such claims, the amount calculated by the other claims in accordance with subparagraph 2) of paragraph 1 of this Article shall be used for payment of the unpaid balance of claims for compensation of harm to the life and health of the citizen that is satisfied on a proportional basis, among other claims.

3. The extent of liability of the salvor, operating not from a ship or operating solely on the ship, to which or in respect of which the salvor provides rescue services, shall be calculated based on the tonnage of the ship in two thousand tons.

4. The amount of liability for a ship with a capacity of less than three hundred tons shall be calculated according to the claims, provided for in subparagraph 2) of paragraph 1 of this Article, in an amount equal to one-sixth the amount of liability, established for the ship with a capacity of not more than two thousand tons.

Article 199. The amount of liability for passenger claims

1. According to the claims for compensation of harm, caused to the life and health of the ship's passengers, if they occurred as a result of a single incident, the amount of the ship owner's liability shall be limited to a sum equal to one hundred and seventy-five thousand units of account per passenger. In this case, the calculation shall be made according to the number of passengers, specified in the passenger certificate.

2. In accordance with the rules, laid down in this Article, the claims for compensation of harm, caused to the life and health of the ship's passengers shall be the claims made to the victims or on his (her) behalf:

1) under the contract of carriage of passenger by sea;

2) with the consent of the carrier to accompany a vehicle, animals, carriage of which is made under the contract of carriage of cargo by sea.

Article 200. Consolidation of claims

1. The amount of liability, determined in accordance with Article 198 of this Law shall apply to the aggregate of all claims, arising out of any one incident to:

1) the ship owner, as well as the person for action (inaction) of which the ship owner shall be responsible;

2) the ship owner, rendering rescue services from that ship, to the salvor, acting from such a ship, as well as the person for action (inaction) of which the ship owner or salvor shall be responsible;

3) the salvor, operating not from a ship or solely on the ship, which is rendered rescue services, as well as the person for action (inaction) of which the salvor shall be responsible.

2. The amount of liability, determined in accordance with Article 199 of this Law shall apply to the aggregate of all claims, which may arise from any one accident, to the owner of the ship, as well as the person for action (inaction) of which the ship owner shall be responsible.

Article 201. Voluntary liability limitation fund

1. A person to whom imposed liability, shall have the right to establish a liability limitation fund in the court, where the action is brought to him (her) at the request, in which the liability of that person is limited.

2. Liability limitation fund is established in the amount, calculated in accordance with Articles 198 and 199 of this Law, from the date of the incident, giving rise to liability, up to the date of creation of such a fund. Liability limitation fund is intended only for the payment of claims for which the liability is limited.

3. Liability limitation fund may be established by depositing money into a deposit under the name of the court or provision of other financial security, recognized by the court as sufficient in accordance with the legislation of the Republic of Kazakhstan.

4. If several ship owners or salvors are entitled to limit liability for claims, arising out of the same incident, the liability limitation fund, established by one of such persons shall be deemed as established by all the ship owners or salvors.

Article 202. Distribution of liability limitation fund

1. Issues of distribution of liability limitation fund are solved by the court, where such fund is created.

2. Liability limitation fund is distributed among persons, having claims in proportion to the specified amounts of claims.

3. If before the distribution of the liability limitation fund, the person liable at the request, or his (her) insurer paid compensation on demand to that fund, such person shall have within the limits of the amount paid by him (her) the rights, which, under the rules established by this Chapter, would have the person, received the compensation.

4. In the case of creation of a liability limitation fund any person, claiming compensation of damage, are not allowed to meet such claim by any other property of the persons, who have created such a fund. In this case, the arrest of the ship and other measures to ensure the claim for compensation of damages must be cancelled by the court.

Chapter 21. Maritime lien on the ship. Mortgage of a ship or a ship under construction

Article 203. Obligations, execution of which secured by a maritime lien on the ship

1. Maritime lien on the ship secures the claims to the ship owner in respect of:

1) salary and other sums, due to the ship's captain and other crew members for their work on board of ship, including the expenses of repatriation and paid on behalf of the ship's captain and other crew members of social security contributions;

2) compensation for the harm, caused to the life and health of the citizen on land or on water, in direct connection with the operation of the ship;

3) remuneration for rescue of the ship;

4) payment of the charges, prescribed by this Law, as well as fees for services of a pilot;

5) compensation of the actual damage, caused by the operation of the ship as a result of loss or damage to other property than that carried by the ship, cargo, containers, baggage, cabin luggage and belongings of passengers.

2. Maritime lien on the ship does provide the claims under subparagraphs 2) and 5) of paragraph 1 of this Article, if such claims arise as a result of:

1) damage from pollution from ships or damage in connection with the carriage of dangerous cargo;

2) exposure to the radioactive properties of nuclear fuel, its products and the impact of their waste or radioactive properties, combined with their hazardous properties.

