

On Mediation

Unofficial translation

The Law of the Republic of Kazakhstan dated 28 January 2011 № 401-IV.

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This Law regulates social relations in the sphere of organisation of mediation in the Republic of Kazakhstan, defines its principles and procedure as well as the status of a mediator.

Chapter 1. GENERAL PROVISIONS

Article 1. Scope of application of mediation

1. The scope of mediation shall be disputes (conflicts) arising out of civil, labour, family and administrative legal relations and other social relations involving natural and/or legal persons, administrative bodies and officials, as well as those considered in proceedings for administrative offences, in criminal proceedings for criminal offences, crimes of little or average gravity, and grave crimes in cases specified in the second paragraph of Article 68 of the Criminal Code of the Republic of Kazakhstan, unless otherwise specified by the laws of the Republic of Kazakhstan, as well as relations arising in the execution of enforcement proceedings.

2. The mediation process shall not apply to disputes (conflicts) arising from the relations referred to in paragraph 1 of this Article, if such disputes (conflicts) affect or may affect the interests of third parties not participating in the mediation process, and persons adjudged incapable or partially capable, and other cases stipulated by the laws of the Republic of Kazakhstan.

3. The mediation procedure for disputes (conflicts) involving individuals and (or) legal entities, when one of the parties is a state body, shall be applied in cases provided for by the laws of the Republic of Kazakhstan.

4. The mediation procedure shall not apply to criminal cases on corruption and other crimes against interests of state service and public administration.

Footnote. Article 1 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 Laws of the Republic of Kazakhstan dated 15.01.2014 № 164-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 03.07.2014 № 227-V (shall be enforced from 01.01.2015); dated 27.12.2019 № 292-VI (enforcement, Article 2); dated 29.06.2020 № 351-VI (effective from 01.07.2021); № 84-VII

of 20.12.021 (shall be brought into force ten calendar days after the date of its first official publication).

Article 2. Basic definitions used in this Law

The following basic definitions shall be used in this Law:

1) a dispute (conflict) settlement agreement - a written agreement between the parties reached as the result of mediation;

2) mediator - an independent individual employed by the parties to conduct mediation on a professional or pro bono basis under the requirements hereof;

3) an association (union) of mediators - an organisation established in order to coordinate activity of mediators organisations as well as for protection of their rights and legitimate interests;

3-1) participants in mediation - the mediator and the parties to the mediation, individuals whom the parties have agreed to involve in the mediation process, including representatives, interpreters, experts, specialists and others;

4) mediators organisations - non-profit organisations established to band together mediators on a voluntary basis in order to accomplish common purposes on the development of mediation, that are complaint with the legislation of the Republic of Kazakhstan;

5) mediation - a procedure of settlement of a dispute (conflict) between parties upon assistance of a mediator(s) in order to reach a mutually acceptable decision and that is conducted on the basis of voluntary consent of the parties;

5-1) invitation to mediation - the activity of the mediator and/or one of the parties to a dispute (conflict) prior to the signing of a mediation agreement to invite the other party to the mediation process;

5-2) an authorised body on mediation (hereinafter referred to as the authorised body) - the central executive body responsible for the implementation of state policy and state regulation of mediation activities;

6) parties to the mediation process - individuals, legal entities or groups of individuals, administrative bodies, officials involved in the mediation process;

7) mediation contract - a written agreement between the parties concluded with a mediator prior to the commencement of mediation in order to settle the dispute (conflict);

8) Excluded by Law № 84-VII of 20.12.021 (shall come into effect ten calendar days after the date of its first official publication).

Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Article 3. Main objectives and tasks of this Law

1. The main objectives of this Law are:

1) creation of conditions for dispute (conflict) resolution with observance of rights and legitimate interests of citizens;

2) reducing the level of conflict between the parties.

2. The main tasks of this Law are:

1) providing the parties with an opportunity to settle a dispute (conflict) through mediation;

2) to provide mediation parties with assistance in achieving a dispute (conflict) resolution option satisfactory to the mediation parties.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 10.01.2025 №153-VIII (shall be enforced ten calendar days after the date of its first official publication).

Article 4. The principles of conducting mediation

Mediation carries out on a basis of principles of:

- 1) voluntariness;
- 2) equal rights of the parties to mediation;
- 3) independence and impartiality of mediator;
- 4) inadmissibility of intervention in mediation procedure;
- 5) confidentiality.

