

## **On public-private partnership**

### *Unofficial translation*

Law of the Republic of Kazakhstan Law № 379-V LRK dated October 31, 2015.

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This Law defines the legal conditions of a public-private partnership, its methods of implementation and regulates social relations arising in the process of preparing and implementing a public-private partnership project, conclusions, enforcing and terminating of a public-private partnership agreement.

## **Chapter 1. GENERAL PROVISIONS**

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

The following basic definitions are used in the present Law:

1) accreditation a procedure of official recognition by the accreditation body of the applicant's competence to provide advisory support for public-private partnership projects or to conduct expert evaluation of tender documentation and business plans related to public-private partnership projects;

1-1) a potential private partner – an individual entrepreneur, simple partnership, consortium or legal entity applying for participation in a tender (auction) or in direct negotiations for the selection of a private partner, excluding public legal entities, as well as limited liability partnerships and joint stock companies, fifty or more percent of the equity capital or voting shares thereof are directly or indirectly owned by the state;

1-2) Program-based public-private partnership – the implementation of public-private partnership projects within the framework of industry (sectoral) development concepts, national projects, in accordance with the procedure for selecting a private partner, model tender documentation and model public-private partnership agreement, as developed and approved according to this Law;

2) a private partner - an individual entrepreneur, a simple partnership, a consortium or a legal entity, other than public legal entities, as well as limited liability partnerships and joint stock companies, fifty percent or more of the equity or voting shares thereof are directly or indirectly owned by the state, that have entered into a public-private partnership agreement;

2-1) the account intended for transfer of compensation of investment costs – the Bank account opened to the private partner by the creditor with restriction of its right to perform expenditure transactions on it before the occurrence or fulfillment of the conditions specified by the financing agreement under the assignment of a monetary claim and / or agreement public-private partnerships;

3) an organiser of the tender (auction) or direct negotiations – a state body that organizes and conducts a tender (auction) or direct negotiations for the selection of a private partner in accordance with the competence established pursuant with this Law;

3-1) concession agreement (concession) – a public-private partnership agreement concluded between the public partner (concession grantor) and the private partner (concessionaire), providing for the concessionaire to receive payment from consumers for the provision of goods, works, and services under the implementation of the given public-private partnership project (consumer payments));

4) availability payment - a cash payment made at the expense of budget funds in accordance with a public-private partnership agreement for ensuring the operational and quality characteristics of a public-private partnership object, as well as the availability of the specified object to consumers based on individual technical and economic parameters of the public private partnership;

5) a public partner - the Republic of Kazakhstan represented by one or more state authorities vested with powers to implement state policy in the field of public-private partnership, or by state institutions, state-owned enterprises, and/or limited liability partnerships or joint-stock companies, fifty percent or more of whose equity interest or voting shares are directly or indirectly owned by the state, which have entered into a public-private partnership agreement;

6) public-private partnership - a form of cooperation between a public partner and a private partner, corresponding to the characteristics defined by this Law;

6-1) public-private partnership web portal - information and communication platform intended for centralised gathering, processing, storage of electronic information resources in the field of public-private partnership, identifying the private partner, monitoring the implementation of public-private partnership projects, providing accessibility of information in the field of public-private partnership;

6-2) public-private partnership web portal operator - a legal entity designated by the central authority responsible for public planning;

7) advisory support for public-private partnership projects - services provided by accredited legal entities to support public-private partnership projects, including the development of tender (auction) documentation for a public-private partnership project, a draft public-private partnership agreement, including consulting services in the negotiation process between the subjects of public-private partnership;

8) public-private partnership project - a set of consecutive measures for the implementation of public-private partnership, implemented for a limited period of time and of a completed nature, in accordance with this Law and budget legislation of the Republic of Kazakhstan;

9) compensation of investment costs of a public-private partnership project - cash payments out of budget funds, aimed at compensation a certain amount of investment costs, in accordance with a public-private partnership agreement;

10) compensation of the operating costs of the public-private partnership project - cash payments from the budget, aimed at compensation of the private partner's expenses related to the operation of the public-private partnership object in accordance with the public-private partnership agreement;

11) a business plan for a public-private partnership project - a document drafted by a potential private partner in direct negotiations, including a description of the goals and objectives of the public-private partnership project, sources of cost recovery and income generation, beneficiaries of the public-private partnership project, state support measures, including a description of the public-private partnership object and/or services to be provided under the service contract;

12) a public-private partnership company - a legal entity whose sole purpose is the implementation of a public-private partnership project, established jointly by a public partner and a private partner or a valid legal entity that's only members are a public partner and (or) a private partner;

13) public-private partnership objects - buildings, constructions and (or) equipment, property complexes, intellectual creative activity results created (including construction and, if necessary, design) and (or) reconstructed, and (or) modernised, as well as operated within the framework of the public-private partnership project implementation;

13-1) creation of a public-private partnership object – the activity stipulated in the public-private partnership agreement for the creation of intangible and tangible assets, including by means of designing, constructing new and/or modifying (expanding, upgrading, retrofitting, reconstructing, or capital repairing) existing facilities (buildings, structures and their complexes, utilities), as well as the installation (dismantling) of associated technological and engineering equipment;

13-2) operation of a public-private partnership object – the activity stipulated in the public-private partnership agreement involving the targeted use of the object through the production and delivery of goods, works, and services to consumers, or the technical and/or service maintenance of the facility, including ensuring its readiness for intended use by the operator or third parties in accordance with the public-private partnership agreement;

14) the subjects of a public-private partnership - the public partner and the private partner, as well as other persons participating in the implementation of the public-private partnership project, as provided for by the present Law;

15) Center for the development of public-private partnership - a legal entity established by the decision of the Government of the Republic of Kazakhstan to carry out activities in the field of public-private partnership;

16) public-private partnership agreement – a written agreement that establishes the rights, obligations, and responsibilities of the parties to the public-private partnership agreement, concluded for the purpose of addressing one or more socio-economic objectives through the creation and operation of a public-private partnership object;

16-1) state treasury – a department of the central executive body entrusted with the functions of the authorized body for treasury execution of the budget;

16-2) state treasury bodies – territorial subdivisions of the state treasury;

17) operator - a legal entity that is not a private partner, which carries out the operation of a public-private partnership object jointly with a private partner within the framework of implementation of the public private project;

18) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025);

19) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025);

20) a service contract - a public-private partnership agreement providing for the provision of services using a public-private partnership facility owned by the private partner by right of ownership, including with due regard to the specifics established by the legislation of the Republic of Kazakhstan;

21) a direct agreement is a written agreement signed between a public partner, a private partner and a private partner's lender to implement a public-private partnership project.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan № 112-VI dated 30.11.2017 (shall be effective upon the expiry of ten calendar days after its first official publication); № 128-VI dated 28.12.2017 (shall be effective upon the expiry of ten calendar days after the day of its first official publication); № 171-VI 04.07.2018 (shall be effective upon the expiry of ten calendar days after the day of its first official publication); № 399-VI of 02.01.2021 (shall enter into force ten calendar days after the date of its first official publication); dated 03.01.2022 № 101-VII (shall be enforced upon the expiration of sixty calendar days after the day of its first official publication); № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (for the procedure of enactment see Article 2)

## **Article 2. The legislation of the Republic of Kazakhstan in the field of public-private partnership**

1. The legislation of the Republic of Kazakhstan in the field of public-private partnership is based on the Constitution of the Republic of Kazakhstan and consists of the Civil Code of the Republic of Kazakhstan, this Law and other regulatory acts of the Republic of Kazakhstan

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

3. The features of legal regulation of public-private partnership in certain sectors (spheres) of the economy are established by the laws of the Republic of Kazakhstan.

4. The procedures for determining a private partner, concluding, executing and terminating a public-private partnership agreement, as well as the consumption by the state of a certain volume of goods, works and services within the framework of providing state support measures for public-private partnership projects shall be carried out in accordance with this Law and other regulatory legal acts governing public-private partnerships, without applying the provisions of the Law of the Republic of Kazakhstan "On Public Procurement".

5. The taxation of public-private partnerships is carried out in accordance with the provisions of the tax legislation of the Republic of Kazakhstan.

6. The relations related to the implementation of public-private partnership projects in the field of subsoil use are regulated by this Law and the Code of the Republic of Kazakhstan "On subsoil and subsoil use".

7. The provisions of this Law governing relations associated with a private partner, a public partner and (or) a public-private partnership agreement shall apply respectively to the concessionaire, the grantor and the concession agreement, unless otherwise expressly provided by this Law.

**Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan dated 27.12.2017 №126-VI (effective upon expiry of six months after its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

### **Article 3. Main objectives and principles of public-private partnership**

1. The main objectives of public-private partnerships are:

1) creation of conditions for effective interaction between the public partner and the private partner in order to ensure sustainable socio-economic development of the Republic of Kazakhstan;

2) attracting investments to the state economy by pooling the resources of a public partner and a private partner for the development of infrastructure and life support systems of the population;

3) increasing the level of availability and quality of goods, works and services, taking into account the interests and needs of the population, as well as other interested parties;

4) increasing the overall innovation activity in the Republic of Kazakhstan, including the promotion of the development of high-tech and knowledge-intensive industries.

2. The principles of public-private partnership shall be:

1) the principle of consistency - a step-by-step construction of the relationship between the public-private partnership entities;

2) the principle of competitiveness - identification of a private partner on a competitive basis, with the exception of cases established by this Law;

3) the principle of balance - mutually beneficial distribution of responsibilities, guarantees, risks and revenues between the public partner and the private partner in the implementation of the public-private partnership project;

4) the principle of efficiency - establishing criteria and parameters to evaluate the achievement of the outcomes of public-private partnerships;

5) the principle of value for the population - ensuring the development of social infrastructure and life support systems for the population, increasing the level of availability and quality of goods, works and services within the framework of the implementation of a public-private partnership project;

6) the principle of transparency and accessibility of information - open access to information on the planning and implementation processes of public-private partnership projects within the limits prescribed by the laws of the Republic of Kazakhstan.

**Footnote. Article 3 as amended by Law of the Republic of Kazakhstan № 399-VI dated 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication); № 177-VII of 30.12.2022 (shall be put into force ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 4. Features of public-private partnership**

The exclusive features of a public-private partnership include:

1) building a relationship between a public partner and a private partner by entering into a public-private partnership agreement;

2) long-term implementation period of the public-private partnership project (from five to thirty years, depending on the specifics of the public-private partnership project);

3) joint participation of a public partner and a private partner in the implementation of a public-private partnership project;

4) pooling the resources of a public partner and a private partner for the implementation of a public-private partnership project.

5) implementation of investments by a private partner for the implementation of a public-private partnership project, while the share of the private partner's own funds must be at least ten percent of the total amount of investments in the public-private partnership project ;

6) availability of investment and operational periods in the public-private partnership project.

The investment period shall cover the design (if required), construction and/or reconstruction, and/or modernisation or establishment of a public-private partnership object. The operational period shall cover the operation of the public-private partnership object depending on its functional purpose, or the maintenance or management of the infrastructure of the public-private partnership object.

**Footnote. Article 4 as amended by Law of the Republic of Kazakhstan № 399-VI of 02.01.2021 (shall come into force ten calendar days after the date of its first official**

publication); № 177-VII of 30.12.2022 (shall be enforced ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 5. Parties to a public-private partnership agreement**

1. The parties to a public-private partnership agreement are a public partner and a private partner.

In a public-private partnership agreement parties shall be several public partners and private partners.

2. The operator may also act as a party to a public-private partnership agreement.

**Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 6. Fields of application of public-private partnership**

Public-private partnership is carried out in all sectors (fields) of the economy. At the same time, the objects, the list of which is determined by the Government of the Republic of Kazakhstan, cannot be transferred for the implementation of a public-private partnership.

**Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 03.07.2017 № 86-VI (shall be effective upon the expiry of ten calendar days after its first official publication).**

#### **Article 7. Methods of implementation of the public-private partnership**

1. Public-private partnership in the method of implementation is divided into institutional and contractual.

2. An institutional public-private partnership is implemented by a public-private partnership company in accordance with a public-private partnership agreement.

3. In other cases, public-private partnership is carried out by a public-private partnership company according to the method of contractual public-private partnership.

A contractual public-private partnership is implemented through the conclusion and implementation of a public-private partnership agreement, including in the following forms:

- 1) concession agreement;
- 2) service contract.

Public-private partnership agreements may include certain types of obligations, including trust management, property lease (rent), contracting, and provision of services.

Public-private partnership agreements may include a full cycle of works on creation and operation of a public-private partnership object, sale of produced goods, works and services, utilization of produced goods, as well as post-utilization of a public-private partnership object upon completion of project implementation.

4. For the implementation of program public-private partnerships, the concepts for the development of industries (spheres), national projects may provide for basic parameters of public-private partnership projects, including goals and objectives, expected payments from budgetary funds, and measures of state support.



The procedure for determining a private partner within the framework of a public-private partnership program is developed on the basis of the relevant basic parameters and includes standard tender documentation and a standard public-private partnership agreement.

**Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 8. Republican and local public-private partnership projects**

1. Public-private partnership projects are divided into national and local.
2. To determine the republican and local public-private partnership projects, one of the following criteria shall be used:
  - 1) by type of ownership as republican or local, depending on the right of ownership (republican or municipal) to the object of public-private partnership or depending on the type of state ownership of shares or stakes in the authorized capital of a quasi-public sector entity that is a party to the public-private partnership agreement;
  - 2) by beneficiaries as republican, if the beneficiaries are subjects of two or more regions, cities of republican significance and the capital, and as local, if the beneficiaries are subjects of one region, city of republican significance and the capital.

**Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 9. Sources of financing a public-private partnership project, compensation of expenses of public-private partnerships and income generation by public-private partnerships**

1. The financing of a public-private partnership project shall be carried out by:
    - 1) private partner's own funds;
    - 2) funds borrowed in accordance with the procedure established by the legislation of the Republic of Kazakhstan;
    - 3) state budget funds;
    - 4) funds of quasi-public sector entities;
    - 5) other funds not prohibited by the legislation of the Republic of Kazakhstan.
  2. The sources of compensation of expenses of subjects of public-private partnerships and income generation entities public-private partnerships are:
    - 1) sale of goods, works and services under a public-private partnership agreement;
    - 2) subsidies from the state in cases established by the laws of the Republic of Kazakhstan;
    - 3) compensation of investment costs for the public-private partnership project;
    - 4) compensation of the operating costs of the public-private partnership project;
    - 5) compensation for the management of the object of public-private partnership, which is in state ownership, as well as rent for the use of the object of public-private partnership;
    - 6) availability payment
- 2-1. The private partner shall be fully reimbursed only under public-private partnership projects, if the operation of the social infrastructure and livelihood facility does not provide a



return on the private partner's investment, such projects are public-private partnership projects of social infrastructure and livelihoods.

Social infrastructure and life support facilities shall refer to facilities, complexes of facilities used to meet public needs, the provision whereof is entrusted to public authorities under the legislation of the Republic of Kazakhstan, including healthcare, education, culture, sports, telecommunications, communications, public safety, transport infrastructure, gas, electricity, heat and water supply and disposal, and waste management facilities.

2-2. Service contracts shall not provide for a compensation of investment expenses and (or) co-financing.

3. The financing of the project of public-private partnership with the use of project financing is carried out in accordance with the legislation of the Republic of Kazakhstan on project financing and securitization with account of the provisions of this Law.

4. Payment of reimbursement of the investment costs of a public-private partnership project shall be made after the launch of the public-private partnership facility in equal instalments over a period of at least five years in line with the public-private partnership agreement.

However, it shall be prohibited to reschedule the terms of payment of compensation for investment costs established by the public-private partnership agreement to earlier periods, except in cases of early launch of the public-private partnership facility, without reducing the overall term of payment of compensation for investment costs and while maintaining the uniformity of payment of compensation for investment costs, provided that the conditions of Article 49 of this Act are met.

**Footnote.** Article 9 as amended by Law № 399-VI of the RK dated 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication); № 72-VII of 15.11.2021 (shall take effect on 01.01.2022); № 177-VII of 30.12.2022 (shall be enacted ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Article 10. Planning, implementation of a public-private partnership project, and its assessment**

**Footnote.** The title of Article 10 as reworded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

1. A public-private partnership project may be implemented under a public or private initiative by going through the following successive stages:

1) planning, including:

within the framework of the implementation of a state initiative – development of an investment proposal and tender (auction) documentation or approval of tender (auction) documentation based on standard tender (auction) documentation; or

within the framework of the implementation of a private initiative - elaboration of an information sheet of tender (auction) documentation for projects intended to solve social and economic objectives based on the needs included in the list formed and published by the central authorised state body of the respective sector or local executive body in the order laid down herein; or

in the private direct negotiation initiative to identify a private partner, the development of a business plan;

2) determination of a private partner in accordance with Article 31 of this Law;

3) conclusion of a public-private partnership agreement;

4) fulfillment by the parties of the terms of the public-private partnership agreement.

**1-1. Excluded by Law of the Republic of Kazakhstan № 141-VII of 14.07.2022 (shall be enacted on 01.01.2023).**

2. The public-private partnership project is considered to be completed after the parties to the public-private partnership agreement have fulfilled all their obligations.

3. The assessment shall be carried out for all public-private partnership projects being implemented, the implementation period of which is more than one calendar year on the date of submission of information on monitoring the implementation of the public-private partnership project, as well as for public-private partnership projects that are completed or terminated during the reporting year.

4. The result of the assessment of the implementation of public-private partnership projects shall be a report containing recommendations for improving the quality of management of public-private partnership projects.

5. The results of the assessment of the implementation of public-private partnership projects shall be sent by the Center of the Development of Public-Private Partnerships to the central authorized body for budget policy.

6. The central authorized body for budget policy, from the moment of receipt of the report of the Center for Development of Public-Private Partnership, shall send it to the following interested parties:

to the authorized body for the management of state property;

to local executive bodies of regions, cities of republican significance and the capital for public-private partnership objects related to municipal property;

to sectoral central government bodies;

for republican projects of public-private partnership - to the central authorized body for budget execution.

**Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan № 112-VI dated 30.11.2017 (shall be effective upon the expiry of ten calendar days after its first official publication); № 128-VI dated 28.12.2017 (shall be effective upon the expiry of ten calendar days after its first official publication); № 141-VII of 14.07.2022 (shall take effect on 01.01.2023); № 177-VII of 30.12.2022 (shall enter into force ten calendar days after the date**

of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 11. Operator of the project of public-private partnerships**

1. The private partner, in accordance with the procedure established by the public-private partnership agreement, shall have the right, if necessary, to determine one or more operators of the public-private partnership project.

2. The operator of the public-private partnership project is determined by the public-private partnership company when implementing an institutional public-private partnership.

3. The operation of a public-private partnership object in accordance with its intended purpose (functional operation) may be carried out by an operator who is a party to the public-private partnership agreement or acting on the basis of an operation agreement concluded between the public partner, the private partner and the operator in accordance with the procedure and under the conditions determined by the public-private partnership agreement.

In the event of partial or complete transfer of functional operation to the operator, the private partner shall ensure the availability and readiness of the public-private partnership object for operation (technical and (or) service maintenance, and (or) infrastructure management).

**Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 12. Legal regime of the object of public-private partnership and other property necessary for the implementation of the project of public-private partnership**

1. The parties to the public-private partnership agreement shall use the object of public-private partnership and (or) other property necessary for the implementation of the public-private partnership project in accordance with the legislation of the Republic of Kazakhstan and the public-private partnership agreement, unless otherwise provided by this Law.

2. A party to the public-private partnership agreement has the right to transfer, with the consent of the other party in the manner prescribed by the legislation of the Republic of Kazakhstan and (or) the public-private partnership agreement, the object of public-private partnership and (or) other property necessary for the implementation of the public-private partnership project to the third parties, subject to compliance by the third parties with the obligations of the transferring party under the public-private partnership agreement. At the same time, the transferring party to the public-private partnership agreement shall be liable for the actions of the third parties established by the law.

3. In cases when the object of public-private partnership and (or) other property necessary for implementation of the project of public-private partnership transferred by the public partner to the private partner under the public-private partnership agreement are subject to

transfer to balance of the private partner, they are isolated from property of the private partner and are reflected in the separate accounting performed in connection with the execution of obligations under the public-private partnership agreement

Accounting and financial reporting under the public-private partnership agreement shall be carried out in accordance with the budget legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on accounting and financial reporting.

4. If the object of public-private partnership is carried out remuneration of investment costs, the object of public-private partnership shall be transferred to state ownership. At the same time, the pledge of such an object of public-private partnership is not allowed.

#### **Article 12-1. Legal regime of the account to be used for the form of compensation of investment costs**

1. The account intended for transfer of compensation of investment costs is opened in case of attraction by the concessionary of loan financing on the security of the right of claim for cash receipts in the form of compensation of investment costs.

2. The account intended for crediting compensation of investment costs is used to protect the right of the creditor in the financing of public-private partnership projects secured by the right to claim cash proceeds in the form of compensation of investment costs. Use of the account intended for transfer of compensation of investment costs for other purposes is not allowed.

Use of the account intended for transfer of compensation of investment costs is carried out in accordance with the legislation of the Republic of Kazakhstan in the field of public-private partnership

After repayment of obligations to the creditor, the account intended for crediting the compensation of investment costs shall be closed.

3. Recovery from the account intended for crediting compensation of investment costs can be made only within the framework of fulfilling the obligations of the private partner to the creditor secured by the right of claim under the public-private partnership agreement.

The private partner shall, as agreed with the lender, transfer part of the funds from the account intended for crediting compensation of investment costs to its current account specified in the public-private partnership agreement.

**Footnote. The law is supplemented by Article 12-1 in accordance with the law of the Republic of Kazakhstan dated 04.07.2018 № 171-VI (shall be effective upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 13. Main provisions and principles of operation of the object of public-private partnership**

1. The subjects of public-private partnership are obliged to comply with the following principles of operation of the object of public-private partnership in the amount that does not contradict the project of public-private partnership:

1) adjusting the parameters of the provision of goods, works and services in order to meet the demand for these goods, works and services;

2) ensuring the continuity of the provision of goods, works and services.

2. The private partner, in agreement with the public partner, shall establish the procedure for operating the public-private partnership object and shall ensure compliance therewith. If the operation of the public-private partnership object is carried out by the operator, the operating procedure shall be determined by the public-private partnership agreement and the operating agreement, if any.

3. A private partner shall not have the right to give preference to one person over another in relation to the provision of services, except as provided by the legislation of the Republic of Kazakhstan.

4. The period of operating the public-private partnership facility shall be established for a period of at least five years, depending on the specific features of the public-private partnership project.

**Footnote. Article 13 as amended by Law № 399-VI of the RK dated 02.01.2021 (shall go into effect ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 14. Risk allocation between public partner and private partner**

1. The list of risks arising at various stages of public-private partnership is determined by the Central authorized body for state planning.

2. The allocation of risks between the public partner and the private partner, as well as the necessary measures to reduce the likelihood of their occurrence and to eliminate the consequences of the risks are fixed in the public-private partnership agreement.

