



## **On Private Enterprise**

### *Invalidated Unofficial translation*

The Law of the Republic of Kazakhstan dated 31 January, 2006 No. 124.

U n o f f i c i a l            t r a n s l a t i o n

Footnote. It became null and void by the Code of the Republic of Kazakhstan dated 10.29.2015 No. 375-V (shall be enforced from 01.01.2016).

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TABLE OF CONTENT is established for ease of use of the Republican Centre of Legal Information (hereinafter – RCLI)

This Law regulates the social relations, arising in connection with carrying out the private enterprise by individuals and non-government legal entities, determines the principal legal, economic and social conditions and guarantees, securing the freedom of private enterprise in the Republic of Kazakhstan.

## **Chapter 1. GENERAL PROVISIONS**

### **1. Basic definitions, used in this Law**

The following basic definitions shall be used in this Law:

1) a business incubator – a legal entity, established for supporting the small business entities at the stage of their establishment by granting the industrial premises, equipment, organizing, legal, financing, consulting and information services;

2) corporate social responsibility – the voluntary contribution of private enterprise entities in development of public in the social, economic and ecological spheres;

3) an individual entrepreneur – a citizen of the Republic of Kazakhstan or an oralman, carrying out the individual enterprise without establishment of legal entity and conformable to criteria, mentioned in paragraphs 3 and 7 of Article 6 of this Law;

4) individual enterprise – initiative activity of individuals, oriented to acquisition of income, based on the property of individuals themselves and carried out in the name of individuals, for their risk and under their property responsibility;

5) private enterprise – initiative activity of private enterprise entities, oriented to acquisition of income, based on the property of private enterprise entities themselves and carried out in the name of private enterprise entities, for their risk and under their property responsibility;

6) *is excluded by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378 -IV (shall be enforced upon expiry of ten calendar days after its first official publication);*

7) state support of private enterprise – the set of government measures on stimulating the development of private enterprise, arrangement of favourable legal, economic and social conditions for implementation of entrepreneurial initiative in the Republic of Kazakhstan;

8) infrastructure of private enterprise – the set of established or operating organizations, securing the general terms of functioning and development of the private enterprise, including co-operation in organization of own business, delivery of information in the scope of the law, marketing, engineering and management, support in provision of material and technical, financial and other resources on a merchant basis;

9) private enterprise entities – individuals and non-government legal entities, carrying out the entrepreneurial activity;

10) association of private enterprise entities – a non-profit organization, established by private enterprise entities in order to coordinate their entrepreneurial activity, as well as represent and protect the rights, legal interests of private enterprise entities;

11) accreditation of associations of private enterprise entities – admissibility of conformity of the associations of the private enterprise by the relevant state bodies to established criteria on representation of the interests of private enterprise entities in expert councils on the issues of entrepreneurship;

11-1) average annual income – the sum of total annual incomes or of incomes of private enterprise entities, applying the special tax regulations on the basis of patent or summary declaration for the last three years, divided by three, in accordance with the tax legislation of the Republic of Kazakhstan;

12) industrial zone – non-agricultural land, supplied by utilities, provided by the state to private enterprise entities for allocation and operation of industry facilities in the manner, established by the Land Code of the Republic of Kazakhstan and other Laws of the Republic of Kazakhstan;

13) authorized body on entrepreneurship – a state body, carrying out management in the scope of development of the private enterprise;

14) an expert council on the issues of entrepreneurship (hereinafter – an expert council) – an advisory and consultative body, established under the central state and local executive and representative bodies for organizing the works on:

receipt of expert opinions from accrediting associations of private enterprise entities and interested non-profit organizations on the projects of regulatory legal acts, concerning the interests of the private enterprise;

development of proposals on improving activity of state bodies in order to support and protect the private enterprise, as well as to eliminate administrative barriers;

15) *is excluded by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication);*

16) commercial secret – information, determined and protected by the private enterprise entity, the free access to which on the legal grounds shall be had by the limited scope of persons, the disclosure, receipt, use of which may damage to its interests;

17) support centres of small business – legal entities, carrying out the training, information delivery, rendering of consulting and marketing services, conduct of economic and technological examination of the projects of small business entities.

**Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); as amended by the Laws of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **2. The legislation of the Republic of Kazakhstan on private enterprise**

1. The legislation of the Republic of Kazakhstan on private enterprise shall be based on the Constitution of the Republic of Kazakhstan and consist of the Civil Code, this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If an international treaty, ratified by the Republic of Kazakhstan established the other rules, than those, provided by this Law, the rules of international treaty shall be applied.

3. Special aspects of carrying out the particular types of private enterprise shall be established in accordance with the Laws of the Republic of Kazakhstan.

4. *Is excluded by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).*

**Footnote. Article 2 as amended by the Laws of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **3. Limits of legal regulations of private enterprise**

1. Private enterprise may be restricted exceptionally on the grounds, established in accordance with the Laws of the Republic of Kazakhstan.

2. Restriction of private enterprise may occur only on the issues, referred to exclusive competence of the state in accordance with the Laws of the Republic of Kazakhstan.

3. Government bodies shall prohibit the adoption of the regulatory legal acts, establishing the privileged position of each several private enterprise entities.

#### **4. Main goal and principles of the government regulation of private enterprise**

1. Main goals of the government regulation of private enterprise shall be arrangement of favourable conditions for development of private enterprise and protection of the state interests and consumer rights.

2. Basic principles of the government regulation of private enterprise shall be:

the guarantee of freedom of private enterprise (it is allowed to carry out any types of activity, that are not prohibited by the legislation of the Republic of Kazakhstan) and securing its protection and support;

equality of all private enterprise entities on carrying out the entrepreneurial activity ;

the safe conduct and guarantee of protection of the private property (property of private enterprise entities);

development priorities of small business in the Republic of Kazakhstan;

participation of private enterprise entities in examination of projects of the regulatory legal acts, concerning the interests of private enterprise.

participation of private enterprise entities in the National board of entrepreneurs of the Republic of Kazakhstan.

**Footnote. Article 4 as amended by the Laws of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **5. Special aspects of development and acceptance of the regulatory legal acts, concerning the interests of private enterprise entities**

1. The central state, local representative and executive bodies shall direct the project of the regulatory legal act through the expert councils, concerning the interests of private enterprise entities to accrediting associations of private enterprise entities and the National board of entrepreneurs of the Republic of Kazakhstan with compulsory attachment of explanatory note for receipt of expert opinion, as well as in each following coordination of this project with interested state bodies.

The term, established by state bodies for presentation of expert opinion on the project of the regulatory legal act, concerning the interests of private enterprise entities may not be less than ten business days from the date of its receipt to the accrediting associations of private enterprise entities and the National board of entrepreneurs of the Republic of Kazakhstan.

2. Explanatory note to the project of the regulatory legal act, concerning the interests of private enterprise entities shall mandatory contain the accounting results,

confirming reduction and (or) increase of expenses of private enterprise entities in connection with enforcement of the regulatory legal act.

3. Expert opinions shall be presented on the terms, established by state bodies:

1) at republican level – the union (alliance) of associations of private enterprise entities, republican inter-sectoral, sectoral associations (unions), as well as republican associations of small, medium and (or) big business entities;

2) at oblast level – the branches of republican associations of private enterprise entities, oblast associations of private enterprise entities, oblast associations of small, medium and (or) big business;

3) at city, district levels – the branches of republican associations of private enterprise entities, oblast, city, district associations of private enterprise entities, oblast, city, district associations of small, medium and (or) big business.

4. Expert opinions shall represent the consolidated opinion of members of the National board of entrepreneurs of the Republic of Kazakhstan, accrediting associations of private enterprise entities, shall be advisory in nature and an obligatory attachment to the project of the regulatory legal act before its acceptance, as well as at the each following coordination of this project with interested state bodies.