Article 5. Voluntariness

1. A mutual voluntary willingness of the parties expressed in a mediation contract is a condition for participation in mediation procedure.

2. The parties to mediation shall have the right to abandon mediation at its any stage.

3. During mediation the parties shall be entitled to manage their substantive and procedural rights at their own discretion, to increase or decrease the amount of claims or withdraw from the dispute (conflict).

4. The parties are free to choose issues to discuss options for a mutually acceptable agreement as provided by law and not provided for by law, not violating the rights and legally protected interests of the parties and third parties.

Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 31.10.2015 № 378-V (shall be enforced from 01.01.2016).

Article 6. Equal rights of the parties to mediation

The parties to mediation shall enjoy equal rights in choosing a mediator, procedure of mediation, their position in it, the way and means of upholding it, during information acquisition, in assessment of the acceptability of terms of a dispute settlement agreement and shall incur equal duties.

Article 7. Independence and impartiality of a mediator. Inadmissibility of intervention in mediation procedure

1. In mediation, the mediator shall be independent of the parties, administrative authorities, other legal, official and natural persons. The mediator shall be independent in selecting means and tools of mediation, the admissibility whereof is prescribed by this Law.

2. A mediator shall be impartial, conduct mediation in the interest of both parties and ensure to the parties equal participation in mediation procedure. When there are circumstances that impede impartiality of a mediator, he shall refuse to conduct mediation.

3. The parties specified in paragraph 1 of this Article shall not interfere in the activity of a mediator during mediation, except the cases provided by the laws of the Republic of Kazakhstan.

Footnote. Article 7 as amended by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Article 8. Confidentiality

1. The participants to mediation shall not disclose any data that has become known to them during mediation, without a written permission of the party to mediation that provided this information.

2. A mediator shall not be questioned as a witness regarding data that has become known during mediation, except the cases provided by the laws of the Republic of Kazakhstan

3. Disclosure by a participant to mediation of the data that has become known during mediation, without the permission of the party to mediation that provided this information, entails liability provided by the laws of the Republic of Kazakhstan.

Article 8-1. Competence of the authorised body

The authorised body shall:

1) на on the basis of and in pursuance of the main directions of the internal and foreign policy of the state, determined by the President of the Republic of Kazakhstan, and the main directions of the socio-economic policy of the state, its defense capability, security, ensuring public order, developed by the Government of the Republic of Kazakhstan, forms and implements the state policy in the field of mediation in accordance with the legislation of the Republic of Kazakhstan;

2) coordinate the activities of mediators' organisations;

3) excluded by the Law of the Republic of Kazakhstan dated 10.01.2025 №153-VIII (shall be enforced ten calendar days after the date of its first official publication);

4) excluded by the Law of the Republic of Kazakhstan dated 10.01.2025 №153-VIII (shall be enforced ten calendar days after the date of its first official publication);

5) excluded by the Law of the Republic of Kazakhstan dated 10.01.2025 №153-VIII (shall be enforced ten calendar days after the date of its first official publication);

6) provide for the functioning and development of the mediation system;

- 7) ensure that the public is informed on mediators' organisations, on the mechanisms, grounds and conditions for the use of mediation;
- 8) maintains a register of mediator organisations;
- 9) develop and approve the regulations for the election of a public mediator;
- 10) develop and approve the rules for maintaining the register of public mediators;
- 11) keep a register of retired judges engaged in mediation on a professional basis;
- 11-1) develop and approve normative legal acts in the field of mediation in accordance with the goals and objectives of this Law and the legislation of the Republic of Kazakhstan;
- 12) exercise other powers stipulated 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. Chapter 1 as supplemented by Article 8-1, under Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be brought into force ten calendar days after the date of its first official publication); as amended by Law of the Republic of Kazakhstan № 223-VII dated 19.04.2023 (shall be enacted ten calendar days after the day of its first official publication); dated 10.01.2025 №153-VIII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 2. LEGAL STATUS OF MEDIATORS AND ORGANISATIONS CONDUCTING MEDIATION