3. Maritime lien on the ship remains in force in the case of transfer of ownership of a ship, changes in its registration or change of flag of ship, except in the case of forced sale of ship out of court through a competitive bidding (tender, auction).

Article 204. Preferential satisfaction of claims, secured by a maritime lien on the ship

Claims, arising from the obligations, secured by a maritime lien on the ship in accordance with paragraph 1 of Article 203 of this Law, shall take priority over all other claims, except those provided for in paragraph 3 of Article 220 of this Law.

Article 205. The priority of claims, secured by a maritime lien on the ship

1. Claims, secured by a maritime lien on the ship in accordance with paragraph 1 of Article 203 of this Law shall be satisfied in the order of the sequence as they appear in the said paragraph. Claims for remuneration for rescue of the ship shall be satisfied before all other claims, secured by a maritime lien on the ship, arising earlier than the rescue operations are carried out, entitling them to a maritime lien on the ship.

2. Claims, secured by a maritime lien on the ship in accordance with paragraphs 1), 2), 4) and 5) of paragraph 1 of Article 203 of this Law shall be satisfied within each queue proportional to the amount of claims.

3. Claims for remuneration for rescue of the ship, secured by a maritime lien on the ship in accordance with subparagraph 3) of paragraph 1 of Article 203 of this Law shall be satisfied within the queue in reverse order of the time of occurrence of such claims. The claim is deemed to have arisen at the end of the rescue operation.

Article 206. Termination of a maritime lien on the ship

1. Maritime lien on the ship shall be terminated after one year from the date of the claims, secured by a maritime lien on the ship, specified in paragraph 1 of Article 203 of this Law, if, before the expiration of that period, the ship has not been implemented on a compulsory basis

2. The period specified in paragraph 1 of this Article shall be calculated:

1) under the claims, secured by a maritime lien on the ship in accordance with subparagraph 1) of paragraph 1 of Article 203 of this Law, after the dismissal of the ship the crew members, presenting such a claim;

2) under the claims, secured by a maritime lien on the ship in accordance with subparagraphs 2) -5) of paragraph 1 of Article 203 of this Law, with the emergence of such a claim.

The specified period shall be suspended for the period in which the seizure is not permitted.

Article 207. Assignment or transfer of claims

1. Assignment or transfer of claims secured by a maritime lien on the ship, at the same time lead to the assignment or transfer the right to claim of a maritime lien on the ship.

2. Transfer to the person, entitled to a maritime lien on the ship, the claims for harm to the life and health of the citizen, and the claims for payment of insurance indemnity, owed to the owner of the ship under the contract of marine insurance, shall not be allowed.

Article 208. The right to hold the ship or ship under construction

1. To secure the claims, arising in connection with the construction of the ship, as well as repair of the ship, including its reconstruction, shipbuilding and ship-repair organization (contractor) shall have the right to hold such a ship, the remnants of unused materials and other customer's property until payment by the customer the respective amounts.

2. The right to hold the ship under paragraph 1 of this Article shall be terminated at the moment when the ship or ship under construction is out of the possession of shipbuilding or ship repair organization (contractor), if it is not the result of its arrest.

3. In the case of a forced sale of the ship or ship under construction shipbuilding and ship-repair organization (contractor) shall have the right to satisfy their claims at the expense of the proceeds from the sale of the ship, in accordance with paragraph 4 of Article 220 of this Law.

Article 209. Establishing the mortgage of the ship

1. Mortgage of the ship is established in order to enforce the monetary obligation by conclusion of the contract between the ship owner (the mortgagor) and the lender (mortgagee), subject to the state registration in accordance with Articles 211 and 212 of this Law.

2. The mortgagor of the mortgage of the ship may, with the consent of the owner, also be the person that has a right of economic management to it.

Footnote. Article 209, as amended – by the Law of the Republic of Kazakhstan 22 October, 2004 № 601 (shall be enforced from 1 January, 2005).

Article 210. The mortgaged ship

1. In the case, unless otherwise provided by the contract, the mortgage of the ship applies to the ship, belonging to the same owner as the ship, as well as to insurance payments under the contract of marine insurance of a ship on the conditions of liability for the loss and damage to the ship.

Mortgage of the ship does not apply to freight.

2. In the case, unless otherwise provided by the contract, mortgage of the ship under construction applies to the materials and equipment that are intended to build it and are in the position of the ship-building organization, and clearly identified by marking or otherwise, as well as to insurance payments under the contract of marine insurance of the ship under construction on the conditions of liability for loss and damage to the ship under construction.