Expert examinations shall be presented in Kazakh and Russian languages.

5. Government body shall introduce the relevant amendments and (or) additions to the project of the regulatory legal act if it agrees with expert opinion.

In case of disagreement with expert opinion, a state body shall direct a reply with explanation of reasons of the disagreement to the National board of entrepreneurs of the Republic of Kazakhstan, accrediting associations of private enterprise entities. These replies with explanations shall be obligatory attachment to the project of the regulatory legal act before their acceptance.

In cases, when the expert opinion with comments is presented on the project of the regulatory legal act by the accrediting associations of private enterprise entities, the National board of entrepreneurs of the Republic of Kazakhstan and a member of expert council requires holding of the session of expert council, the conduct of this session shall be mandatory.

By this, the sessions of expert council may be held by direct assembling of members of expert council or by conducting the online meeting in the real-time regime.

6. Terms of enforcement of the regulatory legal act, concerning the interests of private enterprise entities shall be established proceeding from the terms, required to private enterprise entity for preparation of carrying out the activity in connection with requirements, established by the Laws of the Republic of Kazakhstan.

The order and terms of enforcement of the regulatory legal acts shall not cause damage to private enterprise entities.

7. The procedures, provided by this Article shall be obligatory conditions of acceptance of the regulatory legal acts, concerning the interests of private enterprise entities.

8. Projects of the regulatory legal acts, concerning the interests of private enterprise entities shall be subject to obligatory publication (distribution) in mass media, including the websites, before their consideration in the relevant body or in a session of expert council.

Footnote. Article 5 is in the wording of the Laws of the Republic of Kazakhstan dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Chapter 2. PRIVATE ENTERPRISE ENTITIES AND CONDITIONS OF THEIR FUNCTIONING**

**N o t e o f R C L I !**

New wording of Article 6 is provided by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced from 01.12.2013).

### **6. private enterprise entities**

1. Legal entity, that is a private enterprise entity, may be established only in the legal organizational form, provided by the civil legislation of the Republic of Kazakhstan.

2. Private enterprise entities may be referred to:

- the small business entities;
- the medium business entities;
- the big business entities;

3. Small business entities shall be individual entrepreneurs without establishment of a legal entity with average annual number of wage-workers of no more than fifty persons and legal entities, carrying out the private enterprise, with average annual number of wage-workers of no more than fifty persons and average annual value of the active assets for a year and no more than sixty thousand-fold monthly calculation index, established by the Law on republican budget for the relevant accounting period.

4. Individual entrepreneurs and legal entities, carrying out the following activity may not be recognized as small business entities:

activity, linked with trafficking of narcotic drugs, psychotropic substances and precursors;

- production and (or) wholesale trade of excisable products;
- activity on grain storage on grain reception centres;
- lottery conducting;
- activity in the scope of gambling industry and show business;

activity on production, refining and sale of oil, oil products, gas, electrical and heat energy;

activity, linked with a trade of radiation-emitting materials;

banking activity (or specific types of banking operations) and activity on insurance market (except for activity of insurance agent);

audit activity;

professional activity on securities market;

activity of credit bureaus;

security guard activity.

5. The average annual number of wage-workers of small business entities shall be determined in recognition of all wage-workers, including wage-workers of the branches, representatives and other special subdivisions of this entity.

6. In case of exceeding the one of conditions, determined by paragraph 3 of this Article, the benefits, provided for small business entities shall not be extended on small business entities by the legislation of the Republic of Kazakhstan.

7. Medium business entities shall be individual entrepreneurs without establishment of a legal entity and legal entities, carrying out the private enterprise, not related to small and big business entities in accordance with paragraphs 3 and 8 of this Article.

8. Big business entities shall be legal entities, carrying out the private enterprise and meeting one or two of the following criteria: average annual number of wage-workers shall be more than two hundred and fifty persons or total assets for a year shall be more than three hundred and twenty-five thousand-fold monthly calculation index, established by the Law on republican budget.

**Footnote. Article 6 as amended by the Laws of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 30.12.2009 No. 234-IV; dated 29.12.2010 No. 372 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).**

**Note of RCLI!**

**It is provided to supplement chapter 2 by Article 6-1 in accordance with the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced from 01.12.2013).**

## **7. Individual enterprise**

1. Individual enterprise shall be carried out in the form of personal or joint entrepreneurship.

2. Personal entrepreneurship shall be carried out independently by one individual, based on the property, belonging to him (her) as property, as well as by virtue of other right, admitting the use and (or) possession of the property.

During carrying out of the personal entrepreneurship by married individual, without mentioning the other spouse in the capacity of entrepreneur, the consent of this spouse shall not be required for carrying out entrepreneurial activity.

In case, when individual uses the common property of spouses for carrying out the personal entrepreneurship, the consent of other spouse shall be required for this use, unless otherwise provided by the Laws or marriage contract or other agreements between spouses.

3. Joint entrepreneurship shall be carried out by a group of individuals (individual entrepreneurs), based on the property, belonging to them as property, as well as by virtue of other right, admitting the joint use and (or) possession of the property.

On a joint entrepreneurship, all the transactions, linked with private enterprise shall be consummated, and the rights and obligations shall be acquired and exercised in the name of all the members of joint entrepreneurship.

4. Forms of joint entrepreneurship shall be:

- 1) enterprise of spouses, carried out on the basis of joint property of spouses;
- 2) family enterprise, carried out on the basis of joint property of peasant or farm economy or joint property on the privatized dwelling place;
- 3) special partnership, whereby the private enterprise shall be carried out on the basis of joint shared property.

5. During carrying out of the entrepreneurship of spouses in business intercourse, the one of the spouses shall act in the name of the spouses with the consent of other spouse, that may be confirmed during registration of an individual entrepreneur or be expressed in a written form and be notarized, in cases when activity of an individual entrepreneur shall be carried out without the state registration.

In the absence of the consent of one of the spouses to act in a business intercourse in their name by the other spouse, it shall be supposed that the spouse, acting in a business intercourse shall carry out individual entrepreneurship in the form of personal entrepreneurship.

6. Individual entrepreneurship with the use of the form of special partnership shall be carried out in accordance with the civil legislation of the Republic of Kazakhstan.

7. Individual entrepreneurs shall bear a liability on their obligations by all their property, with the exception of the property, on which the recovery may not be applied in accordance with the Laws of the Republic of Kazakhstan.

8. During carrying out of the personal entrepreneurship, an individual shall bear a liability by all the property, belonging to him (her) as property, as well as the shares in the common property of spouses.

In cases, when individual uses the common property of spouses for carrying out the private enterprise, the recovery on his (her) debts may be also applied on the common property of spouses.

The property of each of spouses that are not private entrepreneurs may not be the subject of recovery on debts of the other spouse, carrying out the personal entrepreneurship.

9. During carrying out of the entrepreneurship of spouses, the recovery on debts of spouses may be applied on the common property of spouses independently of whether who of them shall act in a business intercourse.

10. Individual entrepreneur shall have the right to use the personal business stationery, seal, stamps, during carrying out of his (her) activity.

11. Individuals shall be prohibited to carry out individual entrepreneurship, with the exception of citizens of the Republic of Kazakhstan and oralmans.