Article 9. Requirements to mediators

1. A mediator shall be an independent, impartial, not interested in the outcome of a case individual, chosen by a mutual consent of the parties to mediation, listed in the register of mediators and who has agreed to perform the functions of mediator.
2. A mediator may work professionally (professional mediator) or in a voluntary capacity (voluntary mediator).
3. A mediator may act as a pro bono mediator:
 - 1) persons who are forty years of age or older and are registered in the register of voluntary mediators;
 - 2) judges during conciliation procedures in court in accordance with the Civil Procedure Code of the Republic of Kazakhstan and the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan.
4. The following persons can carry out the activity of the mediator on a professional basis:
 - 1) persons with higher education, who have reached the age of twenty-five, holding a document (certificate) confirming that they have completed a mediator training programme approved under the procedure determined by the authorised mediation authority, and who are included in the professional mediators' register;

2) retired judges who are included in the register of retired judges acting as mediators on a professional basis.

5. Activity of mediator is not an entrepreneurial activity.

6. Persons conducting mediation activity shall also have the right to carry out any other activity that is not prohibited by the legislation of the Republic of Kazakhstan.

7. The following persons shall not be a mediator:

1) authorised to perform state functions and equal to them;

2) recognised by a court as incapable or partially capable according to the procedure provided by the law;

3) in respect of whom there is a criminal prosecution;

4) having outstanding conviction or conviction that is not expunged according to the procedure provided for by the law.

8. The additional requirements to mediation can be established by the agreement between the parties.

Footnote. Article 9 as amended Law of the Republic of Kazakhstan by the Law of the Republic of Kazakhstan dated 31.10.2015 № 378-V (shall be enforced from 01.01.2016); dated 29.06.2020 № 351-VI (effective from 01.07.2021); № 84-VII of 20.12.2021 (shall be enacted ten calendar days after the date of its first official publication)); № 223-VII of 19.04.2023 (shall enter into force ten calendar days after the date of its first official publication).

Article 10. Rights and duties of the mediator

1. A mediator shall be entitled to:

1) arrange meetings with all the parties simultaneously as well as with each party separately during mediation and to obtain from the parties information on the dispute (conflict) itself, to the extent required and sufficient for the mediation;

2) inform the public on the implementation of his/her activities (number, duration, results) while respecting the principle of confidentiality;

3) decline the mediation if in his/her opinion further efforts in the process will not resolve the dispute (conflict) between the parties, or terminate the mediation with the consent of the parties in writing.

2. The mediator must:

1) act only with the consent of the parties in mediation;

2) prior to mediation, clarify to the parties its goals and principles, mediation procedure, rights and obligations of the parties and mediator, procedure and legal consequences of a mediated agreement on dispute (conflict) resolution;

3) assist the parties in a consistent exchange of documents, information and communications on the issues under discussion;

4)) inform the parties to the mediation about their professional experience and competence;

5) terminate mediation in the event of a conflict between the mediator's personal interests and his/her duties, that may affect his/her impartiality and independence in mediation, or if there are other circumstances precluding his/her participation or requiring termination of his/her participation in mediation;

6) regularly improve his/her professional skills through a mediator training programme under the rules specified by the Government of the Republic of Kazakhstan.

3. The mediator may not provide legal, advisory or other assistance to any party.

4. The mediator shall also enjoy other rights and duties and be liable as prescribed by the laws of the Republic of Kazakhstan.

Footnote. Article 10 - as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall become effective ten calendar days after the date of its first official publication).

Article 11. Rights and duties of parties to mediation

1. The parties to mediation shall have the right:

1) to choose a mediator (mediators) voluntarily;

2) to decline a mediator;

3) to withdraw to participate in mediation at any time;

4) to participate in mediation in person or through representatives whose powers are based on a power of attorney issued in accordance with the procedure provided by the law;

5) in cases of failure of performance or improper performance of a dispute (conflict) settlement agreement according to the procedure provided for by the legislation of the Republic of Kazakhstan to apply to a court or authority that conducts a criminal proceeding, deals with the case in connection with which mediation was conducted.

2. The parties to mediation shall perform a dispute (conflict) settlement agreement according to the procedure and within deadlines provided by this agreement.

2-1. The parties to the mediation may invite experts, specialists and interpreters, if required to resolve a dispute (conflict) correctly.