3. If the subject of the mortgage is two or more ship or ships under construction in the absence of an agreement on the amount of security of obligations by each ship individually, such ships shall be secured by obligations in full.

Article 211. The state registration of mortgage of the ship

1. Mortgage of the ship shall be registered in the same register, where the ship is registered.

2. Mortgage of the foreign ship that is temporarily granted the right to sail under the State Flag of the Republic of Kazakhstan in accordance with paragraphs 2 and 3 of Article 11 of this Law, as well as mortgage of the ship, building for the foreign recipient, may not be registered in the Republic of Kazakhstan.

3. Mortgage of the ship under construction shall be registered in the register of ships under construction, where the ownership of the ship under construction is registered.

Footnote. Article 211, as amended - by the Law of the Republic of Kazakhstan dated 22 October, 2004 № 601 (shall be enforced from 1 January, 2005).

Article 212. The procedure for the state registration of mortgage of the ship

1. is acted before 31.12.2015 in accordance with the Law of the Republic of Kazakhstan dated 27.04.2015 № 311-V (the order of enforcement see. art. 2).

Mortgage of the ship or ship under construction shall be registered on the basis of the application of the mortgagor in the case of an operation in the manner prescribed by Article 61-4 of the Law of the Republic of Kazakhstan "On Banks and Banking Activities in the

Republic of Kazakhstan", as well as in the transfer of second-tier banks and other legal entities of assets and rights (requirements) of the organization specializing in improving the quality of credit portfolios of second-tier banks.

2. The application for the state registration of mortgage of the ship or ship under construction shall contain:

1) data, identifying the ship (name of the ship, the port or place of its registration, registration number, type and grade, tonnage of the ship) or ship under construction (the place where the construction of the ship is made, construction number, type of ship, the length of the keel and other basic measurements, registration number);

2) the name and address of the mortgagor of mortgage;

3) the name and address of the mortgagee of mortgage or the information that it is set to the bearer;

4) the maximum amount of the obligations, secured by the mortgage, if the mortgage is established for two or more ships or ships under construction the amount, in which the liability is provided separately by each ship in the presence of the parties' agreement on this;

5) the end date of the mortgage of the ship or ship under construction.

The application for the state registration of mortgage of the ship or ship under construction is attached by the contract on the mortgage of the ship or ship under construction with the specified in such contract documents.

In the case provided for in part 2 of paragraph 1 of this article, a notarized copy of the agreement on the simultaneous transfer of assets and liabilities (with the application of the deed of transfer or an extract from it) shall be attached to the application for state registration of the mortgage of the vessel or vessel under construction.

3. The body for the registration of mortgage of the ship or ship under construction shall be entitled to refuse its state registration, if the contract of mortgage of the ship or ship under construction or attached to such contract documents do not meet the requirements of the state registration of mortgage of the ship or ship under construction.

4. Mortgage of the ship or ship under construction shall be registered on the date of receipt of the application for the state registration.

State ship registry of marine vessels, ship book or register of ships under construction shall include all the information specified in the application for the state registration in accordance with paragraph 2 of this Article.

5. The body for the registration of mortgage of the ship or ship under construction shall give the mortgagor and the mortgagee a certificate of the state registration of mortgage of the ship in a standard form in accordance with the records, containing in the State ship registry of marine vessels, ship book or register of ships under construction.

6. For the state registration of the mortgage of the ship or ship under construction the fee is charged in the manner determined by the tax legislation of the Republic of Kazakhstan.

6-1. is excluded by the Law of the Republic of Kazakhstan dated 25.11.2019 № 272-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

7. State ship registry of marine vessels, ship book or register of ships under construction, where mortgage of the ship or ship under construction is registered, and the documents to be transferred to the registry authority, shall be open, and the person concerned has the right to take extract from them, and copies of such documents.

8. In the state registration of mortgage of the ship it is not required to make any record of it in the ship's documents.

Footnote. Article 212, as amended by the Laws of the Republic of Kazakhstan dated 22.10.2004 № 601 (shall be enforced from 01.01.2005); dated 15.07.2011 № 461-IV (shall be enforced from 30.01.2012); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.04.2015 № 311-V (the order of enforcement see. art. 2); dated 27.02.2017 № 49-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.11.2019 № 272-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 213. Preferential satisfaction of claims, secured by mortgage of the ship

1. Claims for the obligations, the performance of which is provided by a registered mortgage of the ship, shall take priority over all other claims, except those provided for in paragraph 1 of Article 203, paragraphs 3 and 4 of Article 220.

2. No claims shall take priority over the claims of the obligations, secured by a registered mortgage of the ship under construction, except those provided for in paragraph 4 of Article 220 of this Law.