**Footnote. Article 7 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 24.03.2011 No. 420-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **8. Rights and obligations of private enterprise entities**

1. Private enterprise entities shall have the right:

1) to carry out any types of the private enterprise, unless otherwise established by the Laws of the Republic of Kazakhstan;

2) to carry out the private enterprise with the use of hired labour in accordance with the Laws of the Republic of Kazakhstan;

3) to establish the branches and representatives in the manner, provided by the Laws of the Republic of Kazakhstan;

4) to independently determine the prices, on produced commodities (works, services), with the exception of cases, determined by the Laws of the Republic of Kazakhstan;

5) to provide the funds (loans) to private enterprise entities on a remuneration basis ;

6) to carry out international economic activity within their legal competence;

7) to establish the associations of private enterprise entities;

8) to participate in the operation of expert councils through the accrediting associations of private enterprise entities, the National board of entrepreneurs of the Republic of Kazakhstan;

9) to apply to law enforcement agencies and state bodies, carrying out the review and supervising functions on the issues of bringing the persons, guilty of violation of the rights of private enterprise entities to responsibility;

10) to apply to judicial bodies for protection of their rights and legal interests;

11) to introduce proposals on removal of the reasons and conditions, promoting the non-fulfillment or improper fulfillment of regulatory legal acts on the issues of support and protection of the private enterprise for consideration to state bodies;

12) to apply the measures of corporate social responsibility in their activity by implementation or participation in implementation of the projects in social, economic and ecological spheres.

2. Private enterprise entities shall be obliged:

1) to comply with the legislation of the Republic of Kazakhstan, the rights and the interests of individuals and legal entities, protected by the Law;

2) to secure conformity of produced production (works, services) to requirements of the legislation of the Republic of Kazakhstan;

3) to obtain licences for carrying out the types of private enterprise, that shall be subject to licensing, in accordance with the Law of the Republic of Kazakhstan on licensing;

4) to carry out the mandatory insurance of civil responsibility in accordance with the Laws of the Republic of Kazakhstan.

**Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **9. Inadmissibility of carrying out the unfair business practices**

The actions (inactivity) of private enterprise entities, oriented on restriction or removal of business competition by violation of the rights to free business competition of other private enterprise entities, established by the Laws of the Republic of Kazakhstan shall be prohibited.

## **10. Protection of a local market**

Protection of a local market shall be carried out by the measures of tariff and non-tariff regulations in accordance with the Laws of the Republic of Kazakhstan.

## **11. Protection of information on a private enterprise entity**

1. Protection of commercial secret shall consist in the prohibition of illegal receipt, distribution or use of information that is commercial secret.

2. Private enterprise entity shall determine the scope of persons that have the right to free access to information that is the commercial secret and shall assume the measures of protection of its privilege.

3. The order of reference of information to the categories of access, storage conditions and use of information that is the commercial secret, shall be determined by a private enterprise entity.

4. The persons that received, disclosed or used information, that is commercial secret by illegal methods, shall be obliged to compensate for inflicted damage in accordance with the civil legislation of the Republic of Kazakhstan.

5. Private enterprise entity or a person, authorized by it, shall have the right to claim a gagging order of information that is commercial secret from its wage-workers,

and shall notify the persons, carrying out its control on a liability in accordance with the Laws of the Republic of Kazakhstan.

6. The list of information that shall be subject to compulsory publication or mandatory promulgation of shareholders, participants of economic partnership or other certain scope of persons, shall be determined by the constitutive documents of private enterprise entities in accordance with the Laws of the Republic of Kazakhstan.

7. Private enterprise entity shall have the right not to allow information access to state bodies and officials during performing the registry, supervising functions and during commission of the other actions that is commercial secret, except for information, required for implementation of assigned functions on them.

8. *Is excluded by the Law of the Republic of Kazakhstan dated 24.12.2012 No. 60-V (shall be enforced upon expiry of ten calendar days after its first official publication)*

9. The law enforcement agencies shall have the right to request and receive required information, including information that is commercial secret, as from a private enterprise entity and from state bodies, having this information, on the basis of sanction of a prosecutor, regulation of investigative agencies on initiation of the criminal case or on the basis of decree of a court.

10. Information that is commercial and other secrets, protected by Law, may not be disclosed without the consent of a private enterprise entity, with the exception of information, on which there is enforced court decision.

11. Summarized information, not disclosing the data that is commercial and other secrets, protected by Law of a private enterprise entity, shall be publicly available.

12. Public information of a private enterprise entity shall include:

1) last name, first name, patronymic (in its existence) or the name of an individual entrepreneur;

2) name and date of registration of a legal entity;

3) identity number;

4) legal address (location area);

5) type of activity;

6) last name, first name, patronymic (in its existence) of a head.

**Footnote. Article 11 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 24.12.2012 No. 60-V (shall be enforced upon expiry of ten calendar days after its first publication).**

## **12. Primary statistics**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV.**

The primary statistics shall be presented by private enterprise entities in accordance with the regulatory legal acts of the Republic of Kazakhstan in the scope of government statistics.

Government bodies shall not have the right to require a data that is not provided by the regulatory legal acts of the Republic of Kazakhstan in the scope of government statistics.

**Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV.**

### **13. The order of maintaining the book records and financial accounting by small business entities**

1. The book records and financial accounting by small business entities, with the exception of individual entrepreneurs that are not subject to mandatory state registration in accordance with Article 27 of this Law, shall be carried out in the manner, prescribed by the legislation of the Republic of Kazakhstan on book records and financial accounting.

2. Small business entities shall have the right to apply the simple form of maintaining the book records and financial accounting under the legislation of the Republic of Kazakhstan on book records and financial accounting.

## **Chapter 3. COMPETENCE OF GOVERNMENT BODIES IN THE SCOPE OF DEVELOPMENT AND SUPPORT OF PRIVATE ENTERPRISE**

### **14. Competence of the Government of the Republic of Kazakhstan**

The Government of the Republic of Kazakhstan shall:

1) develop the principal directions of a state policy in the scope of support and development of private enterprise;

2) form the state supportive system of private enterprise;

2-1) determine the order of lending the state support to private enterprise;

3) establish and abrogate the advisory and consultative agencies under the Government on the issues of private enterprise;

4) organize the consideration of the projects of the regulatory legal acts, concerning the interests of private enterprise by expert councils, developed by the central state, local representative and executive bodies;

5) confirm the nomenclature of commodities (works, services), purchased from small business entities in accordance with the legislation of the Republic of Kazakhstan on the public procurement, and their volume (in terms of percentage points);

6) stimulate development of small and medium business;

7) confirm the rules of granting the unused facilities of a state property and land plots, occupied by them to small business entities in property lease (rent) and trust

administration for organizing the operating activity and development of the service sector for a population with the following transfer to the property without charge;

8) determine and implement the state policy, stimulating establishment and improvement of competitive branches, development of private enterprise entities and improvement of quality of production, produced by them;

9) develop the regulatory legal acts, contributing development of business competition and stimulation of investments in innovations, tangible assets, as well as permanent investments;

10) stimulate the clustering in particular economy sectors;

11) conduct analysis of functioning of the economy branches in order to remove the obstacles for development of private enterprise entities;

12) establish the national institutes of development in order to increase investments and expedite the innovation into economy of the Republic of Kazakhstan;

13) carry out the temporary protection of particular branches by tariff and non-tariff methods with arrangement of conditions for development of business competition between private enterprise entities in these branches;

14) make arrangements for removal of the barriers, established by the other country, in respect of national exporters;

15) stimulate private enterprise entities on conducting coordinated joint export policy;

16) organize delivery of economic information on condition of local and international markets to private enterprise entities;

17) provide conditions for competitive growth of national production by stimulating the implementation of quality management system;

18) provide conditions for external demand by lobbying the interests of national exporters in the territory of other countries;

19) interact with the National board of entrepreneurs of the Republic of Kazakhstan and associations of private enterprise entities and employers;

20) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication);*

21) establish the scientific and research organizations, finance the basic and applied scientific researches for solution of problems of the branch or clusters;

22) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication);*

23) work out the measures on involving the socially unprotected population stratum into private enterprise;

## Note of RCLI!

It is provided to supplement Article 14 by subparagraphs 23-1) and 23-2) in accordance with the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V ( shall be enforced from 01.12.2013).