3. The parties to mediation shall have other rights and perform other obligations provided by the legislation of the Republic of Kazakhstan.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be brought into force ten calendar days after the date of its first official publication).

Article 12. Challenge to a mediator

Footnote. Article 12 is excluded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall put into effect ten calendar days after the date of its first official publication).

Article 13. Organisations of mediators

1. An organisation of mediators shall mean a self-regulatory organisation established by mediators on a voluntary basis to ensure the material, organisational and other conditions for the provision of mediation services by mediators.

2. Excluded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall come into force ten calendar days after the date of its first official publication).

3. The organisation of mediators shall perform the following functions:

- 1) maintain a register of professional mediators - members of the mediators' organisation;
- 2) develop and approve the terms of membership of professional mediators;
- 3) arrange for information and methodological support for the members of the mediators' organisation in the field of mediators' activities;
- 4) represent the interests of members of the mediators' organisation in their relations with public authorities, as well as with international mediators' organisations;
- 5) ensure that members of the mediators' organisation observe the requirements hereof and other legal acts of the Republic of Kazakhstan;

6) establish and apply sanctions against members of the mediators' organisation;

7) organise professional training and professional development of mediators and issue a document (certificate) confirming the completion of the mediators' training programme.

4. Organisations of mediators shall have the right to band together into associations (unions) in order to coordinate own activity, to develop and harmonize the standards (rules) of professional activity of mediators, the procedure (rules) of conducting mediation, the procedure for payment of compensation by the parties to mediation to a mediator.

5. Joining an organisation of mediators or association (union) of mediators shall be on a voluntary basis. An organisation of mediators or association (union) shall not collect membership fees.

6. An association (union) of mediators shall have the right to develop and approve the Code of Professional Ethics of Mediators.

Footnote. Article 13 as amended by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Article 14. Keeping the register of professional mediators by organisation of mediators

1. Excluded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall become effective ten calendar days after the date of its first official publication).

2. In order to be listed in the register of professional mediators, mediators shall submit to an organisation of mediators a copy of identification document (notarised copy in case of failure to provide original identification document for verification), medical certificates from health care organisations rendering drug dependency treatment and from psych neurological

organisations that are issued at the place of residence of an applicant, a certificate of lack of criminal record, a copy of certificate of higher education and a copy of document (certificate) confirming the completion of special training on mediation.

3. The register of professional mediators shall contain:

- 1) family name, first name and patronymic (if any) of a mediator;
- 2) legal address of a mediator;
- 3) contact details of a mediator (post address or email or phone number or fax number);
- 4) information on mediation field in which a mediator specialises;
- 5) information on languages in which a mediator is able to conduct mediation;
- 6) information on existence of a document (certificate) confirming completion of training on programme of mediator preparation;
- 7) information on the suspension of mediator's activity.

4. An organisation of mediators shall include mediators in the register of professional mediators in notifying manner within ten days from the date of receipt of the relevant application subject to compliance with the requirements of paragraph 3 of this Article and Article 9 of this Law.

In case of failure to include a mediator in the register of professional mediators an organisation of mediators shall, within ten days from the date of receipt of the relevant application, give a reasoned written response regarding reasons of refusal.

5. Excluded by the Law of the Republic of Kazakhstan dated 27.12.2019 № 292-VI (enforcement, Article 2).

6. The register of professional mediators shall be placed on web site of the organisation of mediators in Kazakh and Russian, and shall be updated according to the listing of new mediators. Organisations of mediators shall have the right to publish the register of professional mediators in periodicals.

In order to inform the consumer about the presence of active subjects of pre-trial settlement of consumer disputes, the organization of professional mediators, progressively as the register is updated, shall direct information about mediators, full name (as indicated in the identity document) of the mediator, legal address, contact details of the mediator (postal address or email address or telephone or fax number), information about the mediation area in which the mediator profiles, the language in which the mediator is able to mediate) into the Unified Information System for the Protection of Consumer Rights.

7. In case of violation of the requirements of this Law by a mediator the parties involved in mediation have the right to file a respective application to an organisation of mediators. Upon confirmation of violation an organisation of mediators suspends mediator's activity for 6 months indicating this in the register of professional mediators.

8. A decision of an organisation of mediators on refusal to include in and on exclusion from the register of professional mediators, on suspension of mediator's activity may be appealed in the court.

