

LAW OF THE REPUBLIC OF KAZAKHSTAN

“ON SUBSOIL AND SUBSOIL USE”

(No. 291-IV LRK, enacted June 24, 2010, entered into force July 7, 2010)

CHAPTER 1. GENERAL PROVISIONS

Article 1. Principal terms used in this Law

The following principal terms are used in this Law:

90) “abandonment fund” means a fund formed by a subsoil user for eliminating the consequences of subsoil operations in the Republic of Kazakhstan;

43) “analysis of field development” means an integrated study of the results of geological, geophysical, hydrodynamic and other well and reservoir surveys in the process of production target development, as well as the dynamics of development parameters in order to establish the current location of oil and gas reserves and processes in productive formations and on this basis to make recommendations for regulation of the development to optimize production and increase oil recovery factor;

94) “annual goods, work and services procurement program” means the nomenclature and quantities of goods, work and services planned by a subsoil user for one calendar year, and including the methods and time of their acquisition;

4) “appraisal project” means a project document drawn up in the course of exploration which, in the event of the discovery of promising areas and occurrences of minerals, establishes the methods and scope of exploration in order to determine the total resources of the identified target, makes a detailed estimate of its commercial value and makes a feasibility study of its prospective commercial development. An appraisal project shall reflect year-by-year amounts of appraisal financing;

3) “appraisal works” mean the stage of geological exploration operations conducted for the purposes of determining the total resources of the prospect, estimating its commercial value and making a feasibility study of its prospective development;

75) “associate components in petroleum” means minerals and various types of compounds contained in petroleum and formation water which are technologically required to be extracted;

114) “associated gas” means hydrocarbon gas found in oil, oil and gas deposits which is dissolved in the petroleum and released upon decrease of pressure, as well as non-hydrocarbon gases produced together with liquid or gaseous hydrocarbons;

115) “associated gas processing” means a complex of measures on bringing up the associated gas to the conditions of a commercial product;

117) “associated minerals” means mineral complexes, minerals, metals and other chemical elements and their compounds associated or produced with the base mineral whose production and processing in the course of development of the base mineral is cost-effective and utilization is economically viable;

14) “authorized agency for subsoil studies and use” means a state agency implementing the state policy and controlling geological studies, rational and integrated use of subsoil, and performing other functions in the sphere of subsoil established by Kazakhstan legislation;

77) “base mineral” means the mineral having the highest percentage of content in the raw feedstock or products of the field which determines the commercial value of the field and the main trends in the use of its products;

81) “central commission for exploration and development of minerals (CCED)” means a collegial body established by the competent authority for considering project documents related to prospecting, appraisal and development of mineral deposits, except for commonly occurring minerals;

10) “coast line” means the coast line of a water body which is formed as a result of maximum tide (high tide);

54) “commercial discovery” means the discovery of one or several economically viable deposits made as a result of exploration in the contract territory and confirmed by the state expert examination of the subsoil;

47) “commercial field development” means the entire scope of operations aimed at extracting approved mineral reserves from the subsoil on the basis of its rational and integrated use;

44) “commercial field development project” means a project document which defines technical

part of the subsoil area granted to other entities for the conduct of exploration, production or construction and/or operation of underground facilities not associated with exploration or production in the cases provided for by this Law;

119) “electronic procurement system” means an electronic information system established and operated in compliance with the procedure of purchasing of goods, works and services when conducting subsoil operations approved by the Government of the Republic of Kazakhstan and used by an organizer of procurements (a subsoil user or persons authorized by subsoil users) to purchase goods, works and services;

25) “Expert Commission for Subsoil Use Matters” means an advisory body created by the competent authority which elaborates proposals to the competent authority on the matters specified in Article 24 of this Law;

50) “Expert Commission for Subsoil Use Matters Relating to Exploration or Production of Commonly Occurring Minerals” means an advisory body created by regional (city of republican significance or capital city) executive body which works out proposals to such regional (city of republican significance or capital city) executive body on the matters specified in Article 24 of this Law;

5) “exploration” means work (operations) associated with prospecting for deposits of minerals and their appraisal;

65) “facilities associated with a main pipeline” means buildings, other structures with underlying land and roads, mechanisms and equipment as part of a main pipeline performing the functions of petroleum transportation;

26) “feasibility study” means a document which contains technical and economic parameters of a field development project and assessment of the economic viability of its implementation which must take into account the possibilities and offers of Kazakhstan producers of goods as well as Kazakhstan companies performing works and rendering services;

42) “field development flow sheet” means a project document which is drawn up for the purpose of putting a field into commercial development and defines technical solutions and field development parameters and methods of analysis of the development system to identify the principal oil stratum parameters, criteria of a rational development system;

1) “field supervision” means the monitoring of the subsoil user’s compliance with the project documents conducted by the design organization which prepared the project document in accordance with a contract for design work;

116) “flaring of associated and/or natural gas” means the process of destruction of associated and/or natural gas without use;

9) “geological allotment” means a supplement to a contract for exploration or contracts for combined exploration and production which is an integral part of the contract and defines both graphically and by description the subsoil area in which the subsoil user has the right to perform exploration;

8) “geological information” means a collection of materials containing geological, geochemical, geophysical, hydrogeological, geomorphological, structural data, technical documentation relating to workings, wells, forecast resources, in-place reserves of a deposit, work site and facilities in the contract territory where subsoil operations are conducted;

46) “good field development practice” means generally recognized international practice which is employed in subsoil operations as rational,

- 67) “Interdepartmental Commission for the Exercise of the State Pre-emptive Right” means an advisory body created by the Government of the Republic of Kazakhstan for the purposes of considering matters pertaining to and working out proposals for the acquisition (or refusal to acquire) by the state of the alienated subsoil use rights (or part thereof) and/or objects associated with the subsoil use right;
- 51) “Inter-regional Commission for Exploration and Development of Commonly Occurring Minerals (ICED)” means a collegial body of the territorial subdivision of the authorized agency for subsoil studies and use which reviews project documents in respect of the prospecting, appraisal and development of commonly occurring mineral deposits;
- 92) “Kazakhstan content in goods” means a share (in per cent.) of the cost of Kazakhstan origin materials and producer’s expenses for goods processing in the Republic of Kazakhstan in the cost of goods;
- 37) “Kazakhstan content in personnel” means the percentage of Kazakhstan employees engaged in the implementation of a contract with a breakdown by personnel categories;
- 34) “Kazakhstan content in work(service)” means an aggregate cumulative share of Kazakhstan content in the cost of goods used for performance of works, in the agreement value and/or payments to Kazakhstan employees, in the salary fund of the entity performing works or rendering services under an agreement after deduction of the cost of goods used for the performance of work and subcontract agreement values;
- 59) “Kazakhstan goods producer” means individuals and legal entities of the Republic of Kazakhstan producing goods of Kazakhstan origin;
- 36) “Kazakhstan performer of works and services” means Kazakhstan citizens and/or legal entities established and located in the Republic of Kazakhstan where Kazakhstan citizen employees constitute at least 95% of the total number of employees;
- 96) “long-term goods, works and services procurement program” means the nomenclature and quantities of goods, works and services planned for a subsoil user for up to ten years or the duration of a contract and including time of their acquisition;
- 63) “main pipeline” means an engineering structure consisting of a linear part and associated surface facilities, telecontrol and communication which is designed for transporting petroleum from a subsoil user’s pipeline to places of its transfer into other types of transportation, processing or consumption. Pipelines operated as a gathering main shall not be referred to as main pipelines;
- 64) “main pipeline security zone” means a territory with specific conditions of security and use which is adjacent to main pipeline facilities and is intended for ensuring the safety of the population and creating the necessary conditions for a safe and uninterrupted operation of pipeline facilities and within which any type of activities inconsistent with its purposes is restricted or prohibited;
- 107) “man-made mineral formations” means accumulations of mineral formations, rock, liquids and mixtures which contain useful components and are waste of mining, concentration, metallurgical and other types of subsoil user production;
- 108) “man-produced water” means water which must be removed in the process of subsoil operations;
- 103) “marine research” means research related to studies of the impact of offshore subsoil operations and their consequences on the environment and biological variety;
- 95) “medium-term goods, works and services procurement program” means the nomenclature and quantities of goods, works and services planned for a subsoil user for up to three years and including the methods and time of their acquisition;
- 80) “mineral” means natural mineral substances, hydrocarbons and ground water which are contained in the subsoil and which due to their chemical composition and physical properties may be used directly or after processing in the area of material production and/or consumption and/or for other needs;
- 68) “mineral raw materials” means the part of th

certain subsoil operations and is used as a model when drawing up contracts;

21) “national subsoil use company (national company)” means a joint stock company wholly owned by the state or a national managing holding company, established by a resolution of the Government of the Republic of Kazakhstan for conducting operations in certain areas of subsoil use on terms and conditions stipulated by the laws of the Republic of Kazakhstan;

88) “natural gas” means hydrocarbons in the gaseous state under normal atmospheric temperature and pressure, including wet gas, dry gas, associated gas remaining after extraction or separation of hydrocarbon fluids from wet gas, and non-hydrocarbon gas produced together with liquid and gaseous hydrocarbons;

13) “normalized losses of in-place minerals” means losses of minerals incurred in the process of production which are technologically associated with the adopted methods and systems of mineral development and whose level is justified by a feasibility study;

