

LAW OF THE REPUBLIC OF KAZAKHSTAN
ON INVESTMENTS

This Law regulates the relations which are associated with investments in the Republic of Kazakhstan and defines the legal and economic basis of the stimulation of investments, guarantees the protection of the rights of investors when carrying out investments in the Republic of Kazakhstan,

11) the legal entity of the Republic of Kazakhstan – a legal entity, including any legal entity with foreign participation, incorporated in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

II. ARTICLE 2. THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON INVESTMENTS

1. The legislation of the Republic of Kazakhstan on investments is based on the Constitution of the Republic of Kazakhstan and consists of the provisions of this Law and other normative legal acts of the Republic of Kazakhstan.

2. This Law shall not regulate the relations which are associated with: carrying out investments from the funds of the state budget; investing capital into non-commercial organizations, including for educational, charity, scientific or religious purposes.

3. Relations which emerge in the case of carrying out investments and which pertain to the sphere of the effect of other legislative acts of the Republic of Kazakhstan shall not be governed by the provisions of this Law, except for the cases that are provided for by such legislative acts.

4. If an international treaty that has been ratified by the Republic of Kazakhstan sets forth the provisions other than those which are contained in this Law, then the provisions of such international treaty shall apply.

III. ARTICLE 3. ITEMS OF INVESTMENT ACTIVITIES

1) Investors shall have the right to invest into any items and types of entrepreneurial activities, except for the cases, which are directly provided for by legislative acts of the Republic of Kazakhstan;

2) The legislative acts may determine cities and/or territories in respect of which investments shall be either limited or prohibited, as may be required by the necessity of protection of the national security.

IV. CHAPTER 2. LEGAL REGIME OF INVESTMENTS

Article 4. Guarantees of Legal Protection of Investors' Activities on the Territory of the Republic of Kazakhstan

1. An investor shall be entitled to full and unconditional protection of the rights and interests, which protection shall be backed by the Constitution of the Republic of Kazakhstan, this Law and other normative legal acts of the Republic, as well as by international treaties ratified by the Republic of Kazakhstan.

2. An investor shall have the right to be reimbursed for damages caused to such investor as a result of the enactment by state body of an act conflicting with legislative acts of the Republic of Kazakhstan as a result of an illegal action (a

failure to act) of officials of such body, pursuant to civil legislation of the Republic of Kazakhstan.

3. The Republic of Kazakhstan shall guarantee the stability of the conditions of contracts entered into between the investor and state bodies of the Republic of Kazakhstan, except for the cases when changes to the contracts are made by agreement of the parties.

These guarantees shall not apply to:

1) changes in the Legislation of the Republic of Kazakhstan and/or coming into force of, and /or changes to the international treaties of the Republic of Kazakhstan, which change the procedure and conditions of import, manufacture, sale of the excisable goods;

2) changes and supplements which are introduced to the legislative acts of the Republic of Kazakhstan in order to provide for national and ecological security, healthcare and morality.

V. ARTICLE 5. GUARANTEES OF THE USE OF INCOME

Investors shall have the right:

1. to use income derived from their activities at their sole discretion after payment of taxes and other mandatory payments to the budget in accordance with the legislation of the Republic of Kazakhstan.

2. to open accounts with banks on the territory of the Republic of Kazakhstan in the national currency and (or) foreign currency in accordance with the banking and currency legislation of the Republic of Kazakhstan.

Article 6. Publicity of Activities of State Bodies in Respect of Investors

1. Official communications of state bodies of the Republic of Kazakhstan and normative legal acts, which affect the interests of investors, shall be published in accordance with the procedure established by legislation of the Republic of Kazakhstan.

2. Investors shall have free access to information regarding the registration and charters of legal entities, the registration of real estate transactions, and licenses issued, except for the information containing commercial or other secrets protected by law.

Article 7. Control and supervision by State Bodies over Investors' Activities

1. Control and supervision over the investors' activity shall be carried out by the state bodies, which are granted such rights in accordance with the legislative acts of the Republic of Kazakhstan.

2. The procedures and terms for control and supervision over investors' activity shall be established by the Legislation of the Republic of Kazakhstan.

VI.

VII. ARTICLE 8. GUARANTEES OF THE RIGHTS OF INVESTORS IN THE CASE OF NATIONALIZATION AND REQUISITION

1. An involuntary taking of the property of an investor (nationalization, requisition) for the state needs shall be allowed in the exceptional cases which are provided for by legislative acts of the Republic of Kazakhstan.

2. In the case of nationalization, the investor shall be fully reimbursed by the Republic of Kazakhstan for the damages that were suffered as a result of the enactment of legislative acts of the Republic of Kazakhstan concerning nationalization.

3. Requisition of the property of the investor shall be carried out together with payment of market value of the property.

The market value of the property shall be determined in accordance with the established legislation of the Republic of Kazakhstan.

4. The valuation according to which the owner has been reimbursed for the requisitioned property may be challenged in court.

5. When circumstances due to which the property of an investor was requisitioned cease, such investor may demand the return of remaining property, but in doing so he shall return the amount of compensation he was paid, with offsetting the depreciated value of the property.