24) fulfill the other functions, assigned on it by the Constitution, the Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Footnote. Article 14 as amended by the Laws of the Republic of Kazakhstan dated 07.07.2006 No. 178 (shall be enforced from the date of its first official publication); dated 13.02.2009 No. 135-IV (the order of enforcement see Article 3); dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 02.04.2010 No. 263-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 No. 124-V ( shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## 15. Competence of an authorized body on entrepreneurship

Footnote. The title of Article 15 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2).

An authorized body on entrepreneurship shall:

- 1) carry out conduct of state policy of support and development of private enterprise;
- 2) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124 -V (shall be enforced upon expiry of ten calendar days after its first official publication )*;
- 3) organize and coordinate the fulfillment of the state measures of support and development of small business;
- 4) develop proposals on improvement of measures on financing and crediting private enterprise entities;
- 5) conduct analysis of business environment, investment climate and infrastructure of development of private enterprise;
- 6) organize conduct of investigations in the spheres of private enterprise activity, direct the annual report of entrepreneurial development to the Government of the Republic of Kazakhstan;
- 7) develop and present the regulatory legal acts, securing support and development of private enterprise to the Government of the Republic of Kazakhstan;
- 8) promote formation and development of small business infrastructure in the regions of the republic;

9) develop proposals on formation of the system of training, retraining and personnel development in the scope of small business;

10) carry out the control in the scope of support and protection of private enterprise entities;

11) carry out the cross sectoral coordination of central state and local executive bodies on development of private enterprise;

12) coordinate activity of expert councils under the central state and local executive bodies;

13) provide conditions for participation of small business in implementation of documents of the National Planning System of the Republic of Kazakhstan in the sphere of innovative, investment and industrial development;

14) provide conditions for investors, international organizations – grantors in the issues of support and development of private enterprise;

15) organize methodological assistance for private enterprise entities;

16) provide conditions for entrance to international markets of commodities (works , services) by private enterprise entities;

17) carry out international collaboration in the scope of development of private enterprise;

18) propagate the state policy on development and support of private enterprise;

19) inform the President and Government of the Republic of Kazakhstan about breaches of the legislation of the Republic of Kazakhstan, regulating activity of private enterprise entities, allowed by state bodies and their officials;

20) carry out a coordination of the process of introduction of the risk assessment system by joint confirmation of criteria for evaluation of risks by state bodies, forms of departmental recording and prompt sheets, developed by the authorized state bodies;

21) develop and confirm the forms of mandatory departmental recording, prompt sheets, criteria for the risk assessment, semiannual testing plans in accordance with the Law of the Republic of Kazakhstan “On state control and supervision in the Republic of Kazakhstan”;

#### Note of RCLI!

It is provided to supplement Article 15 by subparagraphs 21-1), 21-2) and 21-3) in accordance with the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V ( shall be enforced from 01.12.2013).

22) carry out the other powers, provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 15 as amended by the Laws of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 19.03.2010 No. 258-IV; dated 05.07.2011 No. 425-IV (shall be enforced from 13.10.2011); dated

10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **16. Competence of local representative bodies**

Local representative bodies of the Republic of Kazakhstan shall:

1) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124 -V (shall be enforced upon expiry of ten calendar days after its first official publication )*;

2) consider the reports of heads of local executive bodies on the issues of support and development of small business in the Republic of Kazakhstan;

3) carry out the other powers on securing the rights and legal interests of citizens in accordance with the legislation of the Republic of Kazakhstan.

*Footnote. Article 16 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 03.07.2013 No. 124 -V (shall be enforced upon expiry of ten calendar days after its first official publication ).*

## **17. Competence of local executive bodies**

Local executive bodies of the Republic of Kazakhstan shall:

1) carry out implementation of the state policy of support and development of private enterprise;

2) provide conditions for development of private enterprise;

3) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124 -V (shall be enforced upon expiry of ten calendar days after its first official publication )*;

4) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124 -V (shall be enforced upon expiry of ten calendar days after its first official publication )*;

5) secure establishment and development of the infrastructure facilities in the region of supporting the small business and innovative activity;

6) determine development strategy of relationships between local executive bodies with associations of private enterprise entities, the National board of entrepreneurs of the Republic of Kazakhstan and market infrastructure facilities;

7) organize activity of expert councils;

7-1) secure the state support at the local level of the private enterprise;

7-2) carry out the state supervision of compliance with the size of maximum allowed retail prices for socially important food commodities within their competence;

8) organize education, training, retraining and raising of qualification of experts and personnel for small business entities;

9) carry out the other powers, assigned on local executive bodies by the legislation of the Republic of Kazakhstan in behalf of a local state administration.

Footnote. Article 17 as amended by the Laws of the Republic of Kazakhstan dated 02.04.2010 No. 263-IV (shall be enforced from 01.01.2010); dated 26.01.2011 No. 400-IV (shall be enforced upon expiry of thirty calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Chapter 4. STATE SUPPORT OF PRIVATE ENTERPRISE**

### **18. Principal directions of the state support of private entrepreneurship**

1. State support of private enterprise shall be carried out in accordance with the following principal directions:

- improvement of the legislation on the issues of regulation of private enterprise;
- establishment and development of support centres of private enterprise, business incubators, technology parks, industrial zones and other manufacture facilities of private enterprise;
- training and methodological, scientific-methodological and information support of activity of private enterprise entities on account of budget funds;
- financial support of private enterprise;

2. State support and development of private enterprise shall be carried out by:

- establishment of scientific research institutes for study of problems and proposals development on development of private enterprise under the state bodies;
- organizing the activity of expert councils under the central state and local executive bodies;

- establishment of financial institutions of support and development of private enterprise;

- organizing the activity of business incubators and industrial zones;
- selling the land plots, buildings, premises or transferring the residential premises to non-residential premises in accordance with the Laws of the Republic of Kazakhstan.

2-1. Financial support of private enterprise entities shall be carried out by:

- 1) purchasing the guaranteed volume of commodities (works, services);
- 2) organizing the credit activity through the regulated banks;
- 3) issuing the state grants for organization and implementation of socially important projects in the branches of economy;
- 4) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124 (shall be enforced upon expiry of ten calendar days after its first official publication);*

- 5) loaning on account of budget funds;
- 6) subsidization of the rate of remuneration on the credits, issued by financial institutions to private enterprise entities, leasing deals;
- 7) severable credits guarantee of private enterprise entities;
- 8) leasing.

2-2. The order, forms of state financial support, branch (branches) of economy, in which, private enterprise entities carry out activity, subject to the state financial support, legal entity (legal entities) engaged in lending the state financial support, size of financial support and other conditions, required for lending the state financial support, shall be confirmed by the Government of the Republic of Kazakhstan.

3. State support of small business shall be carried out on directions, mentioned in paragraph 1 of this Article, including:

arrangement of conditions for use of the state financial, material and technical and informational resources, as well as research and development projects and technologies by small business entities;

establishment of simplified order of the state registration and liquidation of small business entities;

establishment of optimal taxation regulations;

approval of credit programs of the small business;

establishment of the system of engaging and using investments, including foreign investments, for support and development of the small business;

securing the guaranteed volume of purchase of commodities (works, services) in accordance with the legislation of the Republic of Kazakhstan on public procurement;

organization of training, retraining and raising of qualification of personnel by development of existing and establishment of new training and research centres, consulting organizations and informational systems of support and development of the small business;

establishment of the national development institutes.

4. *(Is excluded dated 7 July, 2006 No. 178 (shall be enforced from the date of its official publication)).*

5. Industrial zones shall be established in order to secure economic and organizational conditions for development of the private enterprise.

Objectives of industrial zones shall be:

1) assistance to accelerated development of the private enterprise in the sphere of industry;

2) cost optimization on establishment and development of new production manufacture;

3) improvement of effectiveness of production;

4) securing employment of a population.

