

On Administrative Supervision of Persons, Released From Places of Detention

Unofficial translation

The Law of the Republic of Kazakhstan dated 15 July, 1996 No.28-1.

Unofficial translation

Footnote. Throughout the text the words: “corrective labour institution” are substituted by the words: “corrective institution” pursuant to Law of the Republic of Kazakhstan No. 350 dated October 30, 2002;

the words "correctional institutions", "correctional institutions" are replaced with the words "correctional institutions" and "correctional institutions" in accordance with the Law of the Republic of Kazakhstan No. 58-VI dated 18.04.2017 (shall be enforced upon the expiration of ten calendar days after the day of its first official publication);

replace the words "specified in subparagraphs" a) and b), "specified in subparagraph" c), respectively, with the words "specified in subparagraphs a) and b)", "specified in subparagraph c)" in accordance with the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon upon expiration of ten calendar days after the day of its first official publication).

This Law determines the content of administrative supervision of persons, released from places of detention, carrying out in the territory of the Republic of Kazakhstan and consolidates the system of legal guarantees of legality in its application.

CHAPTER I. General provisions

Article 1. Content, concept and purposes of administrative supervision

Administrative supervision is the form of prevention of recidivism shall be realized on the basis of observance of legality, guarantees of rights and freedoms of citizens and shall be carried out on the ground of decree of judge by internal affairs bodies as enforcement measure in the form of establishment of observation of behavior of persons, released from places of detention, to whom the restrictions, determined by the legislation, are established for the purposes of prevention of infractions from their side.

Article 2. Persons subject to administrative supervision

Administrative supervision shall be established over persons who have served their sentences:

(a) Crimes committed in the event of a dangerous recidivism, terrorist or extremist crimes or crimes against the sexual inviolability of minors;

b) grave and (or) especially grave crimes or by condemned two and more times to imprisonment for deliberate crimes and having at the moment of the termination of punishment the third negative degree of behavior;

(c) Serious and/or particularly serious crimes or convictions for two or more times' deprivation of liberty for intentional crimes if, despite warnings from the internal affairs agencies, they systematically violate public order, human and civil rights and legal interests and commit other offences after serving their sentence.

Footnote. Article 2 of the Republic of Kazakhstan Law of 18.04.2017 № 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); with changes introduced by the laws of the Republic of Kazakhstan of 11.07.2017 № 91-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); dated 12.07.2018 № 180-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Article 3. Ground for establishment of administrative supervision

The ground for establishment of administrative supervision are:

a) A court sentence that has come into force with respect to the persons referred to in article 2, subparagraph a), of this Law;

b) materials of the institutions of the penal and correctional system - with regard to the persons specified in subparagraph (b) of Article 2 of this Law;

c) materials of internal affairs bodies - with regard to persons specified in subparagraph c) of Article 2 of this Law.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (to be enforced upon expiration of ten calendar days after the day of its first official publication).

CHAPTER II. Procedure of establishment, implementation and termination of administrative supervision

Article 4. The term and place of establishment of administrative supervision

Administrative supervision shall be established:

a) the persons specified in subparagraphs (a) and (b) of Article 2 of this Law - upon release from the institution of the penal and correctional system;

b) persons specified in subparagraph c) of Article 2 of this Law - at the place of residence until the repayment of the criminal record in accordance with Article 79 of the Criminal Code of the Republic of Kazakhstan.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan No. 180-VI dated 12.07.2018 (shall be enforced upon expiration of ten calendar days after the day of its first official publication).

Article 5. Procedure of establishment of administrative supervision

Administrative supervision shall be established:

the persons referred to in article 2, subparagraphs (a) and (b), of the Act shall be brought before the court solely by a district (city) court judge at the location of the penal correction system on the basis of a reasoned proposal by the head of the penal correction system;

persons referred to in subparagraph (c) of Article 2 of this Law - in the court session alone by the judge of the district (city) court in the place of residence of the person released from the places of deprivation of liberty, on the motivated proposal of the head of the internal affairs body.

The copy of sentence and materials, certifying on necessity of establishment of administrative supervision for relevant person shall be directed to the court together with presentation.

The person in respect of whom the administrative supervision proposal has been made is summoned to the court session, and the defence counsel, as well as the representative of the body or institution whose head has made the proposal, is summoned upon request.

Examination of issue begins by the report on the content of presentation and materials, received with it, after hear the explanations of persons, coming to the judicial sitting.

After consideration of the case the judge comes to the deliberation room to makes a decision, and then returned to the courtroom and announces the decision.