Article 214. The priority of claims, secured by mortgage of the ship

1. If the ship, in which the mortgage is set, becomes the subject of another mortgage as security for other claims of mortgagor, the claims of the subsequent mortgagee shall be satisfied after the claims of the preceding mortgagees. The priority for satisfying such claims, secured by mortgage of the ship shall be determined by the date of the state registration of the mortgage.

2. The priority of claims, arising from the obligations, secured by mortgage of the ship or ship under construction, provided for in paragraph 1 of this Article may be changed by agreement of the mortgagor and the mortgagee. This agreement is subject to the state registration in the State ship registry of marine vessels, ship book or register of ships under construction.

Footnote. Article 214, as amended – by the Law of the Republic of Kazakhstan dated 22 October, 2004 № 601 (shall be enforced from 1 January, 2005).

Article 215. Assignment of rights under the contract of mortgage on a ship

1. Mortgagor shall have the right to assign its rights under the contract of mortgage on a ship to another person in compliance with the rules on the transfer of the creditor's rights

under the main obligation by assignment of the claim in accordance with the civil legislation of the Republic of Kazakhstan.

2. In the assignment of rights under the contract of mortgage on a ship, the record of the date of assignment and the name, address of the person in whose favor the assignment is made, shall be written in the State ship registry of marine vessels, ship book or register of ships under construction, in which it is registered.

Article 216. Preservation of the ship or ship under construction, secured by a mortgage

Mortgagor shall take appropriate measures to preserve and maintain the ship or ship under construction, secured by a mortgage. If the failure of such an obligation leads to a significant depreciation of the ship or ship under construction, the mortgagee has the right to sell it forcibly to the maturity date of the obligation.

Article 217. Transfer of ownership of the ship or ship under construction or change of the state registration

1. If the claims, secured by registered mortgage of the ship or ship under construction are not satisfied or in the absence of written consent of all mortgagees, the sea port administration shall not be entitled to exclude the ship from the State ship registry of marine vessels or the ship book or make changes to the record of the state registration of ownership of the ship under construction in the register of ships under construction, except in cases provided for in Articles 219 and 220 of this Law.

2. In cases, where the exclusion of the ship from the State ship registry of marine vessels or ship books or ownership of the ship under construction from the register of ships under construction is required (except in cases of voluntary sales), the body for state registration shall send the mortgagees notice of impending exclusion of the ship or ownership of the ship under construction from the corresponding registers, that mortgagees have taken appropriate measures to protect their interests. When not receiving their consent the ship or ownership of the ship under construction shall be excluded from the corresponding registers after a reasonable period, but not less than three months after the notice of mortgagees.

Footnote. Article 217, as amended – by the Law of the Republic of Kazakhstan dated 22 October, 2004 № 601 (shall be enforced from 1 January, 2005).

Article 218. Grounds for the forced sale of the ship or ship under construction

In case of non-performance of obligation by the mortgagor to pay the debt, the burdened by mortgage ship or ship under construction may be sold on the basis of a court decision on the location of the ship arrested or the arrested ship under construction.

Article 219. Procedure for the forced sale of the ship or ship under construction

Forced sale of the ship or ship under construction is carried out in accordance with the civil legislation of the Republic of Kazakhstan.

Article 220. Consequences of the forced sale of the ship or ship under construction

1. In the case of the forced sale of the ship or ship under construction, all the registered mortgage of the ship or ship under construction, except those assumed by the purchaser with

the consent of their mortgagees, all liens and other encumbrances of any kind shall terminate their validity in relation to the ship or ship under construction.

2. The expenses, incurred in connection with the arrest and subsequent sale of the ship or ship under construction, shall be primarily paid by the proceeds from their sale. Such expenses include, in particular, incurred from the arrest of the ship the maintenance costs of the ship and crew members, as well as salaries, other sums and expenses, referred to in subparagraph 1) of paragraph 1 of Article 203 of this Law. The remainder of the proceeds from the sale of the ship or ship under construction shall be distributed in accordance with this Chapter to the extent that this is necessary to meet requirements. After meeting the requirements of all persons who submitted them, the amount received from the sale of the ship or ship under construction, if it remains, it shall be returned to the owner of the ship or ship under construction and will be freely transferable.

3. In the event of a forced sale of a wreck, a removal which is carried out by the maritime administration of the port to ensure the safety of navigation or protection from pollution of the marine environment, the costs of removing a sunken ship shall be paid from the proceeds from its sale until the claims secured by the maritime lien on the ship are satisfied.

4. Shipbuilding or ship repair organization (contractor), holding the ship to secure its obligations, shall give it for the forced sale.

If there are claims, secured by a maritime lien on the ship, in accordance with paragraph 1 of Article 203 of this Law, the ship-repair organization shall have such right after the satisfaction of these claims.