23) “objects associated with subsoil use right” means participatory interests (shares) in a legal entity holding the subsoil use right, as well as a legal entity which may directly and/or indirectly determine and/or influence decisions adopted by a subsoil user if the principal activity of such subsoil user is related to the subsoil use in the Republic of Kazakhstan;

The objects associated with subsoil use also include securities confirming title to shares or securities convertible to shares of a subsoil user as well as a legal entity who may directly and/or indirectly determine the decisions and/or influence the decisions adopted by such a subsoil user if such a legal entity’s core activities are associated with subsoil use in the Republic of Kazakhstan;

104) “offshore security zones or safety zones” means zones determined and established by the Government of the Republic of Kazakhstan around offshore structures in order to ensure the safety of man, marine biological resources, environment, as well as navigation, fishing and other offshore activities of individuals and legal entities in accordance with Kazakhstan legislation;

106) “offshore structures” means man-made offshore structures, including artificial islands, dams, installations, stationary and floating equipment for conducting offshore petroleum operations;

73) “oil and gas pipelines” means pipelines designed for transporting petroleum, including main pipelines, a pipeline operated as a gathering main and equipment and machinery used for treatment, separation and liquefaction of substances transported through a system of pipelines or its individual parts, control and insulation systems, electrochemical protection systems and other equipment designed for servicing such pipelines;

78) “operator” means a legal entity established or designated by subsoil users in accordance with Kazakhstan laws with a notification in writing to the competent authority which carries out the day-to-day management of the activities and accounting and reporting operations under a contract and for the activities of which the subsoil users bear financial liability;

72) “petroleum” means crude oil, gas condensate, natural gas and associated gas, as well as hydrocarbons obtained after treatment of crude oil, natural gas, oil shale or tar sand;

76) “petroleum operations” means operations of petroleum prospecting, exploration or production, construction and/or operation of necessary technological facilities;

98) “pilot development” means operation of hydrocarbon fields and deposits in order to test new parts, total project.644, syn.00-18.2732 -1.1407 Tmeembon field, installati1.(t9.469i-24d5.2()TJ-20.23al), staai

74) “pipeline construction and/or operation” means any operations conducted for the purposes of construction, laying and operation of oil and gas pipelines on land, rivers, lakes, seas and other inland water bodies;

69) “primary processing (concentration) of mineral raw materials” means the type of industrial mining activities which include on-site collection, crushing or grinding, classification (sorting), briquetting, agglomeration and concentration by physical and chemical methods (without qualitative changes in the mineral form of minerals, their aggregation phase state and crystalline chemical structure) and may also include processing technologies which are special types of work in mineral mining (underground gasification and melting, chemical and bacterial leaching, dredging and hydraulic mining).

The list of works involving primary processing (concentration) of mineral raw materials shall be established in each subsoil use contract, except for the subsoil use contracts signed before the effective date of this Law, as well as amendments and addendums to them;

70) “processing of mineral raw materials” means work associated with the extraction of a mineral (minerals) out of mineral raw materials;

31) “project documents” means documents that substantiate and establish technical conditions and engineering parameters of prospecting, appraisal and development of mineral deposits subject to the requirement of environmental, sanitary-epidemiological and industrial safety, including performance indicators and assessment of economic feasibility of the project which must take into the account the possibilities and offers of Kazakhstan producers of goods, works and services;

79) “production” means the entire range of work (operations) associated with the extraction of minerals from the subsoil onto the surface, as well as from man-made mineral formations, including primary processing and temporary storage of mineral raw materials;

52) “production of commonly occurring minerals” means any production of commonly occurring minerals which is not related to production of commonly occurring minerals for own needs;

53) “production of commonly occurring minerals and ground water for own needs” means production which is conducted on a land plot which is in ownership or under the right of land use without the S1 g238n8Tw[in ow).2(ne8lcluding.000m)8.4(only)-7.1()5.5()Tn0003 Tw[52Tc. Tc.0Tc.007 Tw2 Tn

harm or threat to health of humans, biological resources of the sea and the marine ecosystem, or create interference or are capable of causing losses to individuals or legal entities that conduct legitimate activities off shore or on shore;

55) “services” means the performance on a paid basis of necessary activities to be used both directly in subsoil operations and for associated activities provided for by a contract which are not aimed at producing goods or other material objects;

61) “signature bonus” means a one-time fixed payment by a subsoil user for the acquisition of the right of subsoil use in a contract territory;

29) “state expert examination of the subsoil” means a comprehensive expert examination of information regarding mineral reserves and other subsoil properties as to the possibility of their application for subsoil use and inclusion into the state mineral reserves register;

17) “state geological studies of subsoil” means work (operations) associated with monitoring of subsoil state, studies of the geological structure of subsoil areas as well as parts and the entire territory of the Republic of Kazakhstan as a whole, and determination of their prospects for the existence of minerals through survey and appraisal survey operations and creation of state geological maps constituting the information base for subsoil use;

66) “state pre-emptive right” means the pre-emptive right of the state exercisable under this Law to acquire the alienated subsoil use right (or part thereof) and/or objects associated with subsoil use right;

84) “strategic partner” means a Kazakhstan or foreign legal entity (their joint venture) which is designated by the national company upon agreement with the competent authority for joint implementation of projects under contracts executed on the basis of direct negotiations between the national company and the competent authority or in accordance with international treaties ratified by the Republic of Kazakhstan;

86) “strategic mineral raw materials” means mineral raw materials which are of strategic importance for the sustainable development 5.5()T0 Tc.0014 Tw[86lco9 aare ofr in)T;(the basis o)3.3124.2(.1694

identifying the tender winner;

45) “test production” means operations conducted in a hydrocarbon field for the purposes of verifying the available information and obtaining additional information about the geological field characteristics of formations and reservoirs, integrated geological, geophysical and hydrodynamic studies of wells, production capacities of oil-and-gas bearing formations for working out a process flow sheet and a project of commercial development. Test production shall envisage temporary operation of drilled exploration wells;

87) “test production project” means a project document which is drawn up in respect of hydrocarbons for the purpose of verifying the available information and obtaining additional information about the geological field characteristics of formations and reservoirs, integrated geological, geophysical and hydrodynamic studies of wells, production capacities of oil-and-gas bearing formations for working out the a process flow sheet and a commercial development project;

109) “unified methods of calculation by organizations of Kazakhstan content for the purpose of procurement of goods, works and services” means the procedure approved by the Government of the Republic of Kazakhstan applicable to calculation of Kazakhstan content in goods, works and services;

89) “utilization of natural and associated gas” means field gathering of natural and associated gas for the purposes of its use for process needs and/or treatment to the conditions of a commercial product;

35) “work” means activities carried out on a fee basis for production (manufacture) of goods, installation of equipment, construction of structures a

mineral reserves stock shall be owned by the state.

5. The right of ownership to minerals which are extracted from man-made mineral formations owned by the state shall be defined in the contract.

6. The subsoil user that owns mineral raw materials, man-made mineral formations and manproduced water or minerals shall have the right to dispose of mineral raw materials, man-made mineral formations or mineral raw materials, as well as effect in respect to them any civil-law transactions which are not prohibited by legislation of the Republic of Kazakhstan.

Article 11. Right of ownership to geological information and procedure of transfer thereof

1. Geological information shall be owned by the state, if obtained with the use of budget allocations of the Republic of Kazakhstan, and shall be owned by a subsoil user, if obtained at its own expense.

2. Regardless of the source of financing, geological and other information regarding the subsoil shall be transferred, free of charge and in accordance with the procedure established by the Government of the Republic of Kazakhstan, to the authorized agency for subsoil studies and use for storage, systematization and generalization.

3. Geological information shall be provided on a paid or free of charge basis.

Geological information shall be provided on free of charge basis in the following cases:

- to entities conducting subsoil geological studies financed from the state budget;
- for scientific purposes when scientific research is financed from the state budget;
- to state and accredited private educational institutions for educational purposes;
- to state agencies.

Except for the cases established in this paragraph all subsoil information shall be provided on a paid basis. Irrespective of the conditions of subsoil information provision the information recipient shall additionally compensate the costs of copying.

The Government of the Republic of Kazakhstan shall determine the rules for use of state owned geological information for educational, scientific, and commercial purposes as well as taking geological information outside of the Republic of Kazakhstan.

4. The cost of state-owned geological information shall be determined as a portion of historical costs and shall be paid to the budget of the Republic of Kazakhstan

The procedure for determining historical costs and the costs of geological information shall be determined by the Government of the Republic of Kazakhstan.

5. Upon termination of the contract, all geological information shall be transferred into state ownership. A subsoil user shall transfer, free of charge, all documents and other material forms of geological information to the authorized agency for subsoil studies and use.

Article 12. Pre-emptive rights of the Republic of Kazakhstan in the subsoil sphere

1. The Republic of Kazakhstan shall have a pre-emptive right over other parties to acquire a subsoil user's minerals at prices not exceeding those applied by subsoil users in transactions with the relevant minerals which prevail on the date of transaction minus transportation and selling costs.

In the absence of information on prices of minerals applied by subsoil users in transactions, prices not exceeding the prevailing world market prices on the date of transaction shall apply.

The limiting volume of purchased minerals and the type of payment shall be determined by the contract.