3. The allocation of risks in the public-private partnership agreement between the public partner and the private partner is carried out taking into account the peculiarities of the public-private partnership project, provided that the risks are assigned to the party that can best manage them with minimal costs.

#### **Article 15. Procedures for information provision in the area of public-private partnerships**

1. Based on the documents of the State Planning System within their competence, as well as considering the proposals of individuals and legal entities and the needs of the population, the central authorised state bodies of the respective branches, local executive bodies of oblasts, cities of republican significance and the capital city shall annually compile and publish a list of social and economic objectives to draw up proposals for the implementation of the public-private partnership projects under the procedure set by the central authority responsible for public planning.

1-1. The first heads of central state and local executive bodies shall ensure the overall coordination of structural divisions in order to fulfill state obligations under public-private partnership projects.

2. Information on the planned and implemented public-private partnership projects shall be ensured by the central authorised state bodies of the respective sector, local executive bodies of regions, cities of republican significance and the capital, public partners and the Public-Private Partnership Development Centre following the order established by the central authorised body for public planning, including by using the public-private partnership web-portal.

**Footnote.** Article 15 as reworded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall be enacted ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Chapter 2. RIGHTS AND DUTIES OF SUBJECTS OF PUBLIC-PRIVATE PARTNERSHIPS**

### **Article 16. Rights and duties of the private partner**

1. The private partner has the right to:

- 1) make suggestions to change the terms of the public-private partnership agreement;
- 2) in case of early termination of the public-private partnership agreement, demand payments and compensation in the cases and in the manner prescribed by the public-private partnership agreement;
- 3) at its discretion, use the net income received from its activities in the project of public-private partnership, after payment of taxes and other obligatory payments to the budget in accordance with the legislation of the Republic of Kazakhstan;
- 4) exercise the rights in relation to the object of public-private partnership on the terms stipulated by the agreement of public-private partnership;
- 5) to exercise other rights in accordance with the laws of the Republic of Kazakhstan and the public-private partnership agreement.

2. The private partner is obliged to:

- 1) maintain the profile of public-private partnerships, as well as in accordance with the terms of the public-private partnership agreement to ensure the transfer of the public-private partnership to a state partner in the proper technical condition;
- 2) ensure the quality and availability of goods, works and services within the framework of the concluded public-private partnership agreement;
- 3) ensure the targeted use of funds allocated for the implementation of the public-private partnership project;
- 6) comply with other requirements and terms, established by the Laws of the Republic of Kazakhstan and the public-private partnership agreement;

### **Article 17. Rights and duties of the public partner**

1. The public partner has the right to:

- 1) negotiate with a private partner and other parties to a public-private partnership agreement on its terms;



2) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025);

3) carry out inspections of financial and economic activities of the private partner, including through the involvement of an audit organization under the public-private partnership agreement;

4) have unimpeded access to the object of public-private partnership, as well as to the documentation related to the implementation of activities within the framework of the public-private partnership project;

5) require the elimination of violations in the framework of monitoring compliance with the legislation of the Republic of Kazakhstan and the terms of the public-private partnership agreement;

6) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025);

7) require the termination of the public-private partnership agreement in case of violation of its terms by the private partner or other party to the public-private partnership agreement;

8) exercise other rights in accordance with the laws of the Republic of Kazakhstan and the public-private partnership agreement.

2. The public partner is obliged to:

1) transfer to the private partner the rights to the object of public-private partnership on the terms and within the terms provided by the agreement of public-private partnership;

2) comply with other requirements and conditions established by the laws of the Republic of Kazakhstan and the agreement of public-private partnership.

3. State obligations under public-private partnership projects shall be subject to registration only within the amounts and terms established by the agreement, in accordance with the decision of the relevant budget commission, as well as the resolution of the Government of the Republic of Kazakhstan on projects of special importance or the decision of the maslikhat for each individual public-private partnership project.

4. The procedure for fulfilling state obligations under public-private partnership projects, including compensation for investment costs under public-private partnership projects, compensation for operating costs under public-private partnership projects, remuneration for the management of a public-private partnership object owned by the state, co-financing, a guarantee of state consumption of a certain volume of goods, works and services produced during the implementation of a public-private partnership project, as well as rent for the use of a public-private partnership object and accessibility fees shall be determined by the central authorized body for budget execution in agreement with the central authorized body for budget policy.

Footnote. Article 17 as amended by Law № 399-VI of the RK dated 02.01.2021 (shall be put into effect ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Article 18. Rights and duties of other persons involved in the implementation of the public-private partnership project**

1. Finance and other organisations interested in financing a public-private partnership project shall be entitled to take part in the development and discussion of the tender (auction) documentation of the public-private partnership project, draft public-private partnership agreement, as well as to make proposals on the scheme for financing a public-private partnership project, collateral for loans, expected payments in cases of termination of the public-private partnership agreement and other issues related to the financing of the public-private partnership project.

2. Other persons engaged in the implementation of a public-private partnership project, including those rendering advisory services to support public-private partnership projects, shall enjoy the rights envisaged by the laws of the Republic of Kazakhstan and the public-private partnership agreement.

3. Other persons participating in the implementation of a public-private partnership project including those performing advisory services to support public-private partnership projects, shall comply with the requirements and conditions established by the laws of the Republic of Kazakhstan and the public-private partnership agreement.

**Footnote. Article 18 as amended by the law of the Republic of Kazakhstan dated 30.11.2017 № 112-VI (shall be effective upon the expiry of ten calendar days after the date of its first official publication); № 399-VI of 02.01.2021 (shall enter into force ten calendar days after the date of its first official publication)); № 177-VII of 30.12.2022 (shall be put into force ten calendar days after the date of its first official publication).**

## **Chapter 3. STATE REGULATION IN THE FIELD OF PUBLIC-PRIVATE PARTNERSHIPS**

### **Article 19. Competence of the Government of the Republic of Kazakhstan in the field of public-private partnership**

The Government of the Republic of Kazakhstan shall:

1) develop the main directions of the state policy in the field of public-private partnership and organize their implementation;

2) approve the list of objects of public-private partnership in respect of which a closed tender is held to determine the private partner;

**3) excluded by the Law of the Republic of Kazakhstan dated 03.01.2022 № 101-VII (shall be enforced upon expiration of sixty calendar days after the day of its first official publication );**

4) approve the list of public-private partnership projects of special importance;

4-1) decide to implement a public-private partnership project designed to create and operate unique objects involving technology transfer, based on a private initiative, with direct negotiation to select a private partner;

4-2) approve a list of public-private partnership projects of special significance, the development of which is carried out jointly with international financial institutions;

5) perform other functions entrusted to it by the Constitution, laws of the Republic of Kazakhstan and Acts of the President of the Republic of Kazakhstan.

Footnote. Article 19 as amended by the Laws of the Republic of Kazakhstan dated 03.01.2022 № 101-VII (shall be enforced upon the expiration of sixty calendar days after the day of its first official publication); № 177-VII of 30.12.2022 (shall be enacted ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Article 20. Competence of the central authorized body for budget policy in the field of public-private partnership**

Footnote. The title of Article 20 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

The central authorized body for budget policy in the field of public-private partnership shall:

1) implement the state policy in the field of public-private partnership within its competence;

2) carry out inter-sectoral coordination and methodological guidance in the field of public-private partnership;

3) excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication);

4) approve the competitive (auction) documentation of the public-private partnership project for republican public-private partnership projects, as well as for republican and local public-private partnership projects of special significance, including when making appropriate changes and (or) additions to it;

5) develop and approve an approximate list of risks arising at various stages of public-private partnership;

6) develop and approve the rules for scheduling and implementing public-private partnership projects, including the planning of public-private partnership projects, conducting a tender (auction) and direct negotiations to identify a private partner, monitoring public-private partnership agreements, and monitoring and evaluating the implementation of public-private partnership projects;

7) excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall be enforced ten calendar days after the date of its first official publication);

7-1) coordinate the procedure for determining a private partner and concluding a public-private partnership agreement within the framework of the concepts for the development of industries (spheres), national projects, developed by the state body of the relevant industry;

8) develop and approve rules of acceptance of objects of public-private partnership in the state property;

9) involve the Center for the Development of Public-Private Partnerships to conduct an assessment of the implementation of public-private partnership projects, examinations of the business plan for a public-private partnership project during direct negotiations for the selection of a private partner, tender (auction) documentation for a public-private partnership project, with the exception of tender documentation approved on the basis of standard tender documentation within the framework of a program public-private partnership, including when making appropriate changes and (or) additions to them.

The evaluation results of the implementation of public-private partnership projects shall be published by the central authorised body for public planning on the public-private partnership web portal, with due regard to the restrictions imposed by the laws of the Republic of Kazakhstan on the protection of information;

10) maintain a list of potential unscrupulous private partners, formed on the basis of court decisions that have entered into legal force, and places this list on its Internet resource;

11) develop and approve criteria for classifying the public-private partnership project as a public-private partnership project of special importance;

11-1) draft and approve the methodology for evaluating the socio-economic efficiency of public-private partnership projects;

11-2) elaborate and adopt a methodology for allocating and assessing the risks of public-private partnership projects;

11-3) draft and adopt a methodology for accounting for contingent public liabilities in public-private partnership projects;

11-4) develop and approve the rules for using the public-private partnership web portal;

11-5) carry out accreditation and makes decisions on revoking the accreditation certificate of legal entities providing advisory support for public-private partnership projects, as well as expertise in accordance with subparagraph 8) of Article 25 of this Law;

11-6) develop and approve the rules for accreditation of persons providing advisory support for public-private partnership projects, as well as expertise in accordance with subparagraph 8) of Article 25 of this Law;

12) carry out 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 20 as amended by the Law of the Republic of Kazakhstan № 112-VI dated 30.11.2017 (shall be effective upon the expiry of ten calendar days after its first official publication); № 399-VI of 02.01.2021 (shall enter into force ten calendar days after the date of its first official publication); № 177-VII of 30.12.2022 (shall enter into force ten calendar days after the date of its first official publication); dated 15.03.2025 №172-VIII (for the procedure of enactment see Art. 2).**

## **Article 21. Competence of the budget execution central authorized body in the field of public-private partnership**

The budget execution central authorized body shall:

1) implement the state policy in the field of public-private partnership within its competence;

2) excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall apply ten calendar days after the date of its first official publication);

3) agree on the tender (auction) documentation of a public-private partnership project and the draft public-private partnership agreement, including when relevant amendments and/or additions are made thereto for republican public-private partnership projects;

4) enter into contracts of state guarantees and sureties of the state under contracts of public-private partnership;

5) keep a register of state guarantees and sureties provided by the state under public-private partnership agreements;

6) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025);

6-1) submit data on financial obligations of the state under public-private partnership agreements to the central authorised body for state planning in the field of public-private partnerships under the procedure laid down by the legislation of the Republic of Kazakhstan;

7) carry out other powers provided by the present 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 21 as amended by Law № 399-VI of the RK dated 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication); № 177-VII of 30.12.2022 (shall become effective ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Article 21-1. Competence of the State Treasury and state treasury bodies in the field of public-private partnerships**

The State Treasury and state treasury bodies shall:

1) carry out acceptance and accounting of the fulfillment of financial obligations of the state under public-private partnership agreements;

2) generate reports on accepted state obligations under public-private partnership projects and send them to the central authorized body for budget execution;

3) perform other functions stipulated by this Law and other legislation of the Republic of Kazakhstan.

Footnote. Chapter 3 is supplemented by Article 21-1 in accordance with the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Article 22. Competence of the state property management authorized body in the field of public-private partnership**

State property management authorized body shall:

- 1) keep a register of concluded agreements on the objects of public-private partnership related to the Republican property;
- 2) carry out monitoring of objects of public-private partnership related to the Republican property within its competence and send the results of monitoring to the central authorized state planning body;
- 3) accept objects created on the basis of public-private partnership agreements into the Republican ownership;
- 4) carry out 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.