5. In the case if the buyer of the ship or ship under construction is a citizen or legal entity of the Republic of Kazakhstan, the ship or the ownership of the ship under construction shall be registered in the name of the buyer in the appropriate register in the Republic of Kazakhstan. In the case if the ship or ownership of the ship under construction is registered in the appropriate register in the Republic of Kazakhstan and the buyer of the ship or ship under construction is a foreign citizen or a foreign legal entity, the body for registration of the ship or the body for registration of ownership of the ship under construction shall issue a certificate to such buyer on the exclusion of the ship from the State ship registry of marine vessels, ship books or exclusion of ownership of the ship under construction from the register of ships under construction for the purpose of registration of the ship, or the ownership of the ship under construction in the appropriate register of a foreign country.

Footnote. Article 220 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 221. Termination of mortgage of the ship

1. Mortgage of the ship shall be terminated in the following cases:

1) termination of the secured obligation;

2) sale of the ship or ship under construction with competitive bidding (tender, auction), as well as in the case when its realization is impossible;

3) loss of the ship or ship under construction, with the exception of cases where the mortgagee of a mortgage of the ship or ship under construction may exercise its claim to the insurance payments due in connection with the loss of the ship or ship under construction, in accordance with the contract of marine insurance.

2. In presenting evidence to terminate the mortgage of the ship or ship under construction in the cases, provided for in paragraph 1 of this Article, the body for registration shall make notice in corresponding ship register or register of ship under construction on termination of the mortgage of the ship or ship under construction.

Chapter 22. Arrest of the ship

Article 222. Grounds for arrest of the ship

1. Arrest of the ship is the detention or restriction on removal of the ship to secure a maritime claim.

2. A ship may only be arrested for the maritime claim, except the cases, provided for in paragraph 4 of this Article.

3. In order to secure a maritime claim the ship may be arrested regardless of the terms of the corresponding contract that the maritime claim is subject to review by a court of another state.

4. According to the requirements, not related to maritime claims, the ship may only be arrested in the following cases:

1) the bankruptcy of the ship owner or liquidation of ship owner's legal entity;

2) ensure the confiscation under the criminal case.

5. This chapter does not affect the rights of the captain of the sea port for refusal to issue a permit for the ship to entry the sea port, the detention of the ship and cargo, prescribed by this Law.

6. The legal relations, arising from the arrest of the ship, not regulated by this Chapter shall be governed by the legislation of the Republic of Kazakhstan.

Footnote. Article 222, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 № 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 223. Maritime Claim

Maritime claim is any claim, made in connection with:

1) damage at the operation of the ship;

2) harm to life and health of the citizen on land or on water, in direct connection with the operation of the ship;

3) implementation of the rescue operation or by a contract for rescue;

4) expenses on taking measures to prevent or minimize damage, including damage to the environment, if such a claim arises from an international treaty of the Republic of Kazakhstan, the law of the Republic of Kazakhstan or a contract, as well as the damage that caused or may be caused by such measures;

5) expenses for the removal of sunken property;

6) contract on the use of the ship;

7) contract of carriage of cargo by sea or the contract of carriage of passengers by sea;

8) the loss, shortage or damage (or deterioration) of cargo or baggage on board;

9) general average;

10) pilotage;

11) towing;

12) provision of food, materials, fuel, supplies, equipment, including containers for the operation of the ship or its contents;

13) construction, repair, modernization or refurbishment of the ship;

14) fees and payments, collected by the sea port;

15) salaries and other sums due to the ship captain and other crew members;

16) expenses, incurred in respect of the ship;

17) insurance premium;

18) remuneration of the marine agent, marine broker;

19) dispute on the right of ownership and other property rights to the ship;

20) dispute between the owners of the ship on the use of the ship and the distribution of profits;

21) dispute, arising from a contract of sale of the ship.

Footnote. Article 223 as amended by the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 224. A ship, the seizure of which is not allowed

1. Under the maritime claims the seizure of a ship are not allowed in the following cases:

1) the transfer of ownership of the ship to third parties at the time of seizure;

2) ship chartering by other charterer.

2. The rules, provided for in paragraph 1 of this Article shall not apply in respect of ownership and other rights to the ship.

Article 225. Protection of the owner of the ship arrested

1. The court may, as a condition of seizure or prolongation of a previously imposed arrest of the ship obligate the person, requiring the seizure or prolonged arrest of the ship to provide security in the amount and under the conditions as may be determined by the court in connection with the losses that may be caused as a result of the seizure of the ship. This rule shall not apply to the person, requiring the seizure or prolongation of the ship arrest under the claim, provided by subparagraph 15) of Article 223 of this Law.