The court's decision shall be forwarded for execution to the head of the district (city) internal affairs body at the place of residence of the person subject to administrative supervision, and in cases stipulated by subparagraphs (a) and (b) of Article 2 of this Law - to the head of the institution of the penal and correctional system.

Footnote. Article 5 as amended by the Laws of the Republic of Kazakhstan dated 30.10.2002 No. 350; dated 07.12.2009 No. 222-IV (the order of enforcement see Article 2); dated 02.11.2015 № 388-V (shall be enforced from 01.01.2016); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 12.07.2018 № 180-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Article 6. Validity of administrative supervision

Administrative supervision is established for a period of six months to three years, and in respect of persons who have served a sentence for criminal offenses against the sexual integrity of minors, until the expiration of the term of conviction in accordance with Article 79 of the Criminal Code of the Republic of Kazakhstan.

In the event that the supervised person violates the rules of administrative supervision or the restrictions imposed on him or her, or commits an offence, the period of administrative supervision established by the judge, on the basis of a reasoned proposal by the internal affairs agencies, is extended by a decision of the judge for six months each time, but not more than two years, and in the case of persons who have committed criminal offences against the sexual inviolability of minors for one year each time.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 222-IV (the order of enforcement see Article 2); №. 501-V of 9 April 2016 (shall be enforced upon the expiration of ten calendar days after its first official publication); dated 27.12.2019 No. 292-VI (the order of enforcement see Article 2); dated December 30, 2020 No. 393-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 7. Limitations applicable to persons subject to administrative supervision

The following restrictions in the form of a ban may be applied to persons subject to administrative supervision in full or separately depending on their lifestyle, family and residence behaviour and other circumstances characterizing the identity of the person under surveillance

- a) To leave the home at a time determined by the internal affairs authorities;
- b) to stay in the places of the district (city) determined by the internal affairs bodies;
- c) to leave the district (city) without permission of the internal affairs bodies exercising supervision;
- d) to search for, visit, conduct telephone conversations and otherwise communicate with minors without the consent of their parents or legal representatives;
- e) consume alcoholic beverages, narcotic drugs and psychotropic substances.

Footnote. Article 7 of the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Article 8. Change of restrictions, established to the supervised

The list of restrictions to the supervised may be reduced or supplemented by judge on motivated presentation of internal affairs body in recognition of his (her) lifestyle and behavior, but within restrictions, provided by Article 7 of this Law.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 222-IV (the order of enforcement see Article 2).

Article 9. Procedures for the administration of the prison system to issue an administrative oversight order

Prior to the release of the person subject to administrative supervision from the penal and correctional system, the administration of the institution shall send a court order describing the materials and notification of the time of his arrival to the internal affairs body at his chosen place of residence.

A footnote. Article 9 of the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Article 10. Announcement to the supervised court order on establishment, prolongation or change of administrative supervision restrictions

Court decisions on the establishment, extension or modification of administrative supervision restrictions shall be announced to the supervised person, upon signature, by the head of the internal affairs body, and to the person who is in the institution of the penal and correctional system - by the head of the institution. In this case, the supervised person is explained his duties, responsibility for violation of the rules of administrative supervision, and the person for whom administrative supervision is established before release from the institution of the penal and correctional system - responsibility for failure to arrive in a certain period of time to the chosen place of residence.

In case of non-arrival at the chosen place of residence of the person subject to administrative supervision, the body of internal affairs shall carry out initial measures to determine the location and reasons for non-arrival.

In case of failure to determine the location of the person subject to administrative supervision, the internal affairs body shall initiate a pre-trial investigation and announce him/her to be wanted with the choice of a preventive measure.

Footnote. Article 10 of the Law of the Republic of Kazakhstan dated 18.04.2017 No. 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); with the change introduced by the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Article 11. Registration of persons, consisting under administrative supervision

Registration of persons, consisting under administrative supervision shall be carried out in the manner established by the Ministry of Internal Affairs of the Republic of Kazakhstan.

Article 12. Duties of the internal affairs officers exercising administrative oversight

Employees of internal affairs bodies are obliged to carry out administrative supervision:

a) after the registration of a person subject to administrative supervision, ensure that he appears at the local executive bodies for the provision of social and legal assistance and send them a copy of the court order establishing administrative supervision;

b) to systematically monitor the behavior of the person subject to administrative supervision at his/her place of residence and work;

c) to prevent and suppress violations of human and citizen's rights and legitimate interests by the person under administrative supervision;

d) to draw up, in accordance with the established procedure, protocols on violations of the rules of administrative supervision and to send them to court for consideration.