### **Article 23. Competence of the authorized state body of the relevant industry in the field of public-private partnership**

Authorized state body of the relevant industry shall:

- 1) implement the state policy in the field of public-private partnership within its competence;
- 2) excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall be put into effect ten calendar days after the date of its first official publication);
- 2-1) elaborate and approve a procedure for selecting a private partner and concluding a public-private partnership agreement within the framework of sector (area) development concepts, national projects, including standard tender documents and standard public-private partnership agreements;
- 3) organize a tender (auction) and direct negotiations for the selection of a private partner in relation to republican public-private partnership projects, including attracting qualified legal entities to develop tender documentation if necessary;
- 3-1) draw up and adopt a list of socio-economic objectives for the formation of proposals for public-private partnership projects;
- 4) conclude a public-private partnership agreement on a republican public-private partnership project in the relevant industry;
- 5) monitor the implementation of national projects of public-private partnerships and forward the monitoring results to the central authorized state planning body;
- 6) provide information to the authorized state body on state property management under the concluded public-private partnership agreements within the framework of republican public-private partnership projects and place this information on its official Internet resource;
- 7) organize the transfer of public-private partnership objects, created on the basis of public-private partnership agreements, to republican ownership;
- 8) organize the attraction of new private partners in case of early termination of a previously concluded public-private partnership agreement on public-private partnership objects, relating to republican ownership;



9) coordinate with the authorized body in charge of natural monopolies, a business plan for the public-private partnership project, the feasibility study of the public-private partnership project, the tender documentation for the public-private partnership project, the draft public-private partnership agreements, including when making changes and (or) additions to them regarding the formation and approval of tariffs (prices, charge rates) for goods, works and services related to the field of natural monopolies;

9-1) under the procedure stipulated by the legislation of the Republic of Kazakhstan, coordinate with the anti-monopoly authority the business plan for the republican public-private partnership project, the tender (auction) documentation of the republican public-private partnership project, including when amending and (or) adding thereto in terms relating to the protection of tender and limiting monopolistic activities, on projects involving the provision by private partners of the implementation of public functions;

10) prepare a sectoral opinion on the tender (auction) documentation of the republican public-private partnership project, business plan for the public-private partnership project in direct negotiations to identify a private partner in accordance with the rules approved by the central authorized body on budget policy;

11) carry out other powers provided by the present 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 23 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.04.2019 № 243-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); № 399-VI of 02.01.2021 (shall come into force ten calendar days after the date of its first official publication); № 177-VII of 30.12.2022 (shall be brought into force ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Article 24. Competence of maslikhats of regions, cities of republican significance and the capital in the field of public-private partnership**

Maslikhats of regions, cities of republican significance and the capital shall:

1) excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication);

2) annually hear the report of local executive bodies on the progress of the implementation of local public-private partnership projects;

3) carry out other powers provided by the present Law, other Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Footnote. Article 24 as amended by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication).

## **Article 25. Competence of local executive bodies of regions, cities of republican significance and the capital in the field of public-private partnership**

Local executive bodies of regions, cities of republican significance and the capital shall:

1) implement the state policy in the field of public-private partnership within their competence;

2) submit proposals to the organiser of the tender (auction) or direct negotiations for public-private partnership projects to address issues related to the socio-economic and environmental concerns of the population of the respective region, when concluding public-private partnership agreements;

3) excluded by the law of the Republic of Kazakhstan № 112-VI dated 30.11.2017 (shall be enforced upon the expiry of ten calendar days after the date of its first official publication);

4) act as organizers of a tender (auction) or direct negotiations regarding local public-private partnership projects, including engaging accredited legal entities to develop tender documentation, if necessary;

4-1) draw up and approve a list of socio-economic objectives for the formation of proposals for public-private partnership projects;

5) conclude public-private partnership agreements on local public-private partnership projects;

6) monitor public-private partnership agreements and the implementation of local public-private partnership projects;

7) excluded by the Law of the Republic of Kazakhstan dated 03.01.2022 № 101-VII (shall be enforced upon expiration of sixty calendar days after the day of its first official publication );

8) determine from among the accredited persons a legal entity authorized to conduct an examination of business plans for local public-private partnership projects during direct negotiations for the selection of a private partner, tender (auction) documentation for local public-private partnership projects within the framework of local public-private partnership projects;

9) excluded by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon the expiry of ten calendar days after the date of its first official publication);

10) keep a register of concluded public-private partnership agreements on local public-private partnership projects;

11) accept the objects created on the basis of public-private partnership agreements into communal ownership;

12) excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication);

13) send a summary report on monitoring the implementation of local projects to the central authorized state planning authority;

14) carry out other powers provided by the present 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 25 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); № 399-VI of 02.01.2021 (shall enter into force ten calendar days after the date of its first official publication); dated 03.01.2022 № 101-VII (shall be enforced upon the expiration of sixty calendar days after the day of its first official publication); № 177-VII of 30.12.2022 (shall be promulgated ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2026).

#### **Article 26. Center for the development of public-private partnership**

1. The goals, objectives and activities of the Public-Private Partnership Development Center shall be established by the authorized state planning body.

2. Center for the development of public-private partnership performs the following functions:

1) conducting research and developing recommendations on issues of public-private partnership;

2) carrying out an examination of business plans for republican projects of public-private partnership in direct negotiations to determine a private partner, including when making the appropriate changes and (or) supplements;

3) conducting an examination of the competitive (auction) documentation of republican public-private partnership projects, including when making appropriate changes and (or) additions to them, with the exception of public-private partnership projects, the planning and implementation of which are carried out in accordance with cooperation agreements between the Government of the Republic of Kazakhstan and international financial institutions;

3-1) coordinating the development of public-private partnership projects of special significance with the participation of international financial institutions and issuing an opinion in accordance with the procedure determined by the central authorized body for budget policy ;

4) excluded by the law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon the expiry of ten calendar days after the date of its first official publication);

5) evaluation of the implementation of public-private partnership projects;

6) training specialists in the field of public-private partnerships;

7) maintaining a list of public-private partnership projects planned for implementation.

Footnote. Article 26 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); № 399-VI of 02.01.2021 (shall come into force ten calendar days after the date of its first official publication); dated 19.04.2023 № 223-VII (shall be enforced ten calendar

days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 26-1. Operator of the public-private partnership web portal**

Operator of the public-private partnership web portal shall:

- 1) develop, maintain and systematically support the public-private partnership web portal;
- 2) provide advisory assistance to interested parties on the operation of the public-private partnership web portal;
- 3) provide information security for the storage of electronic information resources hosted on the public-private partnership web portal;
- 4) interact with authorised actors on the integration of government information systems, government electronic information resources and information security;
- 5) maintain the process of deposit and return of the tender security following the procedure prescribed by law;
- 6) interact with public authorities and other organisations to provide information on envisaged and ongoing public-private partnership projects;
- 7) render e-services via a web-based public-private partnership portal.

**Footnote. Chapter 3 as supplemented by Article 26-1 under Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall become effective ten calendar days after the date of its first official publication).**

#### **Article 26-2. Accreditation of legal entities in the field of public-private partnership**

1. Accreditation shall be carried out in order to ensure the proper quality of services provided by legal entities for consulting support and (or) examination of tender documentation and business plans for public-private partnership projects.

2. Accreditation shall be carried out by the central authorized body for budget policy based on the decision of the accreditation commission created under it.

3. A legal entity that meets the following qualification requirements shall be subject to accreditation:

- 1) be solvent, not be subject to bankruptcy or liquidation procedures, its property must not be seized, its financial and economic activities must not be suspended in accordance with the legislation of the Republic of Kazakhstan;
- 2) not have overdue debt on taxes and other mandatory payments to the budget exceeding six times the monthly calculation indicator established for the relevant financial year by the law on the republican budget;
- 3) not be included in the register of unscrupulous participants in public procurement;
- 4) the presence on staff of at least two specialists who have a specialist certificate in the field of public-private partnership, according to the international certification program developed and (or) recognized by international financial organizations;

5) the presence on staff of at least three specialists who have experience in consulting or expert services in the field of public-private partnership in the Republic of Kazakhstan for at least five years.

A specialist of an accredited legal entity may simultaneously meet the requirements provided for in subparagraphs 4) and 5) of part one of this paragraph.

4. The central authorized body for budget policy shall refuse accreditation in the following cases:

- 1) submission of an application that does not meet the established requirements;
- 2) establishment of the unreliability of the documents submitted by a legal entity for accreditation, and (or) establishment of the unreliability or incompleteness of the data (information) contained in the submitted documents;
- 3) non-compliance of a legal entity with the established qualification requirements;
- 4) the presence of a court decision that has entered into legal force prohibiting the activity or certain types of activity related to obtaining accreditation;
- 5) if a legal entity or its founders (participants), or managers are included in the list of organizations and individuals related to the financing of terrorism and extremism, in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

5. The authorized body shall make a decision to revoke (withdraw) an accreditation certificate in the following cases:

- 1) establishing the unreliability of the documents submitted by a legal entity for accreditation or renewal of a suspended accreditation certificate, and (or) the data (information) contained in the submitted documents;
- 2) identifying the fact of the provision of consulting support and expert examination services by an accredited legal entity for the same project;
- 3) if the circumstances that led to the suspension of the accreditation certificate are not eliminated within the next six months;
- 4) if the accredited legal entity or its founders (participants), or managers are included in the list of organizations and persons associated with the financing of terrorism and extremism, in accordance with the procedure established by the legislation of the Republic of Kazakhstan ;
- 5) in case of failure to provide or untimely provision of information on the non-compliance of the accredited organization with the qualification requirements.

**Footnote. Chapter 3 is supplemented by Article 26-2 in accordance with the Law of the Republic of Kazakhstan dated 15.03.2025 №172-VIII (shall be enforced from 01.01.2026).**

#### **Chapter 4. FORMS OF PARTICIPATION IN THE PUBLIC-PRIVATE PARTNERSHIP OF THE STATE BODIES, BUSINESS ENTITIES AND SUBJECTS OF THE QUASI-STATE SECTOR**

##### **Article 27. Forms of participation of state bodies in public-private partnership**

1. Public authorities participate in public-private partnership in the following forms:

- 1) the provision of land in accordance with the land legislation of the Republic of Kazakhstan;
- 2) granting the right to use objects of state ownership;
- 3) participation in the creation and activities of a public-private partnership company;
- 4) provision of engineering and transport communications of a public-private partnership object;
- 5) other forms, that do not contradict the legislation of the Republic of Kazakhstan.

2. Participation of state bodies in the form of provision of state support measures in accordance with the legislation of the Republic of Kazakhstan is carried out including through :

- 1) state guarantees for infrastructure bonds;
- 2) state guarantees for loans, aimed at financing public-private partnership projects;
- 3) transfer of exclusive rights to intellectual property owned by the state exclusively for the purpose and duration of the public-private partnership project;
- 4) provision of the grants-in-kind in accordance with the legislation of the Republic of Kazakhstan;
- 5) co-financing projects of public-private partnerships;
- 6) guarantees for the consumption by the state of a certain volume of goods, works, service, produced during the implementation of the public-private partnership project.

Co-financing may be available for public-private partnership projects where the estimated amount of investment exceeds one and a half million times the monthly estimated amount set out in the national budget law, whereby the amount of co-financing may not exceed thirty per cent of the estimated amount of investment.

The aggregate amount of co-financing of public-private partnership projects and reimbursement of investment costs intended to cover the costs associated with the creation (reconstruction) of a public-private partnership facility may not exceed the cost of the creation and/or reconstruction of a public-private partnership facility, to be calculated pursuant to the methodology approved by the central authorised body for public planning.