2. At the request of the owner of the ship arrested the court, arrested the ship or taken measures to ensure the other claim in order to prevent the seizure of the ship shall be entitled to determine the amount of liability of the person at whose request the ship arrested or the security provided, for losses caused by the seizure of the ship.

Chapter 23. Marine protest

Article 226. Marine protest

1. If during navigation or staying of ship the accident occurred, which may be the basis for a presentation to the ship owner property claims, the ship captain shall apply for marine protest in order to provide evidence.

2. Marine protest must contain full information on the circumstances of the accident and the causes of it, including information about the damage and the measures taken to prevent or minimize damage.

Article 227. Statement of marine protest

1. Statement of marine protest filed:

1) in the port of the Republic of Kazakhstan to the notary;
2) in a foreign port to the official of consular offices of the Republic of Kazakhstan or the competent official of a foreign state in accordance with the legislation of the corresponding state.

2. Statement of marine protest filed, if the incident occurred:

1) in the seaport within twenty-four hours after the accident;
2) during the navigation of the ship within twenty-four hours after the arrival of the ship or the ship captain in the first sea port after the incident.

If the accident occurred during the navigation, the statement of marine protest may be filed at the time of arrival of the ship or the ship captain to the port, that is not a first port after the incident, in order to avoid a significant loss of time and expenses, associated with entering the first port after the incident.

3. In case of impossibility of statement of marine protest within the time, prescribed by paragraph 2 of this Article, the reasons for this shall be indicated in the statement of marine protest.

4. The captains of foreign ships shall have the right to apply for a marine protest to the consular offices of the State, under whose flag the ship is sailing, if such right is provided by the relevant international treaty.

Article 228. Statement of marine protest against damage to cargo

In the case of damage to the cargo on board, resulting from the accident, the statement of marine protest must be filed before the opening of the hatches. Unloading of cargo on board prior to the statement of marine protest is allowed only in case of emergency.

Article 229. Provision of logbook to the person, to whom statement of marine protest submitted

1. The ship captain shall, within seven days from the date of arrival of the ship or the ship captain to the sea port, as well as the accident, if it took place in the port, provide the person who filed a marine protest a logbook for review and extract of the logbook, certified by him (her).

2. In the case of destruction (loss) of logbook, the statement of marine protest shall contain the circumstances and reasons for its destruction (loss).

Article 230. Preparation of the act of marine protest

Persons, authorized to accept the statement of marine protest, shall prepare the act of marine protest on the basis of the application of the ship captain, logbook data, inquiry of ship captain and, if necessary, other members of the crew.

Chapter 24. Acts, claims and actions. Limitation of actions

Article 231. Identification of circumstances that may serve as a basis for liability of participants of carriage of cargo by sea

1. Circumstances that may serve as a basis for liability of the carrier, sender, recipient, and the passenger, are certified by commercial acts or acts of general form. In foreign ports such circumstances shall be certified in accordance with the rules, existing in the port.

2. Commercial act shall be made to verify:

1) mismatch between the name, weight or quantity of cargo or baggage in nature and data, referred to in the document of transportation;

2) loss, shortage or damage (deterioration) of cargo or baggage;

3) detection of cargo or baggage without documents, as well as documents without cargo or baggage;

4) return to the carrier of the stolen cargo or baggage.

3. The forms of acts, the order of their compilation and the order of certification of circumstances that do not require preparation of acts, shall be established by the rules approved by the authorized body.

Article 232. Claims

Pre-trial settlement of disputes in the complaint procedure is a prerequisite for bringing an action.

Article 233. Transfer of the right to bring claims and actions

1. Transfer of the right to bring claims or actions to other citizens or organizations are not allowed, except for the cases of transfer of such right by the sender to the recipient, or vice versa, as well as by the sender or recipient to the freight forwarder or the insurer.

2. Transfer of the right to bring a claim and action shall be certified by a reassignment inscription on the bill of lading or other document of transportation (sea waybill, charter).

Article 234. Conditions and procedure for making claims

1. The claims arising from the contract of carriage by sea, may be brought against the carrier within the period of limitation of action.

2. The claim is brought to the carrier, which carried out the shipping, and if shipping is not done, to the carrier, which is in accordance with the contract of carriage of cargo by sea has been required to implement it.

3. The claim for the loss, shortage or damage (deterioration) of cargo, except for transportation documents shall be accompanied by documents certifying the right to bring a claim, and the documents certifying the quantity and value of the shipment. Transportation documents (sea waybill, bill of lading, charter) are presented in the original.