VIII. ARTICLE 9. SETTLEMENT OF DISPUTES

1. Investment disputes shall be resolved through negotiations, including with involvement of experts, or in accordance with the procedure for resolution of disputes agreed by parties in advance.

2. In the case of the impossibility of resolution of investment disputes in accordance with the provisions of paragraph 1 of this Article the settlement of disputes shall be carried out in accordance with international treaties and legislative acts of the Republic of Kazakhstan in courts of the Republic of Kazakhstan, as well as by means of international arbitration agreed by the parties.

3. Disputes, which do not pertain to the category of investment disputes, shall be resolved in accordance with the legislation of the Republic of Kazakhstan.

A. ARTICLE 10. TRANSFER OF THE RIGHTS OF AN INVESTOR TO ANOTHER PERSON

If a foreign state or a state body authorized thereby makes a payment in favour of an investor under the guarantee (under license contract) which was granted to him in respect of investments carried out on the territory of the Republic of Kazakhstan, and such foreign state or the state body authorized thereby are assigned the rights (assigned the rights of claim) of the investor with respect to the mentioned investments, then in the Republic of Kazakhstan such assignment of rights

(assignment of a right to claim) shall be re

2. The Government of the Republic of Kazakhstan shall approve maximum investment volumes and duration of investment tax preferences for each priority type of activity, under which the authorized body shall grant investment preferences.
3. In case the established maximum volume of investments is exceeded, the duration of investment tax preferences shall be reduced by means of an appropriate decision by the Government of the Republic of Kazakhstan.
4. Investment preferences are granted by means of execution of a contract with an investor.

A. ARTICLE 15. CONDITIONS FOR GRANTING INVESTMENT PREFERENCES

Investment preferences shall be granted subject to:

- 1) the compliance of the proposed investment activities with the list of priority activity types;
- 2) carrying out investments into fixed assets of a legal entity of the Republic of Kazakhstan to create new facilities, enlarge or renew existing facilities with application of up-to-date technologies;
- 3) the submission of necessary documents set forth by Article 19 of this Law which evidence the availability of financial, technical, and organizational capability of the investor for carrying out of the investment project.

X. ARTICLE 16. INVESTMENT TAX PREFERENCES

1. Investment tax preferences shall be granted for a term to be determined depending on the volumes of investments into fixed assets, but not to exceed five years.
2. The commencement date for investment tax preferences shall be established by the contract, in accordance with the Code of the Republic of Kazakhstan.
3. Investment tax preferences shall not be granted with respect to a legal entity's activities, to which a special tax regime applies, as well as activities under the contracts of subsoil use,
4. Investment tax preferences shall not be granted in respect of the fixed assets that have been conveyed to a legal entity of the Republic of Kazakhstan in the form of the state natural grant.

XI. ARTICLE 17. EXEMPTION FROM CUSTOMS DUTIES

1. Exemption from customs duties may be granted with respect to imported equipment and components thereof brought in to implement the investment project in the following cases:
 - 1) unavailability on the territory of the Republic of Kazakhstan of manufacture of similar equipment and components thereof;

- 3) a copy of the charter of a legal entity, notarized;
- 4) the business plan of the investment project that is compiled in accordance with the requirements as established by the authorized body;
- 5) documents which support the estimated value of construction works and expenditures for purchasing of fixed assets applied for the implementation of the project;
- 6) documents which indicate sources and guarantees of the project financing.

In such cases the investor shall pay amounts of taxes and customs fees which were not paid because of the investment preferences granted under the contract with application of fines which are provided for by the laws of the Republic of Kazakhstan;

4. In the case of anticipatory termination of the contract by the initiative of the investor unilaterally, the investor shall pay amounts of taxes and customs duties which were not paid because of the investment tax preferences that were granted under the contract with assessment penalties charged according to the procedure established by the legislation of the Republic of Kazakhstan;

5. If a contract is anticipatorily terminated by agreement of parties, the investor shall pay the tax and customs duties amounts that have not been paid under the investment preferences under the contract.

6. If a contract is anticipatorily terminated, the investor shall return either the property in kind conveyed as a state in-kind or the initial value thereof as of the date of conveyance of such property in accordance with the contract's conditions.

Chapter 4. Final Provisions

XVII. ARTICLE 23 STABILITY OF CONTRACTS

Privileges granted on the basis of the contracts concluded with the authorized state body on investments prior to this Law coming into force shall remain valid until the expiration of the terms established by such contracts.

Article 24. On Repeal of Some Legislative Acts of the Republic of Kazakhstan

The following legislative acts of the Republic of Kazakhstan shall be deemed repealed:

- 1) Law of the Republic of Kazakhstan of 27th December, 1994 "On Foreign Investments" (Bulletin of the Supreme Council of the Republic of Kazakhstan, 1994, 23-24, p. 280; 1995, 20, p. 120; Bulletin of the Parliament of the Republic of Kazakhstan, 1996, 14, p. 274; 1997, 11, p. 143; 13-14, p. 205; 17-18, p. 218; 1998, 5-6, p. 50; 1999, 21, p. 786; 2000, 10, p. 244);
- 2) Decree of the Supreme Council of the Republic of Kazakhstan of 27th