The terms for guarantees of state consumption of a certain volume of goods, works and services produced during the implementation of a public-private partnership project shall be established for a period of at least five years with the right to extend within the framework of a public-private partnership agreement.

State support of public-private partnership is carried out in accordance with the requirements of the legislation of the Republic of Kazakhstan and the provisions of the public-private partnership agreement.

3. The state guarantee shall be provided in accordance with the budget legislation and this Law on the basis of decisions of the Government of the Republic of Kazakhstan.



The funds of the loan attracted under the state guarantee shall be used only for the creation of public-private partnership facilities.

The procedure for providing a state guarantee, as well as the form of the state guarantee agreement, shall be determined by the central authorized body for budget execution in agreement with the central authorized body for budget policy.

The selection of public-private partnership projects, including concession projects, for the provision or increase of state guarantees shall be carried out by the central authorized body for budget policy in accordance with the procedure determined by the central authorized body for budget policy in agreement with the central authorized body for budget execution.

The state guarantee must be executed after the customer has taken all reasonable measures to recover liability from the client and (or) in the event of the client being declared bankrupt or being liquidated in accordance with the requirements of the Republic of Kazakhstan.

The execution of state orders shall be carried out within eighteen months from the date of presentation of the requirements for the execution of state orders within the limits of the funds provided for by the law on the republican budget for the relevant financial year.

Footnote. Article 27 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); № 177-VII of 30.12.2022 (shall be enforced ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 28. Forms of participation of the National Chamber of Entrepreneurs in public-private partnership**

The National Chamber of Entrepreneurs performs the following functions:

1) is excluded by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication).

2) is excluded by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication).

3) participation in the inter-ministerial project team, discussions, tender (auction) commission, commission for direct negotiations to select the private partner;

4) participation in monitoring the implementation of public-private partnership projects.

Footnote. Article 28 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); № 399-VI of 02.01.2021 (shall go into effect ten calendar days after the date of its first official publication); № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication).

#### **Article 29. Forms of participation of business entities in public-private partnership**

Business entities participate in public-private partnerships in the following forms:

1) financing projects of public-private partnerships;

2) creation and (or) operation of public-private partnership objects;

- 3) project management of public-private partnerships;
- 4) transfer of property and property rights for the implementation of a public-private partnership project;
- 5) transfer of exclusive rights on intellectual property;
- 6) participation in the creation and activities of a public-private partnership company;
- 7) other forms, that do not contradict the legislation of the Republic of Kazakhstan.

**Footnote. Article 29 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

### **Article 30. Forms of participation of quasi-state sector subjects in public-private partnership**

Quasi-state sector entities participate in public-private partnership projects in the following forms:

- 1) participation in the creation and (or) activities of legal entities or the disposal (transfer) of shares (shares in the authorized capital) of legal entities, implementing public-private partnership projects;
- 2) participation in the creation and (or) activities of research and production areas, venture funds, research centers for the implementation of a public-private partnership project;
- 3) transfer of property and property rights for the implementation of a public-private partnership project;
- 4) transfer of exclusive rights on intellectual property;
- 5) attracting investments to the public private partnership projects;
- 5-1) financing of public-private partnership projects;
- 6) service support, including technology transfer services, innovation support, consulting, engineering, staff training and development;
- 7) provision of technology parks, business incubators, special economic and industrial zones services;
- 8) promotion of export of goods, works and services produced within the framework of the implementation of a public-private partnership project;
- 9) participation in the creation and (or) operation of public-private partnership objects;
- 10) other forms, that do not contradict the legislation of the Republic of Kazakhstan.

**Footnote. Article 29 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

## **Chapter 5. GENERAL PROVISIONS FOR DETERMINING A PRIVATE PARTNER**

### **Article 31. Selection of a private partner**

1. The selection of the private partner shall be carried out by the following methods:
  - 1) through a tender;
  - 2) through direct negotiations;
  - 3) through an auction.
2. The tender for the selection of a private partner may be open or closed.

An unlimited number of potential private partners shall be allowed to participate in an open tender.

A closed tender, in which a limited list of potential private partners is allowed to participate, may be held by decision of the Government of the Republic of Kazakhstan.

3. In the cases and in accordance with the procedure provided for by this Law, a tender for the selection of a private partner may be conducted using a one-stage or two-stage procedure.

4. The tender for the selection of a private partner may be conducted in the form of an auction. The provisions provided for by this Law in terms of regulating the tender are equally applicable to the auction, unless otherwise provided by this Law.

5. The provisions of this article shall not apply to public-private partnership projects planned within the framework of industry (sphere) development concepts, national projects, if they provide for:

1) basic parameters of public-private partnership projects, including goals and objectives, expected payments from budgetary funds, and government support measures;

2) indication of the application of a different procedure for determining a private partner and concluding a public-private partnership agreement for individual sectors (spheres) of the economy.

Selection of a private partner for public-private partnership projects planned in accordance with this paragraph shall be carried out in accordance with the rules approved by the central executive body of the relevant sector in agreement with the central authorized body for budget policy, using standard tender documentation.

**Footnote. Article 31 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

## **Article 32. Qualification requirements to a potential private partner**

1. In order to compete in a tender (auction) or direct negotiations to identify a private partner, a potential private partner must meet the following general qualification requirements :

- 1) have legal capacity (for legal persons) and civil capacity (for self-employed persons));
- 2) be solvent, with no tax arrears in excess of six times the monthly calculation index set for the financial year in question by the law on the national budget and in force as of 1 January of the financial year in question;
- 3) possess financial and/or material and/or human resources necessary to fulfil the obligations under the public-private partnership agreement;
- 4) not be subject to bankruptcy or liquidation proceedings, its assets, the balance-sheet value of which exceeds ten per cent of the relevant fixed assets, shall not be seized, its financial and economic activities shall not be suspended in obedience to the legislation of the Republic of Kazakhstan;
- 5) not to be prosecuted for non-performance and/or improper performance of its obligations under public-private partnership or concession agreements executed within the

last three years based on a legally enforceable court decision declaring the potential private partner or concessionaire to be in bad faith;

6) founders, managers of the potential private partner shall not be included in the list of organisations and individuals associated with the financing of terrorism and extremism as established by the legislation of the Republic of Kazakhstan;

7) shall not be included in the register of unfair participants in public procurement;

8) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

1-1. In the case where the potential private partner is a legal entity formed for the purpose of implementing a public-private partnership project:

1) a prospective private partner and its participants (shareholders) must meet the eligibility requirements set out in sub-paragraphs 1), 2), 4), 5), 6) and 7) hereof;

2) excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025);

3) a prospective private partner and/or its participants (shareholders) must meet the qualification requirement set out in sub-paragraph 3) of paragraph 1 hereof.

In cases provided for in part one of this paragraph, the information requirements of this Law as well as the responsibility for providing inaccurate information for eligibility shall also apply to the participants (shareholders) of a prospective private partner.

2. Additional (special) qualification requirements to potential private partners may be established in accordance with the laws of the Republic of Kazakhstan.

3. The organiser of tender (auction) or direct negotiations shall have no right to impose qualification requirements to the prospective private partner which are not stipulated by this Law or the laws of the Republic of Kazakhstan. A prospective private partner shall be entitled not to provide information not related to qualification requirements.

4. A prospective private partner, as proof of his/her/its eligibility, shall submit to the organiser of the tender (auction) or direct negotiations the supporting documents, a list of which shall be provided in the rules for planning and implementing public-private partnership projects approved by the central authorised body for public planning.

5. A potential private partner nonresident of the Republic of Kazakhstan, in confirmation of compliance with the qualification requirements established by this article, submits the same documents as residents of the Republic of Kazakhstan or documents, containing similar information about the qualifications of a potential private partner nonresident of the Republic of Kazakhstan.

6. A prospective private partner that submits inaccurate eligibility information shall be prohibited to participate in a tender (auction) or in direct negotiations to identify a private partner for the following three years from the date of being found by a court to be an unscrupulous prospective private partner.

The credibility of the qualification information submitted by a prospective private partner may be established by the tender (auction) committee, the organiser of the tender (auction) or direct negotiations, the authorised public authorities at any stage of the tender (auction) or direct negotiations to identify the private partner.

7. Persons who have established that a prospective private partner has provided inaccurate information on eligibility requirements shall notify the organiser of the competition (auction) or direct negotiations and the central authorised body for public planning in writing, attaching to the notification a copy of documents confirming the fact of providing inaccurate information within three working days of the establishment of such a fact.

No later than thirty calendar days from the date of revealing such fact, the organiser of the tender (auction) or direct negotiations shall file a claim in court to declare the prospective private partner who has provided inaccurate information on qualification requirements as an unfair prospective private partner.

8. The organiser of the tender (auction) or direct negotiations shall forward to the central authority responsible for public planning the enforceable court decisions declaring a prospective private partner to be an unfair private partner within five working days of receiving such decisions.

**Footnote.** Article 32 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); № 399-VI of 02.01.2021 (shall come into force ten calendar days after the date of its first official publication); № 72-VII of 15.11.2021 (shall go into effect on 01.01.2022); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

### **Article 33. Restrictions associated with participation in a tender (auction) or in direct negotiations to identify a private partner**

1. A prospective private partner may not participate in a tender (auction) or in direct negotiations to identify a private partner if:

1) close relatives, spouse or in-laws of the management of the prospective private partner and/or the authorised representative of the prospective private partner are entitled to make decision on identifying the private partner, or are the representatives of the organiser of the tender (auction) or direct negotiations;

2) the assets of the prospective private partner, the balance sheet value of which exceeds ten per cent of the value of the underlying assets, are seized;

3) the prospective private partner has outstanding obligations under enforcement documents and is included by the competent authority for enforcement of administrative cases in the unified register of debtors;

4) the prospective private partner's financial and economic activities are suspended in compliance with the laws of the Republic of Kazakhstan or the legislation of the state of the prospective private partner-non-resident of the Republic of Kazakhstan.

2. A prospective private partner and an affiliate of a prospective private partner may not participate in the same tender (auction) to identify a private partner.

3. Infringements of the requirements hereunder may be established by the tender (auction) commission, the organiser of the tender or direct negotiations, the authorised public authorities at any stage of the planning and implementation of a public-private partnership.

**Footnote. Article 33 - as reworded by Law of the RK № 399-VI of 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication).**

#### **Article 34. Qualifications-based selection**

1. Qualifications-based selection is carried out to determine the compliance of a potential private partner with the established qualification requirements.

2. The qualifications-based selection shall be conducted by the organiser of the tender (auction) or direct negotiations pursuant to the rules for the planning and implementation of public-private partnership projects approved by the central authority responsible for public planning.

3. A prospective private partner that has been selected shall be considered as a bidder in a competition (auction) or in direct negotiations to identify a private partner.

**Footnote. Article 34 as amended by Law of the RK № 399-VI dated 02.01.2021 (shall come into force ten calendar days after its first official publication).**

#### **Article 35. Determination of the private partner by tender (auction)**

1. The tender (auction) for the selection of a private partner shall be carried out in accordance with the procedure determined by the central authorized body for budget policy, with the exception of cases provided for in paragraph 5 Article 31 of this Law.

2. The organiser of the tender (auction) shall set up a tender (auction) committee to determine the private partner.

3. Data on the tender (auction) results to select a private partner, except for information constituting state secrets or other secrets protected by law, as well as the results of a closed tender to select a private partner shall be posted by the organiser of the tender (auction) on its website in Kazakh and Russian and shall be sent to the Public Private Partnership Development Centre for publication in the way provided by the legislation of the Republic of Kazakhstan.