Footnote. Article 234 with the change introduced by the Law of the Republic of Kazakhstan dated 27.10.2015 № 363-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 235. The procedure and time for consideration of claims, arising from the contract of carriage of cargo by sea

1. The claim shall be considered within one month from the date of its receipt.

2. In respect of the claims for carriage, carried out by different modes of transport are on the same document, within three months. If the claim is rejected or no response is received within the period specified in this Article, the applicant shall have the right to bring an action.

Article 236. The limitation period for claims, arising from the contract of carriage of passengers, baggage and cargo by sea

1. Claims against the carrier, arising from the contract of carriage by sea, may be brought in the case of full or partial refusal of the carrier to satisfy the claim or, if no response is received from the carrier to the submitted claim.

2. The limitation period under the contract of carriage of cargo by sea is a year, under the contract of carriage of passenger and baggage is six months.

3. The specified period under the contract of carriage of cargo by sea shall be calculated:

1) for claims for damages for the loss and shortage of cargo on the expiry of one month from the date when the cargo is to be issued;

2) for claims for damage (or deterioration) of cargo, delay of delivery, refund or recovery of transportation charges from the date of delivery of the cargo, and if the cargo is not issued, the date when it should be issued;

3) for claims for damages for non-delivery of the ship or its untimely delivery, payment of demurrage and dispatch from the end of the month following the one, when the carriage of cargo started or was supposed to start;

4) in all other cases from the date of occurrence of the event, giving rise to the request.

Footnote. Article 236 with the change introduced by the Law of the Republic of Kazakhstan dated 27.10.2015 № 363-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 237. Limitation period on other claims

1. For the claims, arising from the contract of towage, contract of marine agency, the contract of marine brokerage, time charter, bareboat charter and under the general average, the limitation period shall be calculated:

1) for claims, arising from the contract of towage, contract of marine agency, the contract of marine brokerage, time charter and bareboat charter from the date of the right to sue;

2) for claims, arising out of the general average, from the date of receipt of the average statement.

2. For the recourse claims, laid down in paragraphs 3 and 4 of Article 169 of this Law, the limitation period of one year shall be calculated from the date of payment of the corresponding amount.

Article 238. Limitation period for claims for damage of marine pollution by oil from ships and damages in connection with the carriage of dangerous cargo by sea

The limitation period for claims for damage of marine pollution by oil from ships and damage in connection with the carriage of dangerous cargo by sea shall expire after three years from the date when the injured party knew or should have known of the occurrence of such damage.

In this case, the action for damages cannot be made according to the claims:

1) for damages of marine pollution by oil from ships after six years from the date of the incident, as a result of which such damage caused;

2) for damages in connection with the carriage of dangerous cargo by sea after ten years from the date of the incident, as a result of which such damage caused.

Article 238-1. The limitation period for the Service of Hydrographic Support of the Naval Forces of the Armed Forces of the Republic of Kazakhstan in connection with the location and designation of the sunken property and the maritime port administration for claims for reimbursement of expenses incurred in connection with the removal of sunken property

The limitation period for the Hydrographic Support Service of the Naval Forces of the Armed Forces of the Republic of Kazakhstan on claims for reimbursement of expenses incurred in connection with the location and designation of a sunken property, and the maritime port administration for claims for reimbursement of expenses incurred in connection with the removal of the sunken property, shall be three years from the date of determining the danger of sunken property in the manner determined by the rules for the removal of sunken property.

An action may not be brought after six years from the day when an accident occurred, as a result of which the property sank.

If the accident consisted of a series of events, then the six years shall be calculated from the day of the first of these events.

Footnote. Chapter 24 is supplemented by Article 238-1 in accordance with the Law of the Republic of Kazakhstan dated December 29, 2022 № 174-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 239. Application of the general terms

For claims, for which this Law does not set the limitation of period, the general limitation period, established by the Civil Code of the Republic of Kazakhstan shall apply.

Chapter 25. Applicable law

Article 240. Determination of the law applicable to relations in the field of merchant shipping, complicated by a foreign element

1. The law applicable to the relations in the field of merchant shipping with the participation of foreigners or foreign legal entities or complicated by a foreign element is determined based on the Civil Code of the Republic of Kazakhstan, this Law and international treaties, ratified by the Republic of Kazakhstan, and recognized practices of merchant shipping.

2. The contract, provided for in this Law, shall be governed the law of the state, chosen by agreement between the parties.

Parties to the contract may choose the law applicable to the contract as a whole, and for its individual parts.

Choice of law by agreement between the parties to the contract shall not entail the release of the carrier from liability or limit its liability for damages to life and health of the passenger, loss, shortage or damage (or deterioration) of cargo or baggage, established by this Law.

3. In the absence of agreement between the parties of the contract on the law applicable, the law of the country where established, has a place of residence or principal place of business a party, which is:

- 1) the carrier in the contract of carriage by sea;
- 2) the ship owner in the contract of marine agency, time charter and bareboat charter;
- 3) the owner of the towing ship to the towing contract;
- 4) the principal in a contract of marine brokerage;
- 5) the insurer in a contract of marine insurance, - shall apply.