Footnote. Article 14 as amended by the Laws of the Republic of Kazakhstan dated 27.12.2019 № 292-VI (enforcement, Article 2); dated 25.06.2020 № 346-VI (effective from 01.01.2021); № 84-VII of 20.12.021 (shall become effective ten calendar days after the date of its first official publication).

Article 15. Conduct of mediation by voluntary mediators

1. Mediation may be conducted by voluntary mediators elected by the local community assembly (parish), who have extensive life experience, credibility and an impeccable reputation, following a procedure to be determined by the authorised body.

2. Within ten working days, minutes of the meeting (gathering) of the local community on the election of members of the local community as mediators on a voluntary basis shall be submitted to the akim of the town of district significance, district city, township, village, rural district for inclusion in the register of community mediators along with submission of information under paragraph 3 of Article 16 hereof.

Footnote. Article 15 - as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the day of its first official publication).

Article 16. Maintenance of a register of public mediators by the akim of a town of district significance, a village, a rural district

1. The register of voluntary public mediators in the respective administrative-territorial unit shall be maintained by the akim of a city of regional significance, district inside of a city, town of district significance, settlement, village, rural district.

2. Mediators mediating on a voluntary basis shall apply to the akim of a city of regional significance, district inside of a city, town of district significance, settlement, village, rural district for inclusion in the register of public mediators as per the rules determined by the authorised body.

3. The register of voluntary mediators shall contain:

1) the name, first name and patronymic (if it appears on the identity document) of the mediator;

2) the mediator's legal address;

3) the mediator's contact details (postal or email address or telephone or telefax number);

4) information on the field of mediation in which the mediator specialises;

5) information on the language the mediator is able to mediate in;

6) information on the suspension of the mediator's activity.

4. Mediators shall be included in the register of public mediators by the akim of a city of regional significance, district inside of a city, town of district significance, settlement, village, rural district within ten calendar days of receipt of the relevant application, if they meet the requirements of Article 9 hereof.

Should a mediator not be included in the register of voluntary mediators, the akim of a city of regional significance, district within a city, settlement, village or rural district shall

provide a reasoned response in writing on the grounds for the refusal within ten calendar days of receipt of the relevant application.

5. The register of voluntary mediators shall be available on the internet site of the akim of a city of regional significance, district within a city, town of district significance, settlement, village, rural district in both in Kazakh and Russian or in publicly accessible places and shall be updated as voluntary mediators are included therein.

The akim of a city of regional significance, a district in a city, a town of district significance, a village, a rural district shall be entitled to publish a register of voluntary mediators in the periodicals distributed in the corresponding administrative-territorial unit.

Footnote. Article 16 - as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Chapter 3. CONDUCTING MEDIATION

Article 17. Procedures and ways of mediation

1. Mediation may be conducted by mutual consent of the parties and the mediator:

- 1) in the form of individual and (or) joint meetings of the parties with the mediator;
- 2) by means of individual and (or) joint telephone conversations of the parties with the mediator;
- 3) in the form of individual and (or) joint meetings of the parties with the mediator via videoconferencing;
- 4) via exchange of electronic messages between the parties and the mediator;
- 5) by other means using information and communication technologies that are not inconsistent with the requirements of this Law.

2. With the consent of the parties, mediation procedures (rules of procedure) approved by mediators' organisations may apply.

Footnote. Article 17 - as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall become effective ten calendar days after the date of its first official publication).

Article 18. Place and time of mediation

1. The parties at their own discretion may agree about a place of mediation.
2. A mediator determines the date and time of mediation with the consent of the parties.
3. Participants in mediation may participate in the mediation process using technical means of communication upon the initiative and with the consent of the parties.

The parties to the mediation may certify a dispute (conflict) resolution agreement by means of an electronic digital signature.

Footnote. Article 18 as amended by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall take effect ten calendar days after the date of its first official publication).

Article 19. The language of mediation

The parties at their own discretion may agree on language or languages to be used during mediation.

Article 20. Terms of mediation

1. Mediation shall be conducted by a mutual consent of the parties and when mediation contract between them is concluded.

2. In resolving disputes arising from civil, labour, family, administrative and other social relations involving natural and/or legal persons, mediation may be applied both prior to court proceedings and after court proceedings have been commenced.