The procedure for the exercise of the pre-emptive right of the RK State to acquire minerals shall be determined by the Government of the Republic of Kazakhstan.

2. In order to preserve and strengthen the resource and power basis of the economy of the country, in new and earlier concluded subsoil use contracts, except for contracts in respect of ground water and commonly occurring minerals, the state shall have a pre-emptive right over any other party of the contract or participants in a legal entity having the subsoil use right and other persons to acquire an alienated, for consideration or free of charge, subsoil use right (or part thereof) and/or objects associated with subsoil use right.

The provisions of this Paragraph shall not apply to instances anticipated by Paragraph 5 of Article 36 of this Law.

Article 13. Procedure of exercise of pre-emptive right of the state

more than six months from the date of the decision to acquire the subsoil use right (or part thereof) and/or associated object.

Article 14. Limitation and prohibition of subsoil use

1. The use of certain areas of the subsoil may be limited or prohibited by the decision of the Government of the Republic of Kazakhstan in order to ensure national security, population safety and protection of the environment.
2. The use of the subsoil within the territory of inhabited areas, suburban areas, industrial, transportation and communication facilities may be fully or partially prohibited by a decision of the Government of the Republic of Kazakhstan where such use may pose a threat to the life and health of the population and damage to business facilities or the environment.
3. The use of the subsoil within the territory of

natural preserve stock of national and international significance and define the procedure for their limited business use in specially-protected natural territories, and also approve lists of subsoil areas that are of special environmental, scientific, cultural and other value, referred to the category of specially-protected natural territories of national significance;

15) determine the procedure for procurement of goods, work and services in subsoil operations;

16) approve the procedure for forming and maintaining the register of goods, works and services used in subsoil operations and their producers, including criteria of their evaluation for inclusion in such register;

17) determine the procedure for monitoring and control of compliance with contractual terms;

18) determine the procedure for issuing permits for construction in mineral-bearing areas;

19) determine the procedure for burial of hazardous substances, radioactive waste and waste water disposal in the subsoil;

20) approve technical regulations in the area of subsoil use;

21) approve regulations in connection with discoverers of deposits

- 6) organisation of expert examination of draft subsoil contracts in terms of determination of the list of works related to primary processing (concentration) of mineral raw materials, with a view of securing economic interests of the Republic of Kazakhstan, including full payment of all taxes to the budget in accordance with the rules established by the Government of the Republic of Kazakhstan;
- 7) execution, registration and safe keeping of contracts, except for contracts for exploration or production of commonly occurring minerals, state subsoil studies and construction and/or operation of underground facilities not related to exploration or production;
- 8) representation and ensuring of the interests of the Republic of Kazakhstan in contracts for conducting exploration, production or combined exploration and production of minerals, except for 23 commonly occurring minerals, in accordance with the authority established by legislation of the Republic of Kazakhstan;
- 9) control of subsoil users' compliance with the terms of contracts except for contracts for exploration and production of commonly occurring minerals, for state geological studies of subsoil, and for construction and/or operation of underground facilities not related to the exploration and production;
- 10) adoption, on the basis of proposals made by the Interdepartmental commission for the exercise of the state pre-emptive right, of the decision to acquire (or refusal to acquire) the alienated subsoil use right (or part thereof) and/or an object associated with subsoil use right;
- 11) issuing of (or refusal to issue) permits for alienation of subsoil use rights (or part thereof) and/or objects associated with subsoil use rights on the basis of proposals made by the Expert commission for subsoil use matters, as well as registration of transactions in respect of pledge of subsoil use rights and/or participatory interest (shareholding) in a subsoil user legal entity in accordance with Articles 34 and 35 of this Law, except for the subsoil use rights in respect of commonly occurring minerals;
- 12) ensuring the performance and termination of contracts for conducting exploration, production or combined exploration and production of minerals

to effect purchases of goods, works and services for subsoil operations;

25) control over compliance by subsoil users with the procedure of purchase of goods, works and services for subsoil operations;

26) request of information from national registers of identification numbers;

petroleum operations and oil transportation;

20) development of the procedure for issue of permits for flaring of associated and/or natural gas;

21) together with the authorized agency in the field of regulation of the industrial policy, development of forms and procedure for preparation and submission of subsoil users' reports on compliance with obligations with respect to the amount of expenses allocated to training, professional development and re-training of employees being Kazakhstan citizen engaged in the contract implementation or to education of Kazakhstan citizens based upon the list of professions approved by the competent authority;

22) together with the authorized agency in the field of regulation of the industrial policy, development of forms and procedure for preparation and submission of annual, medium-term, long-term programs of goods, works and services procurement, subsoil users' reports on purchased goods, works and services and on compliance with obligations related to Kazakhstan content in personnel;

23) together with the authorized agency in the field of regulation of the industrial policy, development of the procedure for determination of expenses for scientific research and development works in the territory of the Republic of Kazakhstan necessary for performance of works under the contract;

24) other powers granted by this Law, other laws of the Republic of Kazakhstan and edicts of the President and Government of the Republic of Kazakhstan.

Article 19. Competence of authorized agency in the field of regulation of the industrial policy

process waters in volumes of two thousand and more cubic meters per day for the purpose of injection thereof into the layer pursuant to the mineral field development flow sheets or for production of ground water for the purpose of water depression during mine operations;

19) methodical guidelines for activities of local executive bodies of oblasts, cities of republican significance and capital city for formation of the list of goods, works and services produced in the territory of oblast, city of republican significance and capital city, and the producers thereof;

20) with consent by the authorized agency in the field of oil and gas approval of the list of priority high technology productions deve

- 16) organize and maintain the state cadastres of man-made mineral formations;
- 17) approve draft contracts and work programs;
- 18) maintain the state ground water records on the basis of ground water use records provided by water users and the hydro-meteorological service;
- 19) maintain the state water cadastre in respect of ground water;
- 20) coordinate permissions to use potable ground water for purposes not related to potable and domestic water supplies in territories with no surface water bodies, but with sufficient potable ground water reserves;
- 21) coordinate permissions to conduct water protection actions aimed to prevent depletion of ground water bodies;
- 22) agree water use limits for ground water bodies on the basis of basin schemes and standards of maximum permissible levels of adverse impact on water bodies;
- 23) agree the terms and conditions of placement, designing, construction, reconstruction and putting into operation of enterprises and other facilities on water bodies, water protective zones and strips;
- 24) agree project documents for conducting drilling and other mining operations; projects of infrastructure construction through ground water bodies;
- 25) issue expert opinions for construction, reconstruction, operation, conservation and liquidation of enterprises and other facilities which impact the condition of ground water bodies, and for direct intake of ground water from ground water bodies in the case of non-centralized potable water supply;
- 26) approve permits for flaring of associated and/or natural gas in instances anticipated by this Law;
- 27) approve project documents on the basis of the CCED recommendations;
- 28) submit to local executive body of oblast (city of republican significance or capital city) proposals with respect to draft lists of subsoil areas containing commonly occurring minerals subject to tender;
- 29) approve of the regulations on the working group for conduct of direct negotiations with respect to subsoil use right for construction and/or operation of underground facilities not related to exploration or production, and composition thereof;
- 30) approve of the procedure for economic expert examination of project documents with respect to works on state geological studies and monitoring of subsoil, conservation, liquidation of oil and gas and hydrogeologic wells;
- 31) approve the time frame standards and the rates for state subsoil geologic studies and monitoring works upon agreement with the competent authority in the sphere of employment;
- 32) determine the conditions and terms for test exploitation of field (deposit) reserves;
- 28) exercise other powers granted by this Law, other legislative acts of the Republic of Kazakhstan and Presidential edicts.

Article 21. The Central Commission for Exploration and Development of Minerals (CCED) and Inter-regional Commissions for Exploration and Development of Commonly Occurring Minerals (ICED)

1. The principal task of the CCED shall be to ensure the application of the most efficient methods of exploration and development of mineral and ground water deposits.

The CCED recommendations on matters within its authority shall be executed in the form of a protocol and adopted by the decision of the authorized agency for subsoil studies and use and which shall be binding upon all business entities regardless of their form of ownership, including foreign entities that design and conduct exploration and development of minerals in the territory of the Republic of Kazakhstan.

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methods of exploration and development of mineral and ground water deposits at the design stage.

4. The CCED shall perform the following functions:

- 1) consider and submit to the authorized agency for subsoil studies and use proposals to approve or refuse to approve project documents for exploration or production of minerals, except for commonly occurring minerals, and amendments thereto submitted by subsoil users;
- 2) submit to the authorized agency for subsoil studies and use proposals to extend the periods of test productions of fields;
- 3) submit to the authorized agency for subsoil studies and use recommendations for design organizations and subsoil users to improve the rational and integrated use of mineral raw materials;
- 4) ensure the application of the most efficient methods and technologies of exploration and development of minerals in project documents;
- 5) consider developments of research and design organizations and subsoil users on matters of subsoil use, reliable accounting and rational and integrated use of mineral raw materials.

5. The CCED shall have to right:

- 1) to request reference and other materials concerning the subsoil use and rational and integrated use of mineral raw materials from research and design organizations and subsoil users;
- 2) to make proposals to the authorized agency for subsoil studies and use regarding the necessity for subsoil users to have additional expert examinations of submitted project documents made by research organizations and state agencies within their authority;
- 3) to recommend design organizations and subsoil users to apply new forms and methods of subsoil use and rational and integrated use of mineral raw materials elaborated by research and design organizations and subsoil users.