4. A tender for the selection of a private partner using two-stage procedures shall be held in cases where the project provides for the creation of a new public-private partnership object through the design, construction of new real estate facilities or the creation of a new intangible asset, and can also be held in projects that provide for the modernization or reconstruction of a technically complex public-private partnership object. The tender organizer shall form the technical, economic and operational characteristics of the public-private partnership object based on technical proposals from potential private partners who have passed the qualifying selection.



5. At the first stage of the tender for the selection of a private partner using two-stage procedures, the following activities shall be carried out:

- 1) formation of the technical specifications;
- 2) publication of a notice of the tender for the selection of a private partner using two-stage procedures;
- 3) presentation of the technical specifications to potential private partners by the tender organizer;
- 4) submission by potential private partners of technical proposals developed in accordance with the technical specifications;
- 5) consideration by the tender organizer of technical proposals and discussion with potential private partners of issues related to the technical, economic and operational characteristics of the public-private partnership object and the terms of the draft public-private partnership agreement;
- 6) development and approval by the tender organizer of the tender documentation for the public-private partnership project;
- 7) sending by the tender organizer of an invitation to potential private partners, who submitted technical proposals, at the first stage to take part in the second stage of the tender to determine the private partner.

6. At the second stage of the tender for the selection of a private partner using two-stage procedures, the following shall be carried out:

- 1) consideration of tender bids;
- 2) selection of the winner of the tender;
- 3) conclusion of a public-private partnership agreement.

7. A tender for the selection of a private partner using one-stage procedures shall be held in cases not provided for in paragraph 4 of this article of the Law, and shall include the following activities:

- 1) development and approval by the organizer of the tender (auction) of tender documentation for a public-private partnership project;
- 2) notification of the tender (auction);
- 3) consideration of tender bids and selection of the best tender bid;
- 4) selection of the winner of the tender (auction);
- 5) conclusion of a public-private partnership agreement.

**Footnote. Article 35 - as reworded by Law № 399-VI of the RK of 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication); as amended by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall be effective ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

**Article 36. Announcement of a tender (auction)**

Details on the tender (auction) to select a private partner shall be posted in the Kazakh and Russian languages on the public-private partnership web portal under the procedures stipulated by the legislation of the Republic of Kazakhstan.

**Footnote. Article 36 as reworded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall enter into force ten calendar days after the date of its first official publication).**

### **Article 37. Tender (auction) documentation of a public-private partnership project**

**Footnote. Title of Article 37 as amended by Law of the Republic of Kazakhstan № 399-VI of 02.01.2021 (shall go into effect ten calendar days after the date of its first official publication).**

1. The organiser of the tender (auction) shall approve the tender (auction) documentation of a public-private partnership project.

2. The organiser of the tender (auction) shall submit to all prospective private partners the tender (auction) documentation of the public-private partnership project, coordinated with the central authorised body for state planning in the cases provided for in Article 20 sub-paragraph 4) of this Law and the central authorised body for budget execution in the cases provided for in sub-paragraph 3) of Article 21 of this Law, containing the following information:

- 1) requirements for documents confirming the eligibility of potential private partners;
- 2) a feasibility study or an information sheet containing a description of the public-private partnership project, for projects that have developed design and estimate documentation, as well as those implemented on the basis of standard projects, standard design solutions and re-use projects;
- 3) the location of the public-private partnership facility;
- 4) anticipated types and volumes of state support, as well as sources of cost recovery and revenue generation for the public-private partnership project;
- 5) draft public-private partnership agreement;
- 6) description of the criteria for determining the best tender (auction) bid;
- 7) indication of the currency(ies) in which the parameters of the public-private partnership project shall be expressed and the exchange rate(s) to be applied to convert them to a single currency for the purpose of their comparison and evaluation;
- 8) requirements for the language of the tender (auction) bid;
- 9) indication of the potential private partner's right to modify or withdraw its tender (auction) bid prior to the deadline for submission of tenders (auctions);
- 10) content of the tender (auction) bid, method, venue, deadline for submission and validity of the tender (auction) bids, as well as terms for payment of the tender (auction) bid security;
- 11) ways of obtaining explanations on the content of tender (auction) documentation of public-private partnership project;

12) procedures, place, date and time of opening of envelopes with competitive (auction) bids;

13) terms of the tender (auction) that may not be amended in the course of negotiations.

2-1. The tender (auction) documentation shall specify the terms and conditions of the tender (auction) which may not be amended in the course of the negotiations pursuant to Article 40 of this Law, which are the essential terms and conditions of the tender (auction).

3. If the tender (auction) documentation is submitted to the prospective private partner on paper, the organiser of the tender (auction) shall be entitled to charge a fee for the submitted tender (auction) documentation of the public-private partnership project, not exceeding the fee for copying the tender (auction) documentation of the public-private partnership project.

4. A prospective private partner shall be entitled to apply to the organiser of a tender (auction) for clarification of tender (auction) documentation of a public-private partnership project within thirty calendar days prior to the deadline for submission of tender (auction) bids, and in case of a repeat tender (auction) to identify a private partner - within fifteen calendar days prior to the deadline for submission of tender (auction) bids.

Within three calendar days of the recording of such a request, the organiser of the tender (auction) shall provide clarification to potential private partners.

5. Within twenty calendar days prior to the deadline for submission of tenders (auctions), upon its own initiative or in response to a request from a prospective private partner, the organiser of the tender (auction) may amend and/or make additions to the tender (auction) documentation of a public-private partnership project.

No later than one working day after the decision to amend and/or supplement the tender (auction) documentation of a public-private partnership project, the organiser of the tender (auction) shall submit the text of the amendments and/or supplements to the tender (auction) documentation of the public-private partnership project to all prospective private partners. In this case, the deadline for submission of tender (auction) bids shall be prolonged by the organiser of the tender (auction) for a period of not less than thirty calendar days to allow prospective private partners to take these amendments and/or additions into account in the tender (auction) bids, and in case of a repeated tender (auction) for a period of not less than fifteen calendar days.

6. The organiser of the tender (auction) shall be entitled to convene a meeting with prospective private partners to clarify the tender (auction) documentation of the public-private partnership project.

**Footnote. Article 37 as amended by the Law of the Republic of Kazakhstan №112-VI dated 30.11.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); № 352-VI of 29.06.2020 (shall come into force ten calendar days after its first official publication); № 399-VI of 02.01.2021 (shall come into force ten calendar days after its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

### **Article 38. Competitive (auction) bid**

1. A tender (auction) bid shall be a form of expression of the consent of the prospective private partner to the requirements, and terms and conditions set forth in the tender (auction) documentation of a public-private partnership project.

2. The tender (auction) bid shall be presented by the prospective private partner to the organiser of the tender (auction) prior to the deadline indicated in the tender (auction) documentation of the public-private partnership project.

3. A potential private partner's tender (auction) bid shall be rejected in the following cases :

1) a prospective private partner and/or consortium member has previously provided a tender (auction) bid to participate in a given tender (auction) to identify a private partner and/or for the same lot;

2) the tender (auction) bid is received after the deadline for the receipt of bids for this private partner tender (auction).

4. No later than the deadline for the submission of tenders (auctions), the prospective private partner shall be entitled to:

1) amend and/or supplement the tender (auction) bid submitted;

2) withdraw its tender (auction) bid without forfeiting the right to return the tender (auction) bid security paid by it.

5. The period of validity of the tender (auction) bid shall comply with the required period of time set out in the tender (auction) documentation of the public-private partnership project.

**Footnote. Article 38 as reworded by Law of the RK № 399-VI of 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication).**

### **Article 39. Securing a tender (auction) bid**

1. The tender (auction) bid security shall be paid by the prospective private partner as a guarantee that he/she/it:

1) does not withdraw or modify and/or amend its tender (auction) bid after the deadline for submission of tenders (auctions);

2) enter into a public-private partnership agreement if it is determined to be the winner of the tender (auction) to determine the private partner.

2. The security for a tender (auction) bid for participation in a tender(auction) for the selection of a private partner shall be paid in the amount of one tenth of one percent of the amount of the expected investment under the public-private partnership agreement.

The amount of the expected investment under the public-private partnership agreement shall be determined in the tender (auction) documentation.

3. A prospective private partner shall not pay a tender (auction) bid security if he/she/it participates in the first stage of a tender (auction) to identify a private partner using two-stage procedures.

4. The prospective private partner may choose one of the following types of tender (auction) bid security:

1) a guarantee cash deposit, which shall be paid to the account stipulated by the legislation of the Republic of Kazakhstan for the organiser of the tender (auction);

2) bank guarantee.

A prospective private partner shall be prohibited to act in such a way as to give rise to a third-party claim, in whole or in part, for the cash security deposit paid before the expiry of his/her/its tender (auction) bid.

The guarantee fee paid by a prospective private partner may not be used by the organiser of a tender (auction), except for the actions referred to in paragraph 5 hereof.

5. The tender (auction) bid security shall not be returned by the tender (auction) organizer if one of the following cases occurs:

1) a potential private partner withdrew a tender (auction) bid after the deadline for submitting tender (auction) bids;

2) a potential private partner selected as the winner of the tender (auction) has avoided concluding a public-private partnership agreement, including by refusing to discuss and clarify the tender (auction) bid and the terms of the public-private partnership agreement in accordance with the comments and proposals of the tender (auction) committee, or its proposals are unacceptable from the point of view of the terms of the tender for determining the private partner.

6. If one of the cases provided for in paragraph 5 hereof occurs, the amount of the tender (auction) bid security shall be credited to the budget concerned.

7. The organiser of the tender (auction) shall return to the prospective private partner the tender (auction) bid security paid by it within three working days from the date of one of the following occurrences:

1) withdrawal by the prospective private partner of its tender (auction) bid by the deadline for submission of tenders (auctions);

2) signing a protocol on admission to the private partner selection tender (auction). This case shall not apply to potential private partners recognised as participants in the private partner selection tender (auction);

3) signing a protocol on the results of the tender (auction) to identify a private partner. The above case shall not apply to the participant of the tender (auction) to identify a private partner determined as the winner of the tender (auction) to identify a private partner;

4) beginning of the public-private partnership agreement;

5) the expiry of the potential private partner's tender (auction) bid.

**Footnote. Article 39 - as amended by Law of the RK № 399-VI of RK of 02.01.2021 ( shall be enacted ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 40. Examination of tender bids**

1. The tender (auction) commission shall examine and select tender (auction) bids.

The tender (auction) commission's working body shall be the organizer of the tender (auction).

2. The tender (auction) commission shall open envelopes with tender (auction) bids by the deadline stipulated in the tender documentation of the public-private partnership project.

3. The organiser of the tender (auction) shall ensure that the necessary examinations of tender (auction) bids are carried out.

4. The tender (auction) committee shall examine all tenders (auctions).

In the event that only one bid is submitted, that bid shall be examined by the tender commission pursuant to part one of this paragraph.

If less than three bids are submitted, the auction shall be deemed not to have taken place.

5. The competition (auction) commission shall negotiate with the prospective private partner, whose tender (auction) bid is recognised as the best, or the only prospective private partner (in case of a tender) to clarify the public-private partnership project and the terms of the public-private partnership agreement.

6. While negotiations are being prepared, comments and proposals on the public-private partnership project and the public-private partnership agreement shall be forwarded in writing by the tender (auction) commission to the potential private partner.

A decision shall be taken by the tender (auction) commission based on the results of the negotiations.

In the course of negotiations, no changes in the terms and conditions of the tender (auction) to determine a private partner shall be allowed.

7. In the event that a potential private partner, whose tender (auction) bid is declared the best, refuses to discuss and clarify the tender (auction) bid, and the terms and conditions of the public-private partnership agreement in conformity with the comments and suggestions of the tender (auction) commission, or its proposals are unacceptable from the point of view of the terms and conditions of the tender (auction) to identify a private partner, the tender (auction) commission shall not consider this tender (auction) bid and the best tender (auction) bid shall be selected anew.