3. Judges and officials that carry out criminal prosecution shall not force parties in any form to mediate.

4. An offer to the party to apply to mediation may be done by court or criminal prosecution body at the request of the other party.

5. Mediation shall begin from the date when the parties to mediation enter into a mediation contract.

6. If one party sends a written offer to apply to mediation and within ten calendar days from the date of sending it or within other specified in the offer reasonable period does not receive the consent of the other party to mediate, such offer shall be deemed as rejected.

7. The parties shall choose one or more mediators by mutual agreement. Where the parties mutually agree to choose other mediator(s) in the course of civil or criminal proceedings, they shall notify the court or the prosecuting authority.

8. An organisation of mediators may recommend a candidacy for the position of a mediator (mediators) if the parties send a corresponding request to the specified organisation.

9. The terms of the mediation shall be determined by the mediation agreement taking into account the requirements of paragraph 1 of Article 23 and paragraph 4 of Article 24 of this Law.

If mediation is carried out outside the framework of a civil, administrative or criminal process, the mediator and the parties shall take all possible measures to terminate the specified procedure within a period not exceeding thirty calendar days. In exceptional cases, due to complexity of the dispute (conflict) being resolved, with the need to obtain additional information or documents, the mediation time may be extended by consent of the parties to the mediation and with the consent of the mediator, but by no more than by thirty calendar days.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 31.10.2015 № 378-V (shall be enforced from 01.01.2016); dated 29.06.2020 № 351-VI (effective from 01.07.2021); № 84-VII of 20.12.021 (shall be brought into force ten calendar days after the date of its first official publication).

Article 21. Form and content of mediation agreement

1. A written mediation agreement shall be made, if the parties mutually agree to resolve the dispute (conflict) through mediation.

The mediator and the parties may exchange signed digital copies of the mediation agreement by e-mail, with the originals to be presented upon request of either party or the mediator.

2. The essential terms of the mediation agreement shall be:

- 1) date and venue of the mediation agreement;
- 2) name of the parties to the dispute (conflict), surnames and initials, positions of their representatives with indication of powers;
- 3) subject matter of the dispute (conflict);
- 4) information on mediator(s) selected by the parties in mediation, mediators' organisation ;
- 5) terms, procedure and amount of expenses related to mediation and, in case of professional mediation, payment of remuneration to mediator(s) for mediation;
- 6) language of mediation;
- 7) confidentiality obligation of the parties in mediation and consequences of failure to perform such obligation;
- 8) grounds and scope of liability of mediator(s) involved in mediation dispute (conflict) resolution for actions (omissions) resulting in damages (losses) for the parties in mediation;
- 9) details of parties (identification data, place of residence, contact telephone numbers)
- 10) period of mediation;
- 11) procedure of mediation;
- 12) rights and obligations of parties in mediation;
- 13) procedure and grounds for termination of mediation;
- 14) other terms determined by the mediator(s) and parties to the mediation.

Footnote. Article 21 as worded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall become effective ten calendar days after the date of its first official publication).

Article 22. Expenses related to mediation

1. Expenses related to mediation include:

- 1) remuneration of a mediator;
- 2) expenses incurred by a mediator in connection with mediation, including expenses for travel to the place of dispute consideration, accommodation and meals.

2. Professional mediators carry out mediation both on paid basis and free of charge.

3. The remuneration of professional mediator (mediators) is determined by agreement of the parties with a mediator (mediators) before the commencement of mediation.

4. The parties shall pay expenses related to mediation in equal shares, unless otherwise agreed by the parties.

5. If a mediator refuses to conduct mediation due to the circumstances that impede his impartiality, he shall return the amount of money paid to him by the parties.

6. Voluntary mediators shall work on a pro bono basis. Such mediators shall be reimbursed for expenses incurred in connection with mediation, as specified in subparagraph 5) of paragraph 2 of Article 21 hereof.

Footnote. Article 22 as amended by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Article 23: Specifics of mediation in civil, labour, family and administrative legal relations and other social relations involving natural and/or legal persons

Footnote. The title of article 23 - as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall come into force ten calendar days after the day of its first official publication).