6. Government bodies shall sell land plots, buildings, premises to private enterprise entities, or change intended purpose of a land plot in accordance with the land legislation of the Republic of Kazakhstan, or shall issue permit on reorganization of residential premises to the non-residential premises in accordance with the legislation of the Republic of Kazakhstan on housing relations with mandatory inclusion into buy and sell agreement or in admittance of technical conditions for connection to required infrastructure. The further connection of private enterprise entities to infrastructure shall be carried out in accordance with a buy and sell agreement or admittance.

7. Finance support of initiative of private enterprise entities from the side of the state shall be carried out as well as by the special fund, the controlling share of which shall belong to national managers of holding company, the main goal of which shall be provision of an access to financial resources.

Basic objectives of the special fund shall be:

1) *is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);*

2) development of microfinance organizations activity;

3) establishment of guarantee system of private enterprise entities in receiving the credits by them in the regulated banks and other legal entities;

4) development of financial leasing;

5) training and consulting of private enterprise entities;

6) development of the grant system of co-financing the operations on implementation of quality management system for private enterprise entities;

6-1) information analysis support of private enterprise entities;

6-2) co-financing of private enterprise entities by conditional investment of funds in the regulated banks and other legal entities, as well as by other methods, directly provided by the legislation of the Republic of Kazakhstan, internal regulatory documents of the special fund;

6-3) subsidization of the rate of remuneration on the credits, issued by financial institutions to private enterprise entities;

7) other objectives in accordance with the charter of the special fund.

The order and conditions of implementation of objectives of the special fund shall be determined by the national manager of holding company.

**Footnote. Article 18 as amended by the Laws of the Republic of Kazakhstan dated 07.07.2006 No. 178 (shall be enforced from the date of its official publication); dated 13.02.2009 No. 135-IV (the order of enforcement see Article 3); dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 19.03.2010 No. 258-IV; dated 02.04.2010 No. 263-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 26.11.2012 No. 57-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013**

No. 124-V (shall be enforced upon expiry of ten calendar days after its official publication).

## 19. State support and development of small business

1. The basic principles of the state support of small business shall be:  
development priorities of the small business in the Republic of Kazakhstan;  
complexity of the state support of the small business;  
availability of support infrastructure of the small business and measures, carried out for all small business entities;

international cooperation in the scope of support and development of the small business.

2. State support and development of small business shall be carried out by:

- 1) lending the financial support;
- 2) organizing the networks of the small business support centres;
- 3) organizing activity of business incubators;
- 4) transfer of objects of a state property, that are not used for more than one year to small business entities into trust or on lease;
- 5) transfer of objects of a state property and land plots, occupied by them, transferred on lease to small business entities without charge or placed into trust for organizing the operating activity and development of the service sector for a population upon expiry of a year from the date of conclusion of agreement, in case of fulfillment of conditions, provided by it, in the manner, prescribed by the Government of the Republic of Kazakhstan.

These conditions shall not extend to small business entities, carrying out the trade mediation activity, with the exception of subparagraph 1) of this paragraph.

3. Financial support of small business entities shall be carried out by:

- 1) purchasing the guaranteed volume of commodities (works, services);
- 2) organizing the crediting through the regulated banks;
- 3) issue of the state grants for organizing and implementing the socially important projects in the branches of economy;
- 4) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication );*

5) granting the loans on account of budget funds;

6) subsidization of the rate of remuneration on credits, issued by financial institutions to private enterprise entities;

7) severable credits guarantee of private enterprise entities;

8) leasing.

4. *Is excluded by the Law of the Republic of Kazakhstan dated 13.02.2009 No. 135-IV (the order of enforcement see Article 3).*

5. The support centres of the small business shall be established in order to involve a population to the private enterprise, to establish new small business entities.

Objectives of support centre of the small business shall be:

- 1) analysis of entrepreneurial climate, domestic and international markets, branches and economy sectors;
- 2) rendering of service package in the scope of marketing and management;
- 3) rendering of services on development of investment and business projects, advisory and other services;
- 4) assistance of increment in innovative activity of small business entities;
- 5) assistance of professional advancement of small business entities;
- 6) provision of access to informational and expert resources;
- 7) holding of seminars, trainings;
- 8) database creation of small business entities;
- 9) analysis and integration of information on development of small business and problematic issues of its development.

6. Business incubators shall be established for rendering of assistance in establishment and development of small business entities.

Objectives of business incubators shall be:

- 1) selection of small business entities for arrangement in a business incubator;
- 2) the rendering of educational, marketing, consulting and other institutional and management services to small business entities.

7. Objects of a state property that are not used for more than one year, may be transferred into trust or on lease of small business entities for organizing the operating activity and service sector, with the exception of trade mediation activity.

Control of compliance with the terms of rental or trust agreement by small business entities shall be carried out by the relevant state bodies, authorized on disposition of republican and communal property.

**Footnote. Article 19 as amended by the Laws of the Republic of Kazakhstan dated 07.07.2006 No. 178 (shall be enforced from the date of its official publication); dated 13.02.2009 No. 135-IV (the order of enforcement see Article 3); dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 02.04.2010 No. 263-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

**20. State, branch (sectoral) and regional support and development programs of the small business**

Footnote. Article 20 is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **21. Training and methodological, scientific-methodological support of small business entities**

1. Training and methodological, scientific-methodological support of small business entities shall be carried out in order to advance their professional level, allowing the production of competitive commodities (works, services).

2. Training and methodological, scientific-methodological support of small business entities shall be carried out by:

holding of training seminars and research and practice conferences on the issues of conducting the private enterprise;

distributing the methodological benefits, informational bulletins on a practice of carrying out the private enterprise, market of innovative technologies;

establishment of networks of informational, consulting centres in the regions;

training of the managers for organizing the trainings for small business entities in the regions.

3. Training and methodological, scientific-methodological support of small business entities shall be carried out on account of the budget funds and other sources, not prohibited by the legislation of the Republic of Kazakhstan.

## **22. State support of private enterprise entities, carrying out agricultural activity**

1. State support of private enterprise entities, carrying out agricultural activity shall be performed at republican and regional levels and shall be regulated in accordance with the Laws of the Republic of Kazakhstan.

2. The terms, volumes and measures of the state support, carrying out agricultural activity shall be established in accordance with the Laws of the Republic of Kazakhstan.

## **23. Information support of private enterprise**

Government bodies of all levels shall be obliged to set up the websites and secure their uninterrupted operation for distribution of information and materials, not restricted to distribution, on a gratuitous basis, and provide their advertisement, as well as provided by Article 5 of this Law, as well as update this information in connection with introducing amendments and additions to the regulatory legal acts, concerning the interests of private enterprise entities.

Footnote. Article 12 as amended by the Laws of the Republic of Kazakhstan dated 10.07.2009 No. 178-IV; dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2).

## **Chapter 5. CREATION OF ASSOCIATIONS OF PRIVATE ENTERPRISE ENTITIES AND THEIR PARTICIPATION IN CONDUCTING EXAMINATIONS OF THE REGULATORY LEGAL ACTS**

### **24. Associations of private enterprise entities**

1. Associations of private enterprise entities, claiming the accreditation for conducting examination of projects of the regulatory legal acts, concerning the interests of private enterprise entities, shall form the associations of entrepreneurs:

at republican level – the union (alliance) of associations of private enterprise entities, republican cross sectoral, sectoral associations (unions), as well as republican associations of small, medium and (or) big enterprise entities;

at oblast level – the branches of republican associations of private enterprise entities, oblast associations of private enterprise entities, oblast associations of small, medium and (or) big enterprise;

at city, district levels – the branches of republican associations of private enterprise entities, the oblast, city, district associations of private enterprise entities, the oblast, city, district associations of small, medium and (or) big enterprise.