8. Following a tender (auction) to select a private partner, the tender (auction) commission shall determine the best tender (auction) and the applicant shall be declared as the winner of the tender (auction) to select the private partner.

9. Other than the cases stipulated by Article 40-1 hereof, based on the decision of the tender (auction) commission, the organiser of the tender (auction) shall conclude a public-private partnership agreement with the winner of the tender (auction) to determine the private partner.

To implement public-private partnership projects of special importance, based on the decision of the tender (auction) commission, the organiser of the tender shall conclude a



public-private partnership agreement with the legal entity the establishment whereof is declared by the tender winner in the tender application set by the tender winner, to implement the public-private partnership project (subject to the provision to the public partner of bank guarantees for the performance of the obligations of such a legal entity to the extent and under the conditions specified in the public-private partnership agreement).

10. The deadline for concluding a public-private partnership agreement may not exceed ninety calendar days from the day on which the results of the tender (auction) to determine the private partner are summarised.

**Footnote. Article 40 – as reworded by Law of the RK № 399-VI of 02.01.2021 (shall be enforced ten calendar days after the date of its first official publication); as amended by Law № 177-VII of 30.12.2022 (shall take effect ten calendar days after the date of its first official publication).**

#### **Article 40-1. Specifics of the selection of a private partner under a private initiative**

1. A private initiative shall be understood to be the initiation by a potential private partner of a public-private partnership project to address one or more tasks from the list of socio-economic objectives to form proposals for implementing public-private partnership projects by preparing a draft information sheet for tender (auction) documentation.

2. Tender (auction) documentation under the private initiative shall be endorsed by the central authorised state bodies of the respective sector, local executive bodies after consultation and expertise following the procedure laid down by the central authorised state planning authority.

2-1. A potential private partner who has initiated a project shall be obliged to participate in a tender for selection of a private partner in the project initiated by him.

If less than two potential private partners are admitted to the tender based on the results of the qualification selection, the tender shall be considered to have failed. In this case, a repeated tender may be held.

3. The tender (auction) winner entering into a public-private partnership agreement shall reimburse to the potential private partner initiating the project its costs for the drafting of the information sheet of the tender (auction) documentation and the draft public-private partnership agreement.

**Footnote. Chapter 5 as supplemented by Article 40-1 under Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall become effective ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 41. Features of the closed tender to determine the private partner**

A closed tender to determine a private partner is held in the manner determined by the central authorized state planning body, subject to the provisions of this Law.

Information about the conditions, date, place and time of the closed tender for determining a private partner, as well as information about its results, is sent by the organizer of the tender to potential private partners in writing.

**Article 42. Special characteristics of a tender process for determining a private partner using two-stage procedures**

Footnote. Article 42 is excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

**Article 43. Special characteristics of a tender process for determining a private partner using simplified tendering procedures**

Footnote. Article 43 is excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall be enacted ten calendar days after the date of its first official publication).

**Article 44: Selection of a private partner by direct negotiation**

A private partner may only be selected by direct negotiations by decision of the Government of the Republic of Kazakhstan for the implementation of public-private partnership projects designed to create and operate unique facilities involving technology transfer.

Footnote. Article 44 as reworded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall become effective ten calendar days after the date of its first official publication).

**Article 44-1. Specifics of public-private partnership for the development of production (industrial) infrastructure**

1. Public-private partnership for the development of production (industrial) infrastructure shall be implemented in line with the provisions of this Law and shall be aimed at providing engineering and communication infrastructure for projects of business entities aimed at the creation of new production facilities, modernisation and expansion of existing production facilities, both for separate projects individually (including for providing several projects) and as part of the creation of industrial zones.

2. The creation and (or) operation of engineering and communications infrastructure within the framework of the development of production (industrial) infrastructure shall be carried out by a private partner in accordance with a public-private partnership agreement.

3. Engineering and communication infrastructure resulting from the launch of a public-private partnership project shall be transferred to public ownership, except as otherwise provided by the public-private partnership agreement.

4. Compensation of investment costs of a private partner aimed at the creation of engineering and communications infrastructure shall be carried out in accordance with the budget legislation of the Republic of Kazakhstan.

5. The specifics of scheduling and implementing public-private partnership projects for the development of production (industrial) infrastructure, including the procedure for

identifying a private partner and concluding a public-private partnership agreement, shall be established by the central authorised body for public planning.

**Footnote.** The Law as supplemented by Article 44-1 in compliance with Law of the RK № 399-VI of 02.01.2021 (shall come into force upon expiry of ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 45. Public-Private Partnership Agreement**

1. A public-private partnership agreement shall be executed based on the results of a tender (auction) to identify a private partner or following direct negotiations in the cases set out in this Law.

2. Excluded by Law of the Republic of Kazakhstan № 177-VII of 30.12.2022 (shall come into force ten calendar days after the date of its first official publication).

3. A public-private partnership agreement is concluded in writing. Failure to comply with the written form of a public-private partnership agreement entails the invalidity of the public-private partnership agreement.

3-1. Public-private partnership agreements, as well as state obligations under a public-private partnership project, if any, shall be subject to registration by the State Treasury or state treasury bodies in accordance with the procedure determined by the central authorized body for budget execution.

4. A public-private partnership agreement is an agreement containing elements of various agreements not prohibited by the laws of the Republic of Kazakhstan. The legislation of the Republic of Kazakhstan on agreements, the elements of which are contained in this public-private partnership agreement, shall apply to the relations of the parties to the public-private partnership agreement in the relevant parts, unless otherwise follows from this Law, the agreement of the parties or the essence of the public-private partnership agreement.

**Footnote.** Article 45 as amended by Law № 399-VI of the RK dated 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication); № 177-VII of 30.12.2022 (shall be promulgated ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 46. The content of the public-private partnership agreement**

1. The essential terms of a public-private partnership agreement shall be:

1) the objectives, tasks, direct and final results of the project;

2) the object of the public-private partnership and property rights to the object of the public-private partnership during the period of implementation of the public-private partnership project;

3) the content and terms of the investment and operational periods of the public-private partnership project;

4) the size, terms and conditions of financing the public-private partnership project, as well as the size, terms and conditions of investments;

5) sources of reimbursement of expenses and receipt of income, types, volumes, terms and conditions of provision of state support measures if they are provided;

6) the period of implementation of the public-private partnership project;

7) distribution of risks between the parties to the public-private partnership agreement;

8) socio-economic and financial-economic models of the project, calculated in accordance with the methodological recommendations approved by the central authorized body for budget policy.

If the parties fail to reach an agreement on all essential terms, the public-private partnership agreement shall be deemed not concluded.

2. The public-private partnership agreement shall include the following mandatory terms:

1) the full name of the parties to the public-private partnership agreement, authorized representatives of the parties;

2) the location (legal address) and bank details of the parties to the public-private partnership agreement;

3) rights and obligations of the parties ensuring the achievement of the goal of the public-private partnership project, including within the investment and operational periods, as well as in terms of risk management;

4) requirements for the types, volume, quality of goods, works and services provided within the project, including the calculation of defect points for violations of quality indicators and criteria for full operational readiness;

5) the procedure for the formation and approval of tariffs (prices, fee rates) for goods, works and services produced within the framework of the public-private partnership project;

6) ensuring the obligations of the private partner to contribute its own funds and attract borrowed funds for the implementation of the public-private partnership project in the amount of one tenth of one percent of the cost of the proposed investments of the public-private partnership project, which is contributed in accordance with the procedure determined by the central authorized body for budget policy;

7) pre-trial, judicial and (or) extra-judicial procedure for resolving disputes under the public-private partnership agreement in accordance with the legislation of the Republic of Kazakhstan;

8) criteria for assessing the fulfillment of obligations by the parties to the public-private partnership agreement, payment of a penalty (with mandatory indication in monetary terms) in cases of non-fulfillment or improper fulfillment;

9) the procedure for determining the operator if it is not a party to the public-private partnership agreement, the conditions under which the operator must be engaged, the party responsible for its engagement;

10) requirements for environmental protection and safety of work;

11) the procedure for distributing currency risks, including the mechanism for refinancing the currency component;

12) liability of the parties to the public-private partnership agreement;

13) conditions for changing and terminating the public-private partnership agreement, including measures to prevent or minimize negative consequences for beneficiaries and stakeholders, as well as the procedure for reimbursing expenses and losses of the parties in the event of early termination of the public-private partnership agreement;

14) exceptional cases of unilateral refusal to perform the public-private partnership agreement;

15) the terms and conditions for the transfer of the burden of maintaining the property transferred under the public-private partnership agreement, as well as the risks of accidental loss or accidental damage to the said property;

16) the procedure for monitoring the implementation of the public-private partnership agreement, including the procedure for the private partner to provide information for monitoring.

The public-private partnership agreement may include other terms for the implementation of the public-private partnership project.

3. The institutional public-private partnership agreement, in addition to the terms and conditions provided for in paragraphs 1 and 2 of this article, must contain:

1) the procedure and terms for creating a public-private partnership company;

2) the procedure for forming the bodies of the public-private partnership company;

3) the procedure for forming and replenishing the authorized capital of a public-private partnership company;

4) relations between shareholders (participants) of a public-private partnership company;

5) the procedure for resolving corporate disputes.

The founding agreement of a public-private partnership company must be concluded by the parties under the terms of the institutional public-private partnership agreement.

4. The applicable law under a public-private partnership agreement, if the private partner is a non-resident of the Republic of Kazakhstan, shall be determined by the parties to the public-private partnership agreement.

5. The public-private partnership agreement must be drawn up in Kazakh and Russian. Additionally, the public-private partnership agreement may be drawn up in other languages determined by agreement of the parties to the public-private partnership agreement.

**Footnote. Article 46 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 47. Direct agreement with the lender of the private partner**

The direct agreement with the private partner's lender provides the following conditions:

1) the duty of the public partner to inform the creditors of the private partner about the cases of significant violations of obligations under the public-private partnership agreement, which may lead to non-fulfillment of the terms of the public-private partnership agreement;

2) transfer of pledged rights under a public-private partnership agreement and (or) assignment of a claim or transfer of a private partner's debt with the consent of a public partner;

3) the right of creditors of the private partner to demand replacement of the private partner in case of essential violation of the obligations by it under the agreement of the public-private partnership capable under the terms of the agreement of the public-private partnership to entail its non-performance, and also to offer the candidate of the new private partner;

4) the procedure for replacing a private partner in the cases provided for in subparagraph 3) of this Article;

5) other terms, that do not contradict the legislation of the Republic of Kazakhstan.

#### **Article 48. Term of public-private partnership agreement**

1. The term of the public-private partnership agreement shall not exceed the term of implementation of the public-private partnership project established by subparagraph 2) of Article 4 of this Law.

2. Excluded by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

3. The term of a public-private partnership agreement may be extended at the request of one of the parties to the public-private partnership agreement based on a decision of the body determined in accordance with paragraph 3 of Article 57 of this Law, in the following cases:

1) delay or suspension of the public-private partnership project as a result of circumstances beyond the control of the parties to the public-private partnership agreement;

2) suspension of the public-private partnership project as a result of actions or inaction of the public partner and (or) state bodies;

3) increase in costs associated with the implementation of the public-private partnership project as a result of the presentation by the public partner of the requirements not provided for by the public-private partnership agreement.

Footnote. Article 48 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

#### **Article 49. Amendment, termination, and expiration of a public-private partnership agreement**

1. A public-private partnership agreement may be amended and (or) terminated by agreement of the parties to the public-private partnership agreement.