Footnote. Article 12 of the Law of the Republic of Kazakhstan of 18.04.2017 No. 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 13. Rights of servants of internal affairs bodies, carrying out administrative supervision

Upon carrying out administrative supervision the servants of internal affairs bodies shall have a right to:

a) request and receive details on behavior of supervised from administration of organization, irrespective of their form of ownership, on place of his (her) work and residence , as well as from citizens;

b) call of supervised for the interview in the internal affairs bodies, conduct an interview in the presence of relatives of supervision with their consent;

c) require oral and written explanations on issues, related with execution of the rules of administrative supervision, from the supervised;

d) visit the supervised person's home at any time of the day in order to monitor his behavior and compliance with the established restrictions. At the same time, it is not allowed to conduct an inspection, search, except in cases and in accordance with the procedure established by law.

e) use electronic means of tracking for a proper administrative supervision and obtaining information about the location of the person under administrative supervision. The procedure for using electronic tracking tools and organizing the activities of internal affairs bodies in carrying out administrative supervision shall be determined by the Ministry of Internal Affairs of the Republic of Kazakhstan.

Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 No. 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 14. Grounds of termination of administrative supervision

Administrative supervision shall be terminated:

a) upon expiration of the term, for which an administrative supervision is established, if there are no grounds for its extension;

b) prematurely, if it is established that a supervised mend his (her) ways, positively characterized on place of residence or labour activity;

c) in the cases of cancellation or clearing of a criminal record from the supervised;

d) in connection with the referral of a supervised person for compulsory treatment to a hospital of an organization providing medical care in the field of mental health;

e) in connection with conviction of supervised to imprisonment;

f) in connection with the death of supervised.

Footnote. Article 14 as amended by the Law of the republic of Kazakhstan dated 07.12.2009 No. 222-IV (the order of enforcement see Article 2); dated 07.07.2020 No. 361-VI (shall be enforced ten calendar days after the day of its first official publication).

Article 15. Procedure for termination of administrative supervision

On termination of administrative supervision in cases stipulated by subparagraphs a), c), d), e) and f) of Article 14 of this Law, the employee of the internal affairs body carrying out

administrative supervision shall make a decision, which shall be approved by the head of the internal affairs body.

On early termination of administrative supervision in the case stipulated by subparagraph b) of article 14 of this Law, the head of the internal affairs body shall send to the court a reasoned submission, which shall be considered within ten days.

The decision of a judge or an internal affairs body on the termination of administrative supervision shall be announced to the supervised person upon signature.

A footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 02.11.2015 № 388-V (shall be enforced 01.01.2016); with changes introduced by the laws of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); dated 12.07.2018 № 180-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

CHAPTER III. Obligations and rights of persons, being under administrative supervision, and responsibility for violation of rules of supervision

Article 16. Obligations of persons, being under administrative supervision

A person, being under administrative supervision shall be obliged to:

- a) observe restrictions established in relation of him (her), provided by Article 7 of this Law;
- b) appear on call to the internal affairs bodies in the specified term and offer the oral and written explanations on issues, related with execution of rules of administrative supervision;
- c) notify the servants of internal affairs body, carrying out administrative supervision within 24 hours, on change of place of work and residence, as well as on departure outside of the district (city) on official and private matters;
- d) not to leave the territory of the Republic of Kazakhstan until the end of the term of administrative supervision.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 No. 58-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Article 17. Rights of persons, being under administrative supervision

A person, being under administrative supervision shall have a right to:

- a) acquainted with the materials of the case in a court on establishment of administrative supervision and application of restrictions;
- b) offer explanations, supply evidences;
- c) make an application on early termination of administrative supervision, cancellation of restriction established in relation of him (her), short-term departure from permanent residence ;

d) acquainted with decree in the internal affairs body on termination of administrative supervision.

Article 18. Responsibility for violation of rules of administrative supervision

A person, being under administrative supervision, in the case of violation of rules of supervision or restrictions established in relation of him (her) shall be brought to responsibility in the manner established by the Law of the Republic of Kazakhstan.

Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 30 October, 2002 No. 350.

CHAPTER IV. Supervision over the legality

Article 19. Supervision of ensuring of legality upon carrying out of administrative supervision

Supervision of ensuring of legality shall be carried out by the Prosecutor General of the Republic of Kazakhstan and prosecutors subordinated to him (her).

Article 20. Cancellation or change of administrative supervision

Decree of judge on establishment of administrative supervision may be cancelled or changed on the protest of prosecutor or directly by the higher court in the manner established by the legislation of the Republic of Kazakhstan.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 30 October, 2002 No. 350.

*The President
of the Republic of Kazakhstan*