6. The ICED functions shall include the review and submission of proposals to approve or refuse to approve subsoil users' project documents for exploration and development of commonly occurring minerals and additions thereto to the respective territorial branches of the authorized agency for subsoil studies and use.

Article 22. The tasks, functions and rights of the Commission for Holding Subsoil Use Right Tenders and Tender Commissions for Awarding the Subsoil Use Right to Explore or Produce Commonly Occurring Minerals

1. The main tasks of the Commission for holding subsoil use right tenders shall include:

- 1) review and evaluation of bids for obtaining the subsoil use right for exploration or production, combined exploration and production of minerals, except for commonly occurring minerals;

Tender commissions for awarding the subsoil use right to explore or produce commonly occurring minerals shall perform the functions set out in Paragraph 2 of this Article and have the rights set out in Paragraph 3 of this Article.

Article 23. The tasks, functions and rights of Inter-Agency Committee on Issues of Exercising by the State of its Pre-emptive Right

1. The main tasks of Inter-Agency Committee on Issues of Exercising by the State of its Preemptive Right shall include:

- 1) review of applications for alienation of the subsoil use right (or part thereof) and objects associated with subsoil use rights subject to the requirements of legislation of the Republic of Kazakhstan on national security and strengthening of the energy base of the country's economy;
- 2) preparation of proposals regarding the exercise of the state pre-emptive right.

2. The functions of Inter-Agency Committee on Issues of Exercising by the State of its Preemptive Right shall include:

- 1) review of subsoil users' applications for alienation of the subsoil use right (or part thereof) under subsoil use contracts;
- 2) review of persons' applications for alienation of their participatory interests (shares) in legal entities holding the subsoil use right;
- 3) review of persons' applications for alienation of their participatory interests (shares) in legal entities which have the possibility of directly and/or indirectly determining and/or influencing decisions adopted by the subsoil user if the principal activities of such legal entities is related to subsoil use in the Republic of Kazakhstan;
- 4) preparation, substantiation and submission to the competent authority of proposals on the acquisition (or refusal to acquire) by the state of an alienated asset related to the subsoil use right.

3. Inter-Agency Committee on Issues of Exercising by the State of its Pre-emptive Right shall have the right to:

- 1) interact with central executive and other state agencies and organizations;
- 2) invite to participate and hear representatives of state agencies, organizations and other persons on matters within their competence at its meetings;
- 3) request and receive from state agencies, organizations and other persons materials which are necessary for performing its functions in accordance with the statutory procedure.

Article 24. The tasks, functions and rights of the Expert Commission for Subsoil Use Matters and Expert Commissions for Subsoil Use Matters Relating to Exploration or Production of Commonly Occurring Minerals

1. The main task of the Expert commission for subsoil use matters shall be to prepare proposals to the competent authority on the matters set out in Paragraph 2 of this Article which are related to the disposal of the subsoil use right for exploration or production of minerals, except for commonly occurring minerals, and objects associated with subsoil use right to explore and/or produce minerals, except for commonly occurring minerals.

2. The functions of the Expert commission for subsoil use matters shall include the review of applications and preparation, substantiation and submission to the competent authority of proposals to grant (or refusal to grant) permission for:

- 1) alienation of the subsoil use right (or part thereof) under subsoil use contracts;
- 2) alienation of participatory interests (shares) in legal entities holding the subsoil use right;
- 3) pledge of the subsoil use right (or part thereof) or participatory interests (shares) in legal entities holding the subsoil use right;
- 4) participation in public auctions for sale of the subsoil use right (or part thereof) or participatory interests (shares) in legal entities holding the subsoil use right in cases of foreclosure, including pledge, on such subsoil use right (or part thereof), participatory interests (shares) in a legal entity holding the subsoil use right
- 5) participation in public auctions for sale of bankruptcy estate including the subsoil use right (or part thereof), a participatory interest (shares) in a legal entity holding the subsoil use right in the cases of bankruptcy proceedings;
- 6) acquisition by the pledge holder of the pledged subsoil use right (or part thereof), a

participatory interest (shares) in a legal entity holding the subsoil use right in the case of a failed auction for sale of the subsoil use right (or part thereof), participatory interests (shares) in legal entities holding the subsoil use right;

7) acquisition of the right to a participatory interest (shares) in a legal entity holding the subsoil use right as a result of an increase of charter capital through accession of a new participant in such legal entity;

8) initial public offering on the organized market of shares or other securities confirming the title to shares, or securities convertible to shares of a subsoil user legal entity and a legal entity able to directly and/or indirectly determine the resolutions and/or influence decisions made by such a subsoil user, if such a legal entity's core activities are associated with subsoil use in the Republic of Kazakhstan, including initial public offering on the organized market of additionally issued securities/shares of such subsoil user legal entities;

9) changes of obligations under a work program or contract;

10) extension of the validity term of contracts.

At the instructions of the competent authority, the Expert commission for subsoil use matters may consider other matters related to subsoil use, prepare proposals and submit them to the competent authority.

3. The Expert commission for subsoil use and related matters shall have the right to:

1) interact with central executive and other state agencies and organizations;

2) invite to participate and hear representatives of state agencies, organizations, officers and individuals on matters within their competence at its meetings;

3) request and receive from state agencies, organizations and other persons materials which are necessary for performing its functions in accordance with the statutory procedure.

4. The main task of the Expert commissions for subsoil use matters relating to exploration or production of commonly occurring minerals created under the executive body of a region (city of republican significance or capital city) shall be to prepare for the executive body of the region (city of republican significance or capital city) proposals on the matters indicated in Paragraph 2 of this Article which are related to the circulation of the subsoil use right for exploration or production of commonly occurring minerals, and/or participatory interests (shares) in legal entities holding the subsoil use right to explore and/or produce commonly occurring minerals.

The Expert commissions for subsoil use matters relating to exploration or production of commonly occurring minerals shall perform the functions set out in Paragraph 2 of this Article.

At the instructions of the relevant executive bodies of regions (cities of republican significance or the capital cities), the expert commissions for subsoil use matters relating to exploration or production of commonly occurring minerals may consider other subsoil use matters relating to exploration or production of commonly occurring minerals, prepare proposals and submit them to the executive bodies of regions (cities of republican significance or the capital cities).

The Expert commissions for subsoil use matters relating to exploration or production of commonly occurring minerals shall have the rights set out in Paragraph 3 of this Article.

Article 25. The authority of the authorized environmental protection agency

The authorized environmental protection agency shall:

1) exercise the state control of environmental protection;

2) maintain the state cadastre of burials of hazardous substances, radioactive waste and waste water discharges into the subsoil;

3) determine, together with the authorized agency for subsoil studies and use, the amount of damage caused by a violation of environmental requirements;

4) give consent to the issuance of permits for construction and/or operation of underground facilities which are not associated with exploration or production on or outside contract territories and are designed for burial of hazardous substances, radioactive waste and waste water;

5) give consent to programs for prevention of accidents and other dangerous situations in the course of petroleum operations, construction and operation of oil and gas pipelines;

6) exercise the state control of conservation and abandonment of subsoil use facilities;

7) conduct an environmental expert examination of draft exploration or production contracts;

8) give consent to draft lists of subsoil areas to be tendered, except for subsoil areas containing commonly occurring minerals;

9) exercise other authorities provided for by this Law, other legislative acts, Presidential edicts and Governmental Resolutions.

Article 26. The authority of other authorized agencies in the area of subsoil use

1. The authorized agency for employment of population shall:

- 1) develop and approve, upon agreement with the competent authority, the methods of calculating the Kazakhstan content in respect of Kazakhstan personnel;
- 2) take part in the monitoring of the performance by subsoil users of contractual obligations relating to the Kazakhstan content in respect of the employment of Kazakhstan work force, provision of indiscriminate labour conditions and remuneration;
- 3) approve the procedure for calculating the minimum percentage of Kazakhstan personnel in total work force engaged in subsoil operations;
- 4) pursuant to the established procedure, submit to the competent authority the minimum percentage of Kazakhstan personnel in

- of commonly occurring minerals;
- 9) approve the composition of tender commissions for awarding the subsoil use right to explore or produce commonly occurring minerals;
 - 10) negotiate with a subsoil user the terms and conditions of a contract and, together with the subsoil user, draft a contract for exploration or production of commonly occurring minerals;
 - 11) organize the conduct of an expert examination of draft contract documents for commonly occurring minerals, except for expert examination of design and cost documents for carrying out work related to state subsoil studies;
 - 12) conclude, register, and keep contracts for exploration or production of commonly occurring minerals;
 - 13) issue permits to transfers of subsoil use right in accordance with Article 37 hereof and register the subsoil use right pledge transaction in respect of commonly occurring minerals;
 - 14) ensure the performance and unilateral termination of contracts for exploration or production of commonly occurring minerals in accordance with legislation;
 - 15) assist in preservation of items connected with subsoil use which are of scientific, historic, cultural, and recreational significance;
 - 16) approve, in co-ordination with the authorized central executive bodies, lists of geological, geomorphological and hydrogeological items of the state natural preserve stock of local significance and of subsoil areas that are of special environmental, scientific, cultural and recreational value, referred to the category of specially-protected natural territories of local significance;
 - 17) adopt decisions regarding the renewal of contract for exploration or production of commonly occurring minerals;
 - 18) conduct the monitoring and supervision of the performance of contractual obligations in respect of commonly occurring minerals;
 - 19) reserve land for the subsoil use purposes in accordance with the procedure provided for by this Law and land laws of the Republic of Kazakhstan;
 - 20) exercise other authorities in the interests of local state management established by Kazakhstan legislation for local executive bodies.