1. In mediating disputes (conflicts) arising from civil, labour, family, administrative and other public relations involving natural and/or legal persons, administrative bodies or officials, mediation shall be completed no later than thirty calendar days from the date of the mediation agreement. If necessary, by mutual agreement of the parties, the mediation period may be extended up to thirty calendar days, but not exceeding sixty calendar days in total.

2. Mediation for the resolution of disputes (conflicts) arising from civil, labour, family, administrative and other public relations involving natural and/or legal persons, administrative bodies, officials pending prior to a court shall be completed no later than thirty calendar days from the date of the mediation agreement. Where necessary, the mediation period may be extended by the parties up to thirty calendar days, but not to exceed sixty calendar days in total, with a joint written notification to the court thereafter.

3. A mediation agreement to resolve disputes (conflicts) arising from civil, labour, family administrative legal relations and other public relations involving natural and/or legal persons, administrative bodies or officials pending before a court, including on materials at the enforcement stage, shall be grounds for suspending proceedings on the case.

4. Upon termination of the mediation conducted within the framework of a civil or administrative process, the parties shall immediately send to the court in charge of the case:

1) in a case of signing a dispute settlement agreement – such agreement;

2) in other cases - a written notice of termination of mediation specifying the grounds provided for in Article 26 of this Law.

Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 № 565-IV (shall be enforced from 01.07.2012); dated 29.06.2020 № 351-VI (effective from 01.07.2021); № 84-VII of 20.12.021 (shall enter into force ten calendar days after the date of its first official publication).

Article 24. Specifics of mediation in criminal proceedings and cases of administrative offences

Footnote. The title of article 24 - as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be brought into force ten calendar days after the date of its first official publication).

1. Conclusion of a mediation contract by the parties shall not suspend the criminal proceeding.

2. Participation in mediation shall not be considered as evidence of confession of guilty by participant in the proceeding that is a party to mediation.

3. If, during mediation, one of the parties is a minor, participation of a teacher or a psychologist or legal representatives of a minor is mandatory.

4. Mediation in criminal proceedings and in cases of administrative offences shall be conducted within the time limits specified by the laws of the Republic of Kazakhstan for pre-trial and trial proceedings or for proceedings in cases of administrative offences.

5. Refusal to sign a dispute settlement agreement shall not worsen the position of participant in the proceeding that is a party to mediation.

6. When mediation in criminal proceedings and cases of administrative offences is terminated, the parties shall immediately notify the body conducting the criminal proceedings or the administrative offence case, where the criminal case or the administrative offence case is pending:

1) in a case of signing a dispute settlement agreement – such agreement;

2) in other cases - a written notice of termination of mediation specifying the grounds provided for in Article 26 of this Law.

Footnote. Article 24 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); № 84-VII of 20.12.021 (shall be enforced ten calendar days after the date of its first official publication).

Article 25. Specific aspects of mediation in family relations

1. Disagreements between the spouses regarding the continuation of marriage, exercising parental rights, defining the place of residence of children, the contribution of parents in child support, as well as any other disagreements arising from family relations may be settled through mediation.

2. During mediation a mediator shall take into account the legitimate interests of a child.

3. Should the mediation process reveal facts that endanger or may endanger the child's normal growth and development or harm the child's health and legal interests, the mediator shall apply to the authority responsible for the protection of the child's rights.

Footnote. Article 25 as amended by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall become effective ten calendar days after the date of its first official publication).

Article 25-1. Specifics of mediation at the stage of execution of a judicial act

1. The mediation contract submitted to the bailiff shall suspend the enforcement proceedings for a period not exceeding thirty calendar days.

2. A dispute (conflict) settlement agreement negotiated at the enforcement stage of a judicial act shall be filed by the parties for approval by the court of first instance at the place of enforcement of the judicial act or by the court that issued the said judicial act.

3. Enforcement proceedings shall be discontinued if the parties enter into an agreement on settling a dispute (conflict) at the stage of execution of the judicial act and submit it to the bailiff.

Footnote. Chapter 3 as supplemented by Article 25-1, under Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Article 26. Termination of mediation

1. Mediation shall be discontinued in the following cases:

1) the parties sign an agreement on dispute (conflict) resolution - from the date of signing of such agreement;

2) circumstances excluding resolution of a dispute (conflict) by mediation are established by the mediator;

3) the written refusal of the party(ies) to mediate - from the date of signature of the written refusal by the party(ies);

4) written refusal of one of the parties to continue mediation - from the date of notification by available means of communication;

5) expiration of the mediation period - from the date of its expiration, considering the provisions of Articles 23 and 24 hereof.