2. Financing of associations of private enterprise entities shall be provided on account of optional members' contributions of private enterprise entities and other sources, not prohibited by the legislation of the Republic of Kazakhstan.

**Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its official publication)**

### **25. Accreditation of the associations of private enterprise entities**

1. Associations of private enterprise entities, claiming the participation in conducting examination of projects of the regulatory legal acts, concerning the interests of private enterprise, shall be subject to accreditation in the central state and local executive bodies.

2. Accreditation shall be subject to:

at republican level – the union (alliance) of associations of private enterprise entities, republican association on the small business, republican branch associations of private enterprise entities;

at oblast level – the branches of republican, oblast associations of private enterprise entities, branches of republican, oblast associations on the small business;

at city, district levels – the branches of republican, oblast, city, district associations of private enterprise entities, branches of republican, oblast, city, district associations on the small business.

3. *Is excluded by the Law of the Republic of Kazakhstan dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).*

4. In case, if two and more non-profit organizations, representing one administrative-territorial entity, one sphere of activity, claim the accreditation, the non-profit organization, that unites more citizens shall be subject to accreditation.

5. The order for conducting accreditation of associations of private enterprise entities shall be determined by the Government of the Republic of Kazakhstan.

**Footnote. Article 25 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **26. Expert councils**

1. Under the central state and local executive bodies, the expert councils shall include the representatives of the National board of entrepreneurs of the Republic of Kazakhstan, of accrediting associations of private enterprise entities, of non-profit organizations, of state bodies.

The sessions of expert councils shall be held at least once every quarter.

2. Accrediting associations of private enterprise entities and non-profit organizations shall be included as a compound of expert council under the central state and local executive bodies in the capacity of member society and shall act through their representative, the power of which shall be confirmed by power of attorney.

The membership of expert councils under the central state and local executive bodies shall be confirmed by decisions of heads of state bodies.

3. Government body, developing the regulatory legal act, concerning the interests of private enterprise entities shall introduce the regulatory legal act for consideration of expert council, with the exception of regulatory legal acts, containing the state secrets.

3-1. The consideration of the project of the regulatory legal act by expert council may be carried out without holding a session by distribution to members of expert council, with the exception of case, provided by paragraph 5 of Article 5 of this Law.

3-2. Any issue, concerning the interests of private enterprise entities may be introduced for consideration of expert council, in case, if this issue relates to the competence of the relevant state body.

4. Standard provision on expert councils shall be confirmed by the Government of the Republic of Kazakhstan.

5. Analysis and monitoring of activity of expert councils shall be carried out by the coordination council, established under an authorized body on entrepreneurship.

The chairman of the coordination council shall be a head of an authorized body on entrepreneurship.

The membership of coordination council shall be formed by a head of an authorized agency.

Footnote. Article 26 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Chapter 6. REGISTRATION AND LIQUIDATION OF PRIVATE ENTERPRISE ENTITIES**

### **27. The state registration of private enterprise entities**

1. The state registration (reregistration) of private enterprise entities – legal entities shall be carried out in accordance with the legislation of the Republic of Kazakhstan.

The state registration of individuals, carrying out the private enterprise without establishment of a legal entity resides in the registration in taxing authority in the capacity of an individual entrepreneur on location area, predicated in the capacity of individual entrepreneur (hereinafter – registering body) during the state registration.

2. Individual entrepreneurs that satisfy one of the following conditions shall be the subject to mandatory state registration:

1) use the labour of salary workers on a permanent basis;

2) have the total annual income from the private enterprise, calculated in accordance with the tax legislation of the Republic of Kazakhstan in amount, exceeding the non-taxable amount of total annual income, established for legal entities by the Laws of the Republic of Kazakhstan.

The activity of the listed individual entrepreneurs shall be prohibited without the state registration.

2-1. Legal entity, that doesn't use the labour of wage-workers on a permanent basis, shall have the right not to register in the capacity of an individual entrepreneur during acquisition of the following incomes, established by the tax legislation of the Republic of Kazakhstan:

1) imposed on the source of payment;

2) property income;

3) other incomes.

3. Certificate on the state registration of an individual entrepreneur (joint individual entrepreneur) shall be unlimited and shall be represented in the form of electronic document, certified by digital signature of the official of registering body.

The form of certificate on the state registration of an individual entrepreneur (joint individual entrepreneurship) shall be certified by the Government of the Republic of Kazakhstan.

4. For the state registration in the capacity of an individual entrepreneur, an individual shall represent to the registering body as follows:

1) the tax application in the form, confirmed by the Government of the Republic of Kazakhstan;

2) the document, confirming the payment of amount of the charge for the state registration of individual entrepreneurs to the budget;

3) the document, confirming the location area of an individual entrepreneur.

The address verification statement or the document, confirming the right of property to the real property or right of use, shall be the document, confirming the location area of an individual entrepreneur.

An individual shall present the identification document during representing the documents, mentioned in this paragraph by personal delivery.

During representing the tax application in electronic form via the website of “electronic government”, the presentation of the document, mentioned in subparagraph 3) of this paragraph shall not be required. The payment of amount of the charge for the state registration of individual entrepreneurs to the budget shall be made via the payment gateway of “electronic government”.

In case of payment of amount of the charge for the state registration of individual entrepreneurs to the budget via the banks or organizations, carrying out the particular types of bank operations, the tax application represented in electronic form shall be accompanied by the notification of payment gateway of the “electronic government”, formed on the website of “electronic government” in specification of requisites of the payment documents in request.

In case, if an applicant is under the age of majority, the documents listed above shall be accompanied by the consent of legal representatives, and in the absence of this consent – copy of marriage (matrimony) certificate or copy of decision of the trusteeship and guardianship authority or copy of the court decision on declaration of the minor as fully capable.

The vindication of other documents shall be prohibited.

4-1. The registering body shall perform the state registration of an individual entrepreneur (joint individual entrepreneurship) within one business day from the date of presentation of the documents, mentioned in paragraph 4 of this Article by an individual or shall refuse this registration.

The refusal of the state registration of an individual entrepreneur (joint individual entrepreneurship) shall be performed by a taxing authority in case, if:

1) an applicant is a single incorporator (participant) and (or) head of inactive legal entities and (or) recognized as incapable or partially capable, and (or) recognized as

missing person, and (or) declared dead, and (or) has the outstanding or unexpunged conviction for the criminal acts under Articles 192, 216 and 217 of the Criminal Code of the Republic of Kazakhstan;

2) the data of identification document, mentioned in the tax application is not in compliance with information, contained in the national registers of identification numbers;

3) the location area, mentioned in the tax application is absent in information system “Address register”.

The grounds for refusal of the state registration, provided by this Article shall not extend to individual entrepreneurs, referred to small business entities.

5. The order of payment of amount of the charge for the state registration ( reregistration) of private enterprise entities shall be determined by the tax legislation of the Republic of Kazakhstan.

6. In case of amending a data, mentioned in the application for the grant of certificate of the state registration, as well as in the joint operation agreement (simple partnership agreement), an individual entrepreneur (an authorized person of the joint individual entrepreneurship) shall be obliged to notify about amendments to the registering body in the form, established by this body. During amending a data, mentioned in certificate of the state registration, an individual entrepreneur (an authorized body of the joint individual entrepreneurship) shall be obliged to carry out the reregistration and receive a new certificate.

6-1. For registration in the capacity of an individual entrepreneur, an applicant shall have the right to present the tax application to the registering body by personal delivery in hard copy or in electronic form via the website of “electronic government”.

In case of registration of an individual in the capacity of individual entrepreneur under the age of majority, the tax application shall be personally presented in hard copy.

*7. Is excluded by the Law of the Republic of Kazakhstan dated 08.01.2013 No. 64-V (shall be enforced from 01.01.2013).*

8. During registration of the joint individual enterprise, the application shall be filed by a person, authorized to represent the interests in respect with the third parties and state bodies.