CHAPTER 3. THE SUBSOIL USE RIGHT

Article 28. Types of subsoil use rights

1. The subsoil use rights shall be granted for the following operations:
 - 1) state geological studies of the subsoil;
 - 2) exploration;
 - 3) production;
 - 4) exploration and production combined;
 - 5) construction and/or operation of underground facilities not connected with exploration or production;
2. The subsoil use rights may be permanent or temporary, alienable or inalienable, payable or free of charge.
3. Production of commonly occurring minerals for the subsoil user's own needs in the land plots which are held under the right of ownership or temporary use shall be carried out under the right of permanent and free of charge subsoil use.
Any other types of subsoil operations shall be carried out on the basis of temporary and payable subsoil use.

Article 29. Holders of subsoil use rights

1. Subsoil use rights may be held by Kazakhstani and foreign individuals and legal entities.
2. Subsoil users shall be entrepreneurs, except for persons producing commonly occurring minerals and ground water for own needs.
3. Subsoil use rights under one contract may be held by several persons. Such persons shall be co-holders of the subsoil use right and bear joint a

exploration or production, shall be entitled to conduct the relevant subsoil operations only within the subsoil area defined by the relevant geological or mining allotment.

2. A geological allotment shall be issued by the authorized agency for subsoil studies and use to the winner of a tender or the person the subsoil use rights are granted to without holding a tender in instances anticipated by this Law no later than twenty days from filing an application.

3. A mining allotment shall be issued by the authorized agency for subsoil studies and use to the winner of a tender or the person the subsoil use rights are granted to without holding a tender in the instances anticipated by Paragraph 2 of Article 35 of this Law no later than twenty days from submission of a draft mining allotment by such person.

4. A holder of subsoil use rights for production shall be entitled to conduct exploration operations within the subsoil area defined by the relevant mining allotment. In the event of an increment of reserves and their confirmation by the state subsoil expert examination the contract may be amended accordingly upon agreement in writing between the parties in accordance with the procedure established by legislation of the Republic of Kazakhstan.

Article 34. Commencement of subsoil use right

1. The subsoil use right shall commence upon:

- 1) granting;
- 2) transfer;
- 3) passage in the procedure of legal succession.

2. Granting the subsoil use right shall mean conferring the right of subsoil use on an entity directly by the state.

3. Transfer of the subsoil use right shall mean conferring of the subsoil use rights on an entity by any other subsoil user.

4. Passage of the subsoil use rights in the procedure of legal succession shall mean acquiring of the subsoil use right by a legal successor as a result of reorganisation of a legal entity and death of an individual holding the subsoil use right.

Article 35. Granting of subsoil use rights

1. The subsoil use rights shall be granted by way of conclusion of a contract, save as provided by Paragraphs 3, 5, 6, 9 of this Article.

2. A contract for exploration or production shall be executed on the basis of the results of a tender.

The following contracts shall be executed on the basis of direct negotiations without holding a tender:

- 1) a production contract with a person having a pre-emptive right to obtain subsoil use rights for production in connection with a commercial discovery on the basis of an exploration contract;
- 2) a contract for construction and/or operation of underground facilities not associated with exploration or production;
- 3) a contract for exploration or production of commonly occurring minerals in the construction (reconstruction, repairs) of railroads and highways and general-purpose bridges;
- 4) a contract for exploration or production with the national company;
- 5) a contract for exploration or production in the instance anticipated by Paragraph 4 of Article 54 of this Law;

6) a contract for production of ground water for domestic use in the amount exceeding two thousand cubic meters per day with the owner or subsoil user of the land plot under which ground water is located, provided that such a person has the special water use right with respect to such land plot.

3. The subsoil use rights for construction and/or operation of underground facilities not associated with exploration or production in or outside the contract territory and intended for burial of radioactive waste, hazardous substances and waste water shall be granted on the basis of a written permit issued by the authorized agency for subsoil studies and use, upon agreement of the authorized environmental protection agency, in accordance with the procedure established by the Government of the Republic of Kazakhstan.

4. The subsoil use rights shall not be required for construction and/or operation of underground facilities which are associated with exploration or production and included in work programs under

exploration or production contracts.

5. The subsoil use rights for production of ground water for domestic and industrial use within the limits of their extraction in the range from fifty to two thousand cubic meters per day shall be granted on the basis of a permit issued by the auth

3. The initial public offering of shares on an organized market or other securities confirming title to shares or securities convertible to shares in a subsoil user legal entity, legal entity having a possibility to directly and/or indirectly determine the decisions and/or influence decision making by such a subsoil user if such a legal entity's core activities are associated with subsoil use in the Republic of Kazakhstan, including the initial public offering of additionally issued securities in such legal entities on an organized market shall be effected with the permission of the competent authority to be issued in accordance with the procedure established by Article 37 hereof.

4. The subsoil use right (or part thereof), participatory interests (shares) in a legal entity having the subsoil use right shall be pledged with the permission of the competent authority or a regional (city of republican significance or capital city) executive body executive body with respect to commonly occurring minerals to be issued in accordance with the procedure established by Article 37 hereof

A loan facility secured by pledge of the subsoil use right shall only be applied for the purposes of subsoil use or for organization of subsequent transformation in Kazakhstan as provided by the contract by the subsoil user itself or by a subsidiary organization where a subsoil user owns 100%

and binding upon the parties to the contract.

9. In the event of the transfer of the subsoil use right held by several individuals or legal entities, such transfer shall be possible with the consent of all holders of such subsoil use right.

10. As long as a subsoil user retains any participation in a contract, such subsoil user and the person to which the subsoil use right is transferred shall bear joint and several liability under the contract.

11. The transfer of the subsoil use right shall constitute an unconditional ground for the reregistration of the land plot and re-issuance of the geological or mining allotment.

The transfer of the subsoil use right shall constitute an unconditional ground for the reregistration (transfer) of the abandonment fund created under the contract.

12. All costs relating to the transfer of the subsoil use rights shall be borne by the subsoil user, unless otherwise stipulated in the terms and conditions of the transfer.

13. The transfer of the subsoil use right shall entail the necessity to make the respective amendments and/or additions to the contract and shall be deemed completed upon registration of such amendments and/or additions. The competent authority or regional (city of republican significance or capital city) executive body may refuse to register a contract if there is no fact of conclusion of a civil-law transaction to transfer the subsoil use rights or if it is found that the subsoil user provided the competent authority or the regional (city of republican significance or capital city) executive body with false information on the basis of which the permission for the transfer of the subsoil use rights was issued, or in the cases of non-compliance with Paragraphs 8 and 9 of this Article.

The transfer of the right to an object associated with a subsoil use right shall be effected

5) information about the acquirer of the subsoil use right or an object associated with the subsoil use right:

in the case of legal entities – the name of the acquirer, its address, nationality, data on state registration as a legal entity and tax registration, information on directors and their authorities, participants with the indication of the sizes of their participatory interests (blocks of shares), circulation of its securities on an organized securities market with the indication of the total number of such securities and the acquirer's subsidiaries;

in the case of individuals – the name of the acquirer, his/her address, nationality, information on their identity documents, tax registration, availability of registration as an entrepreneur or absence thereof and data on legal entities in which the acquirer is a participant (shareholder);

6) information on the previous activities of the acquirer, including a list of states where the acquirer operated during the most recent three years, and data on the financial, technical, managerial and organizational capabilities of the acquirer

(shareholder) in a contract or other act shall not be allowed.
8. A refusal to grant permission to alienate the

Law and other laws of the Republic of Kazakhstan.

2. The subsoil use right shall be terminated in the following cases:

1) the expiry of the contract;

2) the expiry or revocation of the permit for construction and/or operation of underground facilities not related to exploration or production, but intended for burial of radioactive waste, hazardous substances and waste water, as well as for exploration or production of ground process water at a rate of two thousand and more cubic meters per day in accordance with Paragraph 6 of Article 35 of this Law;

3) the Government of the Republic of Kazakhstan takes the decision to prohibit the use of a subsoil area in accordance with Article 14 hereof;

4) the legal entity having the subsoil use right is liquidated.

3. The termination of the subsoil use right shall constitute an unconditional ground for terminating the land use right to the land plot allocated for the purposes of subsoil use.

Article 41. Enforced termination of the subsoil use right

1. In the event of foreclosure of the subsoil use

information required by Paragraph 2 of Article 37 of this Law.

An application for permission to acquire the pledged subsoil use right (or part thereof) or objects associated with subsoil use right shall be reviewed by the competent authority or the regional (city of republican significance or capital city) executive body in accordance with the procedure provided by Article 37 of this Law.

5. The terms and conditions of pledge and other agreements that are not in line with the provisions of this Article shall be invalid.