Article 241. The right of ownership and other property rights to the ship

1. The right of ownership and other property rights to the ship, as well as their origin and termination shall be determined by the law of the state, where the ship is registered in the State Register.

2. The right to the ship under construction, not registered in the register of ships under construction, shall be determined by the law of the state where the ship is taken to the construction or constructed, unless otherwise provided by the contract for construction of the ship.

Article 242. Legal status of the crew members

1. The legal status of the crew members of the ship and the relations between the members of the crew, associated with the operation of the ship shall be determined by the law of the flag state of the ship.

2. Relations between the ship owner and the crew members of the ship shall be governed by the law of the flag state of the ship, unless otherwise provided by the contract, governing the relations between the ship owner and the crew members of the ship that are foreigners.

The choice of the parties to the labour contract of the law applicable to the employment relationship between the ship owner and the crew members of the ship, shall not lead to the restriction of the rights of the crew members, poor working conditions and violations of the guarantees, established by the legislation of the state, which law is applicable in the absence of agreement between the parties.

Article 243. Right to the sunken property

1. The right of ownership and other rights in rem to property sunk in internal or territorial waters, as well as relations arising in connection with sunken property, shall be determined by the law of the country in which territory the property sank.

2. The right of ownership and other real rights on the ships, sunken in the high seas, the cargo and other property on them shall be determined by the law of the flag state of the ship.

Footnote. Article 243 as amended by the Law of the Republic of Kazakhstan dated 23.02.2021 № 11-VII (for the procedure of enforcement see Article 2).

Article 244. General average

1. In the absence of agreement between the parties on the law applicable, the relations arising from the general average shall be governed by the law of the country, in the port of which the ship has completed flight after the incident that caused the general average.

To the relations in general average between the persons that are citizens or stateless persons of the same country, the law of this country shall apply.

2. The order of distribution of general average, if it is distributed in the Republic of Kazakhstan, shall be regulated in accordance with Chapter 16 of this Law.

Article 245. Relations, arising in the collision of ships

1. Relations arising from a collision of ships in internal and territorial waters shall be governed by the law of the country in which territory the collision occurred.

2. In the case, if the collision occurred in the high seas and the dispute is settled in the court of the Republic of Kazakhstan, the rules set out in Chapter 17 of this Law shall apply.

3. According to the relations, arising in the collision of ships, sailing under the flag of the same state, the law of the flag state of the ship shall apply, regardless of the place of the ship collision.

Footnote. Article 245 as amended by the Law of the Republic of Kazakhstan dated 23.02.2021 № 11-VII (for the procedure of enforcement see Article 2).

Article 246. Relations, arising from damage of marine pollution by oil from ships

When causing damage from marine pollution by oil from ships the rules set out in Chapter 18 of this Law shall apply to:

1) damage from marine pollution by oil from ships, caused in the territory of the Republic of Kazakhstan;

2) preventive measures to prevent or minimize such damage, wherever they were taken.

Article 247. Relations, arising from damage in connection with the carriage of dangerous cargo by sea

When causing damage in connection with the carriage of dangerous cargo by sea the rules set out in Chapter 18 of this Law shall apply to:

1) damage caused on the territory of the Republic of Kazakhstan, including in territorial waters;

2) damage other than damage from environmental pollution caused outside the territory of the Republic of Kazakhstan, including territorial waters, if such damage is caused by dangerous and harmful substances transported on the board of a ship sailing under the State flag of the Republic of Kazakhstan;

3) preventive measures to prevent or minimize damage, wherever they were taken.

Footnote. Article 247 as amended by the Law of the Republic of Kazakhstan dated 23.02.2021 № 11-VII (for the procedure of enforcement see Article 2).

Article 248. The relations, arising from the rescue of the ship and other property

1. In the absence of agreement between the parties on the law applicable to the relations, arising in the rescue of the ship and other property in the territorial waters, the law of the country where there has been a rescue shall apply, and if the rescue is carried out in the high seas and the dispute is settled in the Republic of Kazakhstan, the rules set out in Chapter 19 of this Law shall apply.

2. If the rescuing and rescued ships sail under the flag of the one State, the law of the flag state of the ship shall apply, regardless of where the rescue took place.

3. The distribution of remuneration between the owner of the rescued ship, its captain and the other members of the crew of the ship shall be subject to the law of the flag state of the ship and, if the rescue is carried out not from the ship, the law, regulated the contract, governing the relations between the salvor and his (her) employees shall apply.

*The President
of the Republic of Kazakhstan*