Certificate of the state registration shall be issued on joint individual enterprise. The certificate shall be accompanied by the list of members of the joint individual enterprise, verified by head of the registering body.

*9. Is excluded by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 101-IV (shall be enforced from 01.01.2009).*

**Footnote. Article 27 as amended by the Laws of the Republic of Kazakhstan dated 12.01.2007 No. 224-IV (shall be enforced from 01.01.2012); dated 10.12.2008 No. 101**

-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2013); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 08.01.2013 No. 64-V (shall be enforced from 01.07.2013); dated 15.04.2013 No. 89-V (shall be enforced upon expiry of thirty calendar days after its first official publication).

## **28. Bankruptcy, reorganization and liquidation of private enterprise entities**

1. Private enterprise shall be declared bankrupt by the court decision on the basis of the debtor's application to the court or on the basis of an application to the court by a creditor, and other persons in the cases, provided by the Laws of the Republic of Kazakhstan.

Bankruptcy proceeding of an individual entrepreneur shall be carried out by the rules, established for legal entities, with the special aspects in the part of priority of discharge of the creditor's claims, provided by the civil legislation of the Republic of Kazakhstan.

2. Reorganization and liquidation of private enterprise entity that is a legal entity shall be carried out in the manner, prescribed for particular legal organizational form of the private enterprise.

3. Activity of an individual entrepreneur may be terminated on a voluntary and compulsory basis, as well as in case of incurrance of the circumstances, provided by this Law.

On a voluntary basis, the activity of an individual entrepreneur shall be terminated at any time on the basis of decision, adopted independently by an individual entrepreneur in personal entrepreneurship, by all members jointly – in joint entrepreneurship.

For voluntary termination of activity, an individual entrepreneur shall present the application on termination of entrepreneurial activity to the registering body.

Decision on termination of joint entrepreneurship shall be considered as accepted, if the half of its members votes for it, unless otherwise provided by agreement between them.

4. On compulsory basis, the activity of an individual entrepreneur shall be terminated by the court decision in the following cases:

- 1) his (her) recognition in bankruptcy;
- 2) recognition of the registration of individual entrepreneur as invalid in connection with committed breaches of the legislation of the Republic of Kazakhstan during the registration, that bear non-correctable nature;
- 3) carrying out the activity with repeated breaches within a calendar year or gross breaches of the legislation of the Republic of Kazakhstan;
- 4) declaring him (her) dead;
- 5) his (her) recognition as a missing person.

5. The activity of an individual entrepreneur, beside the grounds, provided by this Article shall be terminated also in the following cases:

1) personal entrepreneurship – on recognizing an individual entrepreneur as incapable, partially capable, declaring dead or declaration of his (her) death;

2) family entrepreneurship and special partnership – if in the result of circumstances, listed in subparagraph 1) of this paragraph, there is one or there are no members of joint entrepreneurship, as well as in division of property in connection with marriage dissolution.

6. The activity of an individual entrepreneur shall be considered as terminated from the date of deregistration in the capacity of an individual entrepreneur in the registering body on the basis of his (her) application or enforced decision of the court.

Deregistration in the capacity of an individual entrepreneur shall be carried out after submission of certificate on the state registration of an individual entrepreneur to the registering body and fulfillment of tax obligations, linked with entrepreneurial activity.

Certificate on the state registration of an individual entrepreneur shall be subject to annulment on the basis of enforced decision or decree of court or unreversed decree of prosecuting agency, established the fact of commission of pseudo-entrepreneurship.

7. During carrying out of the individual enterprise without registration in established cases, it shall be considered as terminated from the date of actual termination – in its voluntary nature or respectively from the date of enforcement of the court decision – in compulsory nature.

8. For small business entities, that don't have unfulfilled obligations and referred to the category of the entities with negligible or medium degree of risk by state bodies, the simplified procedure of reorganization and voluntary liquidation shall be established by the Laws of the Republic of Kazakhstan.

**Footnote. Article 28 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 101-IV (shall be enforced from 01.01.2009); dated 17.07.2009 No. 188-IV (shall be enforced from 01.01.2010); dated 08.12.2009 No. 225-IV (the order of enforcement See Article 2); dated 15.04.2013 No. 89-V (shall be enforced upon expiry of thirty calendar days after its first official publication).**

## **Chapter 7. GOVERNMENT REGULATION**

**Footnote. The title of chapter 7 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2).**

### **29. Goals and types of government regulation of the private enterprise**

1. Goals of the government regulation of the private enterprise shall be safety ensuring of produced and implemented production by a private enterprise entity for life

and health of people, protection of their property interests, environmental security, national security of the Republic of Kazakhstan, protection of the property interests of the state.

2. Types of government regulation of the private enterprise:

1) establishment of the requirements to entities, as well as to production, processes of private enterprise by the Laws of the Republic of Kazakhstan;

2) accreditation of bodies on confirmation of conformity, verification, calibration and testing laboratories (centres);

3) mandatory confirmation of conformity of particular types of production, processes to requirements of the legislation of the Republic of Kazakhstan;

4) state control and supervision of the private enterprise;

5) licensing, certification, accreditation and issue of other types of permits;

6) mandatory insurance of civil liability of private enterprise entities in accordance with the Laws of the Republic of Kazakhstan;

7) establishment of liability of private enterprise entities, state bodies and their officials by the Laws of the Republic of Kazakhstan.

**Footnote. Article 29 is in the wording of the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); as amended by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **30. Establishment of the requirements to production, processes of the private enterprise by the Laws of the Republic of Kazakhstan**

The state shall establish the requirements to production, processes by the Laws of the Republic of Kazakhstan that are mandatory for fulfillment by all private enterprise entities.

### **31. Accreditation of the bodies on confirmation of conformity, verification, calibration and testing laboratories (centres)**

Accreditation of the bodies on confirmation of conformity, verification, calibration and testing laboratories (centres) shall be performed in accordance with the Laws of the Republic of Kazakhstan.

### **32. Mandatory confirmation of conformity of particular types of production, processes**

Mandatory confirmation of conformity of particular types of production, processes shall be established, if it is necessary for achievement of goals, established by the legislation of the Republic of Kazakhstan on technical regulation.

### **33. State control and supervision of the private enterprise**

1. State control and supervision of the private enterprise shall be established in cases, if carrying out the requirements, established by the Laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan and regulations of the Government of the Republic of Kazakhstan to production, processes, as well as

requirements on confirmation of conformity of particular types of production, processes is deficient for achievement of goals of the government regulation.

2. State control and supervision of the activity of private enterprise entities shall be carried out in the form of:

1) examination, the order of organization and conduct of which shall be determined by the Law of the Republic of Kazakhstan “On state control and supervision in the Republic of Kazakhstan”;

2) other forms of control, bearing preventative nature, the order of organization and conduct of which shall be determined by the Laws of the Republic of Kazakhstan.

3. Requirements to private enterprise entities shall be established only at the level of the Laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan, regulations of the Government of the Republic of Kazakhstan, with the exception of requirements, established by the local representative bodies, the National Bank of the Republic of Kazakhstan in accordance with the Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Footnote. Article 33 is in the wording of the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **34. Licensing of particular types of the private enterprise**

Licensing of particular types of the private enterprise shall be carried out in accordance with the legislation of the Republic of Kazakhstan on licensing.

Footnote. Article 34 is in the wording of the Law of the Republic of Kazakhstan dated 12 January, 2007 No. 222 (shall be enforced upon expiry of 6 months from the date of its official publication).

#### **35. Mandatory civil liability insurance of private enterprise entities**

Mandatory civil liability insurance of private enterprise entities shall be established by the Laws of the Republic of Kazakhstan in cases, if the application of the types of the government regulation, mentioned in paragraph 2 of Article 29 of this Law doesn't secure the achievement of goals, government regulation.