Article 42. Exercise of the subsoil use rights relating to man-made mineral formations

Extraction from man-made mineral formations which are owned by the state and are not held by specific state-owned enterprises shall be generally carried out on the basis of a contract.

Article 43. Exercise of the subsoil use rights relating to state geological studies of the subsoil

1. State geological studies of the subsoil may be carried out by individuals and legal entities which have the subsoil use rights to conduct state geological studies of the subsoil as provided by Paragraph 8 of Article 35 of this Law.

2. Work (operations) related to state geological studies of the subsoil may include regional works and geological surveys, geological, geophysical, geochemical, hydrogeological studies,

of Kazakhstan, while those in the case of commonly occurring minerals – by regional (city of republican significance or capital city) executive body.

After such list is approved, the local executive body of oblast, city of republican significance or capital city allocates land plots for subsoil use purposes in accordance with the procedure established by the land laws of the Republic of Kazakhstan.

3. The lists of subsoil areas to be tendered which are located in specially protected natural territories shall be approved by the authorized agency in the area of specially protected natural territories.

4. Tenders for the subsoil use rights shall be held by the competent authority in accordance with this Law.

5. The competent authority or regional (city of republican significance or capital city) executive body shall hold tenders and conclude production contracts only after the state expert examination of the subsoil is conducted in respect of field reserves and the availability of commercial reserves is confirmed.

Article 47. Terms of holding a tender for the subsoil use right

1. Information on a tender to be held and its terms shall be published simultaneously in the Kazakh and Russian languages in printed periodicals circulating in the entire territory of the Republic of Kazakhstan.

All persons wishing to participate in a tender are entitled to receive information relating to the holding of the tender no later than the deadline for submitting applications for participation in the tender.

2. A notice of a tender for the subsoil use right shall indicate:

- 1) the time and place of its holding and the deadline for submitting applications;
- 2) the basic terms of the tender;
- 3) the location and a brief description of the subsoil areas to be allocated for subsoil operations;
- 4) the amount of a participation fee and bank details for its payment;
- 5) the amount of a signature bonus;
- 6) the minimum Kazakhstan content in personnel to be employed;
- 7) the minimum Kazakhstan content in goods, works and services;
- 8) the minimum cost of training Kazakhstan specialists;
- 9) the cost for scientific research and development works in Kazakhstan necessary for performance of works under the contract.

3. If necessary, a notice of a tender for the subsoil use right may indicate the minimum amount of mineral raw materials to be processed by a tender participant in the Republic of Kazakhstan. The minimum amount of mineral raw materials to be processed by the tender participant in the Republic of Kazakhstan shall be determined by the competent authority.

4. The period of time tender participants have to submit applications, including for commonly occurring minerals, may not be less than one month from the publication of the tender notice.

5. The period of time between the date of the publication of the tender terms and the date of holding (the beginning of summarization of the results of) of the tender may not be less than four months, while in the case of commonly occurring minerals – less than three months.

6. The participation fee shall not be refunded.

Article 48. Application for participation in tender for subsoil use right

1. An application for participation in a tender shall contain:

- 1) in the case of legal entities – the name of the applicant, its address, nationality, data on state registration as a legal entity and tax registration, information on its directors and participants or shareholders with stating the sizes of their participatory interests in the charter capital (in the total amount of the charter capital), circulation of its securities on organized securities markets with the indication of the total number of such securities and the applicant's subsidiaries;
- 2) in the case of individuals – the name of the applicant, his/her address, nationality, information on the identity documents, tax registration and registration as an entrepreneur;
- 3) data on the managers or representatives representing the applicants, including their authority;
- 4) information on the previous activities of the applicant, including a list of states where the

applicant operated during the most recent three years;

5) the name of the subsoil area and the subsoil right sought by the applicant;

6) a document evidencing the payment of a participation fee.

Duly certified documents confirming the data indicated in the application shall be attached to the application.

2. An application shall be accepted for review subject to compliance with the requirements of this Article. An application which is not in compliance with the requirements of this Article shall be rejected.

3. The applicant shall be officially informed by the competent authority of the acceptance of its application for participation ticipat

5), 6), 7) and 8) of Paragraph 2 of Article 47 hereof shall be rejected.

4. The obligations and intentions proposed by an applicant in its bid shall be included in the contract.

Article 51. Denial of the Right to participate in a tender

The right to participate in a tender may be denied in the following cases:

1) an application to participate in a tender is not made in compliance with the requirements of Article 48 of this Law;

2) a bid does not meet the tender terms;

3) an applicant provides false information;

4) the granting of the subsoil use right to an applicant would result in a breach of the requirements of the country's national security, including in the case of concentration of rights within a contract and/or concentration of subsoil use rights.

A denial of the right to participate in a tender in accordance with Paragraph 4 of this Article shall be given without any explanation of the reasons.

A denial of the right to participate in a tender may be challenged in court.

Article 52. Summarizing tender results

1. The winner of a tender shall be determined on the basis of the consideration of bids using the following basic criteria taken together:

1) the amount of a signature bonus;

2) the amount of funds to be allocated for the social and economic development of the region and its infrastructure development.

2. The winner of a tender shall be determined from the bidders for the subsoil use right for exploration, production or combined exploration and production of minerals, except for commonly occurring minerals, by the commission for holding subsoil use right tenders.

The winner of a tender shall be determined from the bidders for the subsoil use right for exploration or production of commonly occurring minerals by the commission for holding subsoil use right tenders for commonly occurring minerals.

3. The summing up of the results of a tender shall be documented by a protocol to be signed by all present members of the commission for holding subsoil use right tenders (the tender commission for awarding the subsoil use right to explore or produce commonly occurring minerals).

The time for summing up the results of a tender shall not be more than fifteen days from the deadline for submitting bids. The time for summing up the results of a tender may be extended by the decisions of the commission for holding subsoil use right tenders (the tender commission for awarding the subsoil use right to explore or produce commonly occurring minerals), but not for more than one month.

4. The results of a tender may be challenged by tender participants in the procedure established by Kazakhstan legislation.

5. A contract with the tender winner shall be concluded in accordance with the procedure and terms established by this Law.

6. The results of a tender must be published simultaneously in the Kazakh and Russian languages in an official printed publication as well as on the official internet resource of the stt thdjl6ons propol6on

the tender if as the result of such a transfer a person acquires the right to directly or indirectly (through third parties) dispose of less than 0.1 per cent. participatory interest (shareholdings) in the charter capital of a legal entity recognized the winner of such tender.

CHAPTER 5. GRANTING THE SUBSOIL USE RIGHT ON THE BASIS OF DIRECT NEGOTIATIONS

Article 56. Subjects of direct negotiations

1. Subsoil areas to be allocated for exploration, production or combined exploration and production of minerals, except for commonly occurring minerals, on the basis of direct negotiations shall be identified by the competent authority, with the exception of subsoil areas to be allocated for conducting production operations with a person having a pre-emptive right to obtain the subsoil use right for production due to a commercial discovery under an exploration contract.

Contracts shall be concluded on the basis of direct negotiations without holding a tender in the cases as established by Paragraph 2 of Article 35 of this Law.

2. The subjects of direct negotiations for concluding contracts in respect of the subsoil use rights for construction and/or operation of underground facilities not connected with exploration or production, as identified by the authorized agency for subsoil studies and use, shall be as follows:

1) underground and buried structures for storage of oil and gas except for petrol filling stations;

2) tunnels, underground railways, underground viaducts and engineering structures at a depth of more than three meters;

3) facilities designed to inject ground water into the subsoil for artificial reserve replenishment;

4) tailing and sludge pits for storage and burial of solid, liquid and radioactive waste, hazardous poisonous substances and discharge of waste and industrial water into the subsoil.

3. Subsoil areas to be allocated for exploration or production of commonly occurring minerals on the basis of direct negotiations shall be identified by the executive bodies of regions (cities of republican significance or the capital cities).

Article 57. Procedure for and terms of conducting direct negotiations

1. The persons identified by this Law shall have the right to enter into a contract through direct negotiations.

A person seeking to obtain the subsoil use right on the basis of direct negotiations must meet the requirements for subsoil users established by this Law.

2. Direct negotiations for the grant of the subsoil use right for exploration, production or combined exploration and production of minerals shall be conducted by a working group of the competent authority. The composition of a working group shall be approved by the competent authority.

Direct negotiations for the grant of the subsoil use right for construction and/or operation of underground facilities not connected with exploration or production shall be conducted by a working group of the authorized agency for subsoil studies and use. The composition of a working group shall be approved by the authorized agency for subsoil studies and use in coordination with the competent authority.

3. In order to participate in direct negotiations, a person seeking to enter into a contract shall submit to the competent authority an application made in accordance with the requirements established by this Chapter.

In cases provided for in subparagraph 4 of Paragraph 2 of Article 35 hereof the local executive bodies of oblast, city of republican significance or the capital city carry out reservation of land for subsoil use upon the receipt of the notice from the competent authority on conduction of direct negotiations on granting the subsoil use right in the procedure established by the land laws of the Republic of Kazakhstan.

4. Within one month after the application for participation in direct negotiations is accepted, the authorized agency for subsoil studies and use shall provide the applicant, for a fee, within one month,

with a package of geological information regarding the subsoil area to be allocated.