2. The terms and conditions of a public-private partnership agreement may be changed by agreement of the parties provided that the indicators of social and economic efficiency of a public-private partnership project are improved as a result of such changes, as well as if such changes do not reduce the requirements for quality characteristics and (or) volume and (or) availability of goods, works and services stipulated by a public-private partnership agreement.

3. The extension of the operational period with the extension of the term of the public-private partnership agreement shall be allowed provided that the requirements of



paragraph 2 of this Article are met, and provided that the private partner makes investments during the period for which the term of the public-private partnership agreement is extended.

4. It shall not be allowed to change a public-private partnership agreement, which entails a change in state obligations in terms of the use of budgetary funds without consideration of the relevant budgetary commission.

5. Essential conditions of the contract of public-private partnership, except for the conditions provided by subparagraphs 1) and 7) of the part one of paragraph 1 of Article 46 of this Law, may be changed only on condition of positive conclusions of expert examinations and agreement of such changes by all the bodies that carried out, respectively, examination and approval of the tender documentation and draft contract of public-private partnership, other interested bodies on issues of their competence, as well as on condition of approval by the antimonopoly authority.

Essential terms of the public-private partnership agreement provided for by subparagraphs 1) and 7) of part one of paragraph 1 of Article 46 of this Law may not be amended.

6. A public-private partnership agreement shall be terminated:

1) upon termination or expiration of the term of the public-private partnership agreement;

2) in case of liquidation (death, loss of legal capacity) of a private partner;

3) in other cases, provided for by the legislation of the Republic of Kazakhstan or the public-private partnership agreement.

7. At the request of the public partner, the public-private partnership agreement may be terminated by a court decision only:

1) in the event of a material breach of the public-private partnership agreement by the private partner;

2) if the private partner is unable to implement the public-private partnership project due to its insolvency (bankruptcy);

3) in the interests of society and the state, including when such actions are taken for the purpose of ensuring national security, health and morality of the population.

8. At the request of a private partner, a public-private partnership agreement may be terminated by a court decision only in the event of a material breach of the public-private partnership agreement by the public partner and (or) state body.

**Footnote. Article 49 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

## **Article 50. Assignment of claim and transfer of debt of a private partner under a public-private partnership agreement**

Assignment of claim and transfer of debt of a private partner under a public-private partnership agreement shall be allowed only with the written consent of the public partner, operator and compliance of the person to whom the rights and obligations of the private partner are transferred with general and additional (special) qualification requirements, unless otherwise established by the laws of the Republic of Kazakhstan.

Footnote. Article 50 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

### **Article 51. Subject of pledge under the contract of public-private partnership**

1. A private partner shall pledge its rights under a public-private partnership agreement only with the written consent of the public partner, unless otherwise provided by the laws of the Republic of Kazakhstan.

2. The pledge of their rights to claim for cash proceeds in the form of compensation for investment costs of the public-private partnership project to the creditor is carried out only in order to attract debt financing for the implementation of the public-private partnership project under the terms of the public-private partnership agreement.

3. The transfer of the rights by the private partner as a pledge under the public-private partnership agreement to the creditor and accounting of the cost of these rights are carried out in accordance with the legislation of the Republic of Kazakhstan in the field of public-private partnership.

For commissioned objects of public-private partnership, the compensation of investment costs is carried out in full within the limits of the amounts and terms stipulated by the terms of the public-private partnership agreement.

Footnote. Article 51 as amended by the Law of the Republic of Kazakhstan dated №171-VI 04.07.2018 (shall be effected upon the expiry of ten calendar days after the date of its first official publication).

### **Article 51-1. Private partner replacement**

1. A private partner shall have the right to pledge its rights under a public-private partnership agreement only with the written consent of the public partner, unless otherwise provided by the laws of the Republic of Kazakhstan.

2. In case of replacement of the private partner, the rights and obligations under the public-private partnership agreement shall be transferred to the new private partner from the moment of conclusion of the agreement on replacement of the private partner under the public-private partnership agreement.

3. Replacement of the private partner under the contract of public-private partnership is carried out in accordance with the legislation of the Republic of Kazakhstan in the field of public-private partnership.

Footnote. The law is supplemented by article 51-1 in accordance with the law of the Republic of Kazakhstan dated 04.07.2018 № 171-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); as amended by Law № 399-VI of the RK of 02.01.2021 (shall be enacted ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).

## **Chapter 6. FEATURES OF LEGAL REGULATION OF THE INSTITUTIONAL PUBLIC-PRIVATE PARTNERSHIP**

## **Article 52. General provisions on institutional public-private partnership**

1. To implement an institutional public-private partnership, the public partner and the private partner shall establish a public-private partnership company.

2. A public-private partnership company shall carry out its activities in the organizational and legal form of a joint-stock company or a limited liability partnership, in which the public partner and the private partner together own one hundred percent of the voting shares (interests in the authorized capital).

The public and private partners shall have the right to conclude a public-private partnership agreement within the framework of the founding agreement.

In the part not regulated by this Law, the activities of a public-private partnership company shall be regulated by the legislation of the Republic of Kazakhstan on joint-stock companies and limited and additional liability partnerships.

3. Allocation of money from the state budget for participation in the authorized capital of the public-private partnership is carried out in accordance with the budget legislation of the Republic of Kazakhstan.

4. The public-private partnership agreement shall provide the transfer (paid or gratuitous) by a private partner to a public partner or a public partner to a private partner of ownership of the voting shares (participation shares) of a public-private partnership company belonging to it.

**Footnote. Article 52 as amended by Law of the RK № 399-VI of 02.01.2021 (shall come into force ten calendar days after its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

## **Article 53. Charter of a public-private partnership company**

1. The charter of a public-private partnership company must contain information, that a legal entity acts in order to implement a public-private partnership project, indicating the name of a public-private partnership project.

The provisions of the charter of a public-private partnership company must not contradict the public-private partnership agreement.

2. In the event of a contradictions between a public-private partnership agreement and the charter of a public-private partnership company, the conditions of the following documents shall apply:

1) public-private partnership agreements, if they relate to the internal relations between a public partner and a private partner;

2) charter, if their application may be relevant for relations of a public-private partnership company with third parties.

## **Article 54. Legal regulation of a public-private partnership company**

1. The conditions and procedure for termination of the participation of a public partner or a private partner in a public-private partnership company are determined by a public-private partnership agreement.

2. Disposal, pledge or other encumbrance by a state partner of its voting shares ( participation shares) of a public-private partnership company in favor of third parties shall be allowed only with the consent of the private partner.

Disposal, pledge or other encumbrance by a private partner of its voting shares ( participation shares) of a public-private partnership company in favor of third parties is allowed only with the consent of the public partner.

3. The following operations are not permitted without the consent of the public partner and the private partner:

1) the increase in the authorized capital of a public-private partnership company, or any changes and (or) supplements in its charter, with the exception of changes and (or) supplements, which must be made, according to the legislation of the Republic of Kazakhstan ;

2) the issuance by the company of a public-private partnership of bonds and other securities;

3) reorganization and liquidation of a public-private partnership company;

4) other actions in respect of which the agreement of a public-private partnership or the charter of a public-private partnership company demand obtaining the consent of a public partner and a private partner.

4. The procedure for granting consent, in the cases specified in this Article, shall be determined by a public-private partnership agreement or by the charter of a public-private partnership company.

## **Chapter 7. FEATURES OF LEGAL REGULATION OF PUBLIC-PRIVATE PARTNERSHIP IN INNOVATIONS, SPECIAL ECONOMIC AND INDUSTRIAL ZONES**

**Footnote.** The title of chapter 7 as amended by the Law of the Republic of Kazakhstan dated 03.04.2019 № 243-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

### **Article 55. Public-private partnership in innovation**

1. Public-private partnership in innovation is aimed at the achievement of the following objectives:

1) development of new technologies, technological processes, technical regulations and their improvement;

2) production of prototypes, pilot plants, testing (including pilot tests), research (including laboratory tests);

3) organization of small-scale production (pilot production) and the implementation of scientific and technical projects (including the creation of start-up companies).

2. Public-private partnership in innovations must necessarily include issues of evaluation ( reassessment) of exclusive rights to the results of intellectual activity associated with the public-private partnership project.

3. The tender commission, officials of state bodies and other concerned persons consider the documents, related to the project of public-private partnership in innovation, taking into account ensuring protection of commercial and other secrets, protected by law.

#### **Article 56. Public-private partnership in special economic and industrial zones**

**Footnote. The title of Article 56 as amended by the Law of the Republic of Kazakhstan dated 03.04.2019 № 243-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).**

1. A public-private partnership in special economic and industrial zones shall be implemented in accordance with the provisions of this Law and is aimed at the creation and operation of infrastructure facilities of a special economic or industrial zone, as well as other public-private partnership facilities in a special economic zone.

2. The public partner in the implementation of a public-private partnership project for infrastructure facilities in a special economic or industrial zone shall be the management company of the special economic or industrial zone, except for infrastructure facilities of a private industrial zone.

At the same time, the management company of the special economic or industrial zone shall coordinate its decision on participation in the public-private partnership project with the central executive body that exercises state regulation in the field of creation, functioning and abolition of special economic and industrial zones, and the body that owns the controlling stake.

3. The management company of a special economic or industrial zone shall act as the organizer of the competition.

4. The conclusion of a public-private partnership agreement shall be the basis for the implementation of activities by a private partner on the territory of a special economic or industrial zone to create and operate infrastructure facilities of a special economic or industrial zone.

**Footnote. Article 56 as amended by the Law of the Republic of Kazakhstan dated 03.04.2019 № 243-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); № 359-VI of 03.07.2020 (shall come into force ten calendar days after the date of its first official publication); dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

### **Chapter 8. FINAL PROVISIONS**

#### **Article 57. Settlement of disputes**

1. Disputes related to the execution and termination of a public-private partnership agreement shall be resolved in accordance with the procedure established by the legislation of the Republic of Kazakhstan and the public-private partnership agreement with mandatory compliance with pre-trial settlement.

2. When resolving disputes, the parties must take all measures to ensure the implementation of the public-private partnership project.

3. If disputes related to the fulfillment and termination of a public-private partnership agreement cannot be resolved in accordance with paragraph 1 of this article, the parties to the public-private partnership agreement shall have the right to resolve the dispute in accordance with the requirements of the legislation of the Republic of Kazakhstan in the courts of the Republic of Kazakhstan, arbitration in accordance with the Law of the Republic of Kazakhstan "On Arbitration", and under public-private partnership agreements, the estimated amount of investments for which exceeds four million times the monthly calculation index established by the law on the republican budget for the year of conclusion of the agreement, if the private partner or at least one of the shareholders (participants) of the private partner holding twenty-five or more percent of its voting shares (participatory interest in the authorized capital) is a non-resident of the Republic of Kazakhstan, the dispute may also be resolved by appealing to the International Court of Justice in accordance with the Constitutional Law of the Republic of Kazakhstan "On Astana International Financial Center" or the international arbitration.

4. Disputes related to the procedure for determining a private partner shall be resolved in the courts of the Republic of Kazakhstan.

**Footnote. Article 57 as amended by the Law of the Republic of Kazakhstan dated 15.03.2025 № 172-VIII (shall be effective from 01.01.2025).**

#### **Article 58. Responsibility for violation of the legislation of the Republic of Kazakhstan in the field of public-private partnership**

Violation of the legislation of the Republic of Kazakhstan in the field of public-private partnership shall entail liability established by the Laws of the Republic of Kazakhstan.

#### **Article 59. The procedure for the enactment of this Law**

This Law shall enter into force upon expiration of ten calendar days after the day of its first official publication.

*President  
of the Republic of Kazakhstan*

*N. NAZARBAYEV*