Footnote. Article 35 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2).

#### **36. Establishment of liability of private enterprise entities, state bodies and their officials**

Liability of private enterprise entities, state bodies and their officials shall be established by the Laws of the Republic of Kazakhstan.

## **Chapter 8. STATE CONTROL OF THE PRIVATE ENTERPRISE**

Footnote. Chapter 8 is excluded by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Chapter 9. LIABILITY OF GOVERNMENT BODIES AND OFFICIALS DURING CARRYING OUT OF THE STATE CONTROL, LICENSING**

Footnote. The title of chapter 9 as amended by the Law of the Republic of Kazakhstan dated 05.07.2008 No. 62-IV (the order of enforcement See Article 2).

### **42. Common grounds and forms of liability for violation of the rights and legal interests of private enterprise entities**

1. In case of non-fulfillment or improper fulfillment of official obligations of state bodies and their officials during carrying out of the state control and supervision, licensing, leading to non-achievement of goals of the government regulation, established by paragraph 1 of Article 29 of this Law, as well as in case of commission of other illegal actions (inactivity), shall bear liability, established by the Laws of the Republic of Kazakhstan.

2. Government bodies shall be obliged to inform a private enterprise entity, the rights and legal interests of which are violated, on the measures, assumed in respect of officials of state bodies, carrying out the state control and supervision, that are guilty in the breach of the legislation of the Republic of Kazakhstan within a month in a written form.

3. Government bodies and their officials shall bear liability for distribution of information about a private enterprise entity, established by the Laws of the Republic of Kazakhstan, and the harmful consequences, inflicted to private enterprise entity in the result of distribution of information without its consent shall be subject to compensation.

Footnote. Article 42 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2008 No. 62-IV (the order of enforcement See Article 2); dated 17.07.2009 No. 188-IV (the order of enforcement See Article 2); dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **43. Liability for impeding the private enterprise**

1. Any actions (inactivity) of state bodies and their officials, that illegally impede the private enterprise, shall entail liability, established by the Laws of the Republic of Kazakhstan.

2. The forced suspension or termination of activity of a private enterprise entity shall be carried out by the court upon the application of state bodies, carrying out the

supervising functions, with the exception of entrepreneurial activity of financial organizations, credit bureaus, the forced suspension or termination of activity of which shall be carried out in accordance with the Laws of the Republic of Kazakhstan, regulating their activity.

3. The suspension or termination of activity of a private enterprise entity without judicial decision shall be allowed in exceptional cases for the period of no more than three business days with mandatory submitting a statement of the action to the court on the specified term.

By this, the act of a state body, carrying out the supervising functions on suspension or termination of activity shall be remained in force till rendering of judicial decision.

4. All losses, incurred by a private enterprise entity, and other harm, inflicted to private enterprise entity shall be subject to compensation due the unlawful impeding of its entrepreneurial activity.

**Footnote. Article 43 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).**

#### **44. Liability for breach of determined verification order of the private enterprise**

1. In case of violation of established order by state body or its official for conducting the private enterprise entity's verification (inconsistent appointment of verification, performance of verification without rendering an act and its registration in the body on legal statistics, unlawful suppression of documents, illegal inventory of material values, suspension of proceedings, composition of excessive certificates and in other cases) the volume of losses, presented for compensation may include the sums of compensations, paid to the wage-workers of private enterprise entities for preparation of materials for verification, wages for the time of involuntary suspension of production, loss of profits, that the private enterprise entity would gain on selling the relevant commodities (works, services), not turned out due to suspension of proceedings.

2. The harm, inflicted to private enterprise entity by the actions (inactivity) of officials of state bodies on conducting the state control and supervision, recognized as unlawful in the manner, established by the Laws of the Republic of Kazakhstan shall be subject to compensation in accordance with the legislation of the Republic of Kazakhstan.

3. On conducting the verifications, the unlawful actions of officials of state bodies shall bear liability, established by the Laws of the Republic of Kazakhstan.

**Footnote. Article 44 as amended by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 10. LIABILITY OF PRIVATE ENTERPRISE ENTITIES**

### **45. General conditions of liability of private enterprise entities**

Private enterprise entities shall be obliged to comply with the rights and interests, protected by the Law of individuals and legal entities and the state.

The breach of the legislation of the Republic of Kazakhstan by private enterprise entities shall entail the liability, established by the Laws of the Republic of Kazakhstan

### **46. Liability of the bodies on confirmation of conformity, verification, calibration and testing laboratories (centres)**

For the breach of obligations, the agencies on confirmation of conformity, verification, calibration and testing laboratories (centres) shall bear liability, established by the Laws of the Republic of Kazakhstan.

### **47. Liability of private enterprise entities for the breach of the legislation of the Republic of Kazakhstan on unfair business practices**

The breach of the legislation of the Republic of Kazakhstan on unfair business practices by private enterprise entities shall entail liability, established by the Laws of the Republic of Kazakhstan.

### **48. Liability of private enterprise entities for the breach of legislation of the Republic of Kazakhstan on anti-dumping measures**

The breach of the legislation of the Republic of Kazakhstan on anti-dumping measures by private enterprise entities shall entail liability, established by the Laws of the Republic of Kazakhstan.

### **49. Liability of private enterprise entities for the breach of the legislation of the Republic of Kazakhstan on protective measures of a local market during import of commodities**

The breach of legislation of the Republic of Kazakhstan on protective measures of a local market during import of commodities by private enterprise entities shall entail liability, established by the Laws of the Republic of Kazakhstan.

## **Chapter 11. FINAL PROVISIONS**

### **50. Liability for the breach of the legislation of the Republic of Kazakhstan on private enterprise**

The breach of the legislation of the Republic of Kazakhstan on private enterprise shall entail liability, established by the Laws of the Republic of Kazakhstan.

### **51. The order of enforcement of this Law**

1. This Law enters into force from the date of its official publication, with the exception of Article 5 that shall be enforced from 1 July, 2006.

2. The legislation of the Republic of Kazakhstan, existing at the moment of enforcement of this Law shall be applied in the part that is not inconsistent with it, and shall conform to it before 1 January, 2007.

3. It shall be deemed to have lost force as follows:

1) the Law of the Republic of Kazakhstan dated 04 July, 1992 “On protection and support of private enterprise” (The Bulletin of the Supreme Soviet of the Republic of Kazakhstan, 1992, No. 16, Article 424; 1995, No. 20, Articles 120, 121; The Bulletin of the Parliament of the Republic of Kazakhstan 1996, No. 14, Article 274; 1997, No. 13-14, Articles 195, 205; 1999, No. 23, Article 931; 2001, No. 8, Article 52; No. 24, Article 338; 2003, No. 10, Article 51; No. 19-20, Article 147; 2004, No. 23, Article 142);

2) the Law of the Republic of Kazakhstan dated 19 June, 1997 “On state support of small enterprise” (The Bulletin of the Parliament of the Republic of Kazakhstan, 1997, No. 12, Article 182; 1998, No. 17-18, Article 225; 1999, No. 21, Article 778; No. 23, Article 931; 2001, No. 4, Article 23; No. 8, Article 52; No. 24, Article 338; 2002, No. 15, Article 150; 2003, No. 4, Article 26; No. 19-20, Article 147; 2004, No. 23, Article 142);

3) the Law of the Republic of Kazakhstan dated 19 June, 1997 “On individual enterprise” (The Bulletin of the Parliament of the Republic of Kazakhstan, 1997, No. 12, Article 185; No. 22, Article 333; 1999, No. 23, Article 931; 2001, No. 24, Article 338).

#### APPENDIX

to the Law of the Republic of Kazakhstan

“On private enterprise”

dated 31 January, 2006 No. 124-III

### **Types of the state control and supervision**

**Footnote. Appendix is excluded by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**