5. Within two months of receipt of the application to participate in direct negotiations, the competent authority shall notify the applicant of the decision to conduct, or refuse to conduct, direct negotiations.

The competent authority shall notify the applicant of the date of direct negotiations.

6. Direct negotiations shall be held within two months of receipt of the application executed as required by Article 58 of this Law. The period of direct negotiations may be extended by a decision of the competent authority.

7. The provisions of this Article shall be applicable to negotiations conducted by a regional (city of republican significance or capital city) executive body in connection with granting a subsoil use

4. Duly certified documents (or their copies) supporting the information specified in the application shall be enclosed in the application.

Article 59. Making decisions based on the results of direct negotiations

1. The decision to grant or to deny the subsoil use right on the basis of direct negotiations shall be made on the basis of data evidencing that the applicant is capable of performing its obligations under the contract.

2. The decision of the competent authority or a regional (city of republican significance or capital city) executive body based on the results of direct negotiations shall be documented as a protocol of direct negotiations to be signed by all members of the working group formed by the competent authority.

In the event that the subsoil use right is granted on the basis of the results of direct negotiations, the protocol of direct negotiations shall be signed by the authorized representative of the applicant.

The date of the decision made on the basis of the results of direct negotiations shall be deemed to be the date when the protocol of direct negotiations is signed.

The competent authority shall be obliged to notify the applicant of the decision made on the basis of the results of direct negotiations within ten days

1) the obligations provided for in Paragraph 3 hereof which may not be less than the amounts: agreed by the parties during direct negotiations with respect to contract for production as the result of a commercial discovery; and declined earlier by the applicant who discovered and assessed the deposit (field) as the result of direct negotiations with the competent authority;

2) to take necessary measures to maintain contract territory in the condition suitable to perform production operations with respect to environmental safety and ensuring corresponding safe conditions on the contract territory for the population and personnel starting from the date of determination of the tender winner till conclusion of the contract;

3) to reimburse the person that has made a commercial discovery under an exploration contract for the costs of discovery and appraisal of the subsoil area put to tender and of maintenance of the contract territory in the condition suitable for further production operations in compliance with Paragraph 11.2 hereof.

Such reimbursement shall be a lump sum of such total costs adjusted for inflation determined on the basis of the official statistical data of the authorized state statistics agency.

The period for reimbursement of such costs shall be established by the competent authority and must not exceed three months following the date of conclusion of a contract with a tender winner.

The tender winner shall have the right to perform an audit of costs to be reimbursed by it. In the event that the tender winner and the subsoil user that discovered and appraised a deposit under an exploration contract dispute the amount of recoverable costs, such dispute shall be settled in court.

6. The decision of the competent authority to refuse to grant the subsoil use right on the basis of direct negotiations to a person may be challenged in court.

7. If a tender held in accordance with Paragraph 5 of this Article is recognized failed, the competent authority and the person that has discovered and appraised a deposit under an exploration contract must hold direct negotiations to determine the terms indicated in Paragraph 3 of this Article.

If an agreement on such terms is reached, a protocol of direct negotiations shall be executed and project documents and a contract shall be drafted as provided for by Paragraph 4 of this Article.

If no agreement on the terms indicated in Paragraph 3 of this Article is reached, the competent authority and the person that has discovered and appraised a deposit under an exploration contract shall jointly determine the necessary terms of a repeat tender concerning the amount of a signature bonus, the amount of Kazakhstan content in goods, work, services, and Kazakhstan personnel and the amount of allocations for socio-economic and infrastructure development.

8. If a repeat tender is recognized as failed, the person that has discovered and appraised a deposit under an exploration contract shall be entitled to demand that a contract with it be executed on the terms offered by it in the course of direct negotiations.

In this case the competent authority must enter with such a person into a production contract if a direct negotiations protocol is available.

9. The provisions of this Article shall be applicable to regional (city of republican significance or capital city) executive body with respect to transition from the phase of exploration to production of commonly occurring minerals.

10. A subsoil user that has discovered and appraised a deposit under an exploration contract and filed an application for conducting direct negotiation for entering into a production contract shall continue to perform the obligations under the exploration contract, work program and project documents until the expiry of the exploration contract.

11. Upon expiry of the exploration contract, the subsoil user that filed an application for conducting direct negotiation for entering into a production contract shall be obliged:

1) in case of relinquishment of a part(s) of the contract territory, to carry out the abandonment or conservation of the subsoil use facilities in accordance with Article 111 of this Law, including the restoration of land plots and other natural sites disturbed as a result of exploration operations to a condition suitable for their further use in the relinquished part(s) of the contract territory;

2) in case of intention to conduct production operations in the entire contract territory or part(s) thereof which are not to be relinquished, to take necessary actions to maintain the contract territory in a condition suitable for subsequent production operations subject to environmental requirements and ensure safety of the population and the personnel in the relevant contract territory or part(s) thereof until the execution of a production contract.

If a production contract is not concluded on the basis of direct negotiations with the subsoil user who has discovered and assessed the deposit (field) under an exploration contract such subsoil user's

obligations to maintain the contract territory (or parts thereof) in the condition suitable for further production operations shall be terminated when a tender winner is determined in accordance with this Article.

12. If a subsoil user being a party to a production contract based upon a tender fails to compensate the person who has discovered and assessed the deposit (field) for the exploration costs under this Paragraph 5 hereof within the established period, then such a person shall be entitled to demand the competent authority to immediately terminate the contract with such a subsoil user or conduct of a repeat tender. At the same time the person who has discovered and assessed the deposit (field) shall be entitled to demand compensation of losses from the person being a party to the production contract and failing to perform its obligation to compensate for exploration costs in accordance with Paragraph 5 hereof.

13. Upon conclusion of a production contract based upon the results of direct negotiations or a tender conducted in compliance with this Article the expenses incurred by the subsoil user in accordance with subparagraph 2) Paragraph 5 and/or Paragraph 11 of this Article shall be allocated to the expenses under such production contract and shall be subject to compensation in compliance with Kazakhstan legislation.

CHAPTER 6. SUBSOIL USE CONTRACT

Article 61. Types of subsoil use contracts

1. The following types of contracts shall be used for subsoil operations:

- 1) exploration works – an exploration contract;
- 2) production works – a production contract;
- 3) exploration and production combined – a combined exploration and production contract;
- 4) construction and/or operation of underground facilities not connected with exploration or production – a contract on the construction and/or operation of underground facilities not connected with exploration or production;
- 5) the state geological studies of the subsoil – a contract on the state geological studies of the subsoil.

Contracts shall be concluded, performed, amended or terminated in accordance with this Law.

2. The terms of a contract, except for a contract on the state geological studies of the subsoil, must be determined subject to the provisions of model contracts for subsoil use types approved by resolutions of the Government of the Republic of Kazakhstan and must include the following terms:

- 1) definitions;
- 2) purpose of contract;
- 3) contract term;
- 4) contract territory;
- 5) ownership right to property and information;
- 6) state's right to acquisition and requisition of minerals;
- 7) general rights and obligations of parties;
- 8) exploration or production period (depending on the type of contract);
- 9) commercial discovery;
- 10) measurement of minerals;
- 11) performance of contract work;
- 12) financing;
- 13) taxation;
- 14) accounting;
- 15) insurance;
- 16) conservation or abandonment and abandonment fund;
- 17) subsoil and environment protection;
- 18) safety of population and personnel;
- 19) liability of subsoil user for breach of contract terms;
- 20) force majeure;
- 21) confidentiality;
- 22) transfer of rights and obligations;
- 23) applicable law;

- 24) procedure for dispute resolution;
- 25) guarantees of contract stability;
- 26) conditions of suspension and termination of contract;
- 27) language of contract.

A contract must contain the following obligations: on the amount and terms of payment of a signature bonus; on the amount and terms of allocations to the local budget for socio-economic and infrastructure development; on Kazakhstan content in personnel, on the amount of costs of training, professional development and retraining of Kazakhstan personnel involved in contract implementation or training of Kazakhstan specialists based upon the list of professions approved by the competent authority; on Kazakhstan content in goods, work, services; on the provision of equal conditions and remuneration for Kazakhstan personnel as compared to engaged foreign personnel, including subcontract personnel; on the amount of expenses for scientific, research and development works in Kazakhstan necessary for work under the contract.

A contract shall contain the subsoil user's obligations with respect to transfer of property securing process flow continuity and industrial safety as well as the powers of the competent authority to transfer such a property in the cases described in Paragraph 10 of Article 72 of this Law.

If a contract is concluded with respect to a subsoil area which contract was terminated a contract with a new subsoil user must contain obligations to compensate the previous subsoil user and a trust manager for costs, including the cost of property transferred under Paragraph 10 of Article 72 of this Law as well as the obligation to pay a fee to the trust manager.

The terms of a contract shall include amounts of forfeiture (fines and penalties) for any failure by a subsoil user to perform its obligations or undue performance thereof, including those pertaining to Kazakhstan content in goods, work, services and personnel, and in respect of non-tax payments provided for by the contract.

A hydrocarbon production contract shall include obligations of a subsoil user on processing (utilization) of associated gas.

A contract may contain other terms.

3. The terms of a contract may not be less beneficial for the Republic of Kazakhstan than those established according to the results of direct negotiations or in the bid.