2. In the circumstances described in sub-paragraphs 3), 4) and 5) of paragraph 1 of this Article, the mediator shall issue a termination notice at the request of the party(ies), stating the reason for the termination of the mediation procedure.

Footnote. Article 26 as reworded by Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Article 27. Dispute (conflict) settlement agreement

1. An agreement to settle a dispute (conflict) reached by the parties in mediation shall be in writing and signed by the parties.

The agreement to settle a dispute (conflict) shall also be enforceable if the parties have exchanged signed digital copies of the agreement by e-mail without further submission of the originals to each other.

2. A dispute (conflict) resolution agreement shall specify the date and venue, the parties to the mediation, their representatives, the subject matter of the dispute (conflict), the mediator(s), and the obligations agreed upon by the parties, the manner and timing of their performance and the consequences of their non-performance or inadequate performance.

A dispute resolution agreement must be signed by the mediator(s).

3. A dispute (conflict) settlement agreement shall be voluntarily performed by the parties to mediation according to the procedure and within deadlines provided by this agreement.

4. A dispute (conflict) settlement agreement reached before consideration of the case in court is a deal aimed to establish, change or terminate the rights and obligations of the parties. In case of non-fulfillment or improper fulfillment of such an agreement, the mediation party that breached the agreement shall be held liable in accordance with the procedure established by the laws of the Republic of Kazakhstan.

5. An agreement on the dispute (conflict) settlement, reached by the parties during mediation in the course of civil or administrative proceedings, shall be immediately sent to the judge who is in charge of the case. An agreement on the dispute (conflict) settlement shall be approved by the court in accordance with the procedure established by the Civil Procedure Code of the Republic of Kazakhstan and the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan.

A paid state duty shall be refunded to the payer according to the procedure provided for by the Code of the Republic of Kazakhstan On Taxes and Other Obligatory Payments to the Budget (Tax Code).

6. An agreement to settle a dispute (conflict) mediated by the parties in criminal proceedings shall be an agreement to settle a dispute (conflict) by repairing the harm caused to the victim and reconciling the perpetrator of the criminal offence with the victim.

Mediation in cases of administrative offences shall constitute an agreement to settle a dispute (conflict) by conciliation of the parties.

7. The specified agreement shall be immediately sent to the body conducting the criminal trial that deals with the criminal case, and in the cases provided by the Criminal Procedure Code of the Republic of Kazakhstan, shall be a circumstance precluding or not allowing the criminal prosecution.

7-1. An agreement to settle a dispute (conflict) over the division of property or pledge of property shall be the ground for state registration of rights to immovable property and (or) registration of a pledge of movable property under the legislation of the Republic of Kazakhstan.

8. A dispute settlement agreement shall enter into force on the day of its signing.

9. Should an interested party evade the execution of a dispute (conflict) resolution agreement, he/she may apply to a court as per the regulations laid down in the procedural legislation of the Republic of Kazakhstan.

Footnote. Article 27 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 № 565-IV (shall be enforced from 01.07.2012); dated 03.07.2014 № 227-V (shall be enforced from 01.01.2015); dated 31.10.2015 № 378-V (shall be enforced from 01.01.2016); dated 29.06.2020 № 351-VI (effective from 01.07.2021); № 84-VII of 20.12.021 (shall be brought into force ten calendar days after the date of its first official publication).

Article 27-1. Specifics of mediation in administrative proceedings

1. In administrative litigation, mediation shall only be permitted if the defendant has administrative discretion.

2. The possibility of mediation in such cases shall be permitted in circumstances where such possibility is not prohibited by the laws of the Republic of Kazakhstan or is not contrary to the substance of the public-law relation in question.

Footnote. Chapter 3 as supplemented by Article 27-1, under Law of the Republic of Kazakhstan № 84-VII of 20.12.021 (shall be enacted ten calendar days after the date of its first official publication).

Chapter 4. FINAL PROVISIONS

Article 28. The order of entry into force of this Law

This Law shall enter into force upon expiry of six months from the date of its first official publication.

*The President of
the Republic of Kazakhstan*

N. Nazarbayev