4. A combined exploration and production contract shall be entered into based upon a resolution of the Government of Kazakhstan exclusively with respect to subsoil use areas or deposits (fields) of strategic significance and/or complex geological structure.

Unless otherwise established by Kazakhstan legislation:

the provisions of Kazakhstan legislation related to exploration contracts shall be applicable to a combined exploration and production contract during exploration;

upon discovery and assessment of the deposit (field) and the approval of relevant project documents based upon the exclusive right to production in connection with commercial discovery such contract shall be amended to reflect production stage and thereafter Kazakhstan legislation relating to production contracts shall be applicable to such a contract.

5. Mandatory annexes to a contract, except for a contract on the state geological studies of the subsoil, shall be a geological or mining allotment and a work program.

6. The terms of a contract must provide that the applicable law under the contract shall be the laws of the Republic of Kazakhstan.

7. A contract must be made in the Kazakh and Russian languages. The text of a contract may also be translated into another language as its parties may agree.

8. Control of subsoil users' compliance with the terms of contracts for exploration, production or combined exploration and production of minerals, except for commonly occurring minerals, shall be exercised by the competent authority.

Control of subsoil users' compliance with the terms of contracts for exploration or production of commonly occurring minerals shall be exercised by the executive bodies of regions (cities of republican significance or the capital cities).

In the event that a subsoil user breaches the terms of the contract the competent authority, and in the event that a subsoil user breaches a contract for exploration or production of commonly occurring minerals the executive agency of the region (city of republican significance or capital city), shall notify the subsoil user in writing of the subsoil user's obligation to eliminate such breach within the established period of time.

9. A contract on the state geological studies of the subsoil shall be concluded in accordance with

the procedure established by the Government of the Republic of Kazakhstan.

Article 62. Preparing a draft subsoil use contract

1. A draft contract shall be prepared by the tender winner or the person the contract is to be concluded with on the basis of direct negotiations, and shall be agreed with the competent authority or regional (city of republican significance or capital city) executing agency through negotiations.

2. A draft contract shall be prepared on the basis of a model contract, a protocol of direct negotiations, the winner's bid and approved work program worked out on the basis of project documents prepared and approved in accordance with the established procedure.

The provisions of a draft contract must meet the requirements applied by this Law to contract terms. A draft exploration or combined exploration and production contract must provide for the subsoil user's obligations to prepare an appraisal work project in accordance with the requirements of this Law.

3. A draft contract, together with a work program, shall be, prior to its signing, subject to agreement with the authorized agency for subsoil studies and use, and the following mandatory expert examinations: legal, environmental and economic.

Expert appraisal shall deal with the compliance of the contract with Kazakhstan legislation. The compliance of the contract terms with the winning bid, direct negotiations terms, the assessment of economic feasibility and social significance of the project implementation shall be the subject matters of the economic expert appraisal.

Expert opinions shall be issued by relevant state agencies within their authority in accordance with Kazakhstan legislation within 30 calendar days, and the environmental expert opinion shall be issued within 3 months following the date of transfer of the full package of documents necessary for the relevant expert appraisal.

The results of expert appraisal shall be formalized by an expert opinion which may be negative or positive.

The person seeking to conclude a subsoil use contract shall revise the contract draft to eliminate the comments of the state body outlined in the expert opinion.

After the said comments are taken into the account in a revised draft the state body shall conduct a repeat expert appraisal. A repeat expert appraisal shall also be conducted in the events of amendments to project or other documents upon the receipt of a positive expert opinion.

If a person seeking to conclude a contract does not agree with the comments in legal and/or economic expert opinion, then such a person shall be entitled to send his grounded objections to the competent authority or a regional (city of republican significance or capital city) executive body for consideration by a conciliation committee.

Within 10 days the competent authority or regional (city of republican significance or capital city) executive body shall establish a conciliation committee to consider the objections. The conciliation committee shall include the representatives of the competent authority or regional (city of republican significance or capital city) executive body, state bodies which made the comments and the person seeking to conclude a contract. Based upon the results of the sitting the conciliation committee shall develop recommendations reflected in the protocol. Subject to the conciliation committee's recommendations the contract shall be passed over for repeat expert appraisal.

4. A person seeking to conclude a contract shall have the right to submit a draft contract and a work program for agreement to the competent authority or a regional (city of republican significance or capital city) executive body prior to the agreement of the draft contract and work program with the authorized agency for subsoil studies and use and receipt of the results of necessary expert examinations, but not earlier than the project documents are approved in accordance with established procedure.

The competent authority or a regional (city of republican significance or capital city) executive body shall approve of the draft contract together with a work program within one month following the date of their receipt.

5. After the agreement of a draft contract and a work program with the authorized agency for subsoil studies and use, the conduct of necessary expert examinations and the elimination by the person seeking to conclude a contract of all comments made in expert opinions, the draft contract together with the work program, all approved project documents, results of agreements and expert examinations shall be submitted by the person seeking to conclude a contract for final approval to the

competent authority or a regional (city of republican significance or capital city) executive body. The competent authority or a regional (city of republican significance or capital city) executive body shall approve the final version of the contract and the work program no later than two months following the date of submission of the documents by the person seeking to conclude a contract.

Article 63. Work program

1. A work program shall be a mandatory part (annex) of the contract and shall be prepared on the basis of project documents prepared and approved in accordance with established procedure and must be agreed with the authorized agency for subsoil studies and use.

A work program shall be agreed with the authorized agency for subsoil studies and use simultaneously with the conduct of expert examination of a draft contract. The period of agreeing a work program shall be no more than one month following the date of receipt of the work program by the authorized agency for subsoil studies and use.

2. When any indices in project documents are changed resulting in changes in the indices of the work program, the work program must be amended accordingly.

Amendments to work program resulting from the changes to project documents shall be agreed simultaneously with the approval of the project document by the authorized agency for subsoil studies and use. Such amendments to work program shall be made by way of execution of a supplemental agreement to contract between the subsoil user and the competent authority or a regional (city of republican significance or capital city) executive body within 30 calendar days following the approval of the work program by the authorized agency for subsoil studies and use.

Article 64. Prospecting project

1. Prior to the signing and registration of an exploration or combined exploration and production contract, the tender winner or the person the contract is to be concluded with on the basis of direct negotiations shall prepare a prospecting project.

A prospecting project must include the most efficient and intense program for studying the territory, including up-to-date and high-precision methods of prospecting and laboratory analysis studies, which must ensure efficient and integrated studies of the subsoil area and fully cover the entire territory of the subsoil area granted for use.

A prospecting project must contain a financial part reflecting costs of prospecting and finding a deposit for the entire period of the prospecting stage.

2. A prospecting project shall be subject to the following mandatory expert examinations:

- 1) state environmental examination,
- 2) on industrial safety,
- 3) on healthcare and sanitation.

3. The period of preparing and agreeing a prospecting project must not exceed six months following the date of signing the protocol of direct negotiations in the case of a person a contract is to be concluded with on the basis of direct negotiations, and in case of a person recognized as a tender winner following the date of announcement of a tender winner. In the case of persons procuring design work in accordance with state procurement legislation or in accordance with the procurement procedure established for the national managing holding and legal entities in which the national managing holding directly or indirectly owns 50 per cent. or more of voting shares (participatory interests), the period of preparing and agreeing a prospecting project may be extended on the basis of the competent authority's or a regional (city of republican significance or capital city) executive body's decision subject to the mandatory procedures established by state procurement legislation or the procurement procedures established for the national managing holding and the legal entities in which the national managing holding directly or indirectly owns 50 per cent. or more voting shares (participatory interests).

A prospecting work project shall be prepared for a period of up to six years.

The validity term of a prospecting project shall be extended in the event that the competent authority extends the validity period of an exploration or combined exploration and production contract in the case of off-shore petroleum operations in accordance with Paragraph 1 of Article 69 of this Law.

4. A prospecting project in respect of minerals, except for commonly occurring minerals, shall be reviewed by the CCED within one month following the date of receipt of the project by the CCED,

and approved by the authorized agency for subsoil studies and use within fifteen business days following the date of receipt of proposals from the CCED.

An appraisal project and a pilot production project in respect of commonly occurring minerals shall be reviewed by the ICED within one month following the date of receipt of the respective project by the ICED, and approved by the territorial body of the authorized agency for subsoil studies within fifteen business days following the date of receipt of proposals from the ICED.

6. The period of preparing and agreeing a project must not exceed five months following the date of the decision on transiting to the appraisal stage.

7. Where amendments and/or additions to the conditions and scope of work determined in the approved projects are necessary, draft amendments and/

4) on rational and integrated use of subsoil.

A feasibility study shall be subject to mandatory economic expert examination.

6. The period of preparation and approval of the project documents may not exceed eighteen months from the date of signing of the protocol of direct negotiations in the case of a person with whom the contract is entered into on the basis of direct negotiations, and from the date of declaring the results of a tender in the case of a person recognized as the tender winner.

In the case of persons procuring design work in accordance with state procurement legislation or the procurement procedures established for the national managing holding and the legal entities in which the national managing holding directly or indirectly owns 50 per cent. or more of voting shares (participatory interests), the period of preparation and approval of production project documents may be extended by the competent authority's or a regional (city of republican significance or capital city) executive body's decision subject to the mandatory procedures established by state procurement legislation or the procurement procedures established for the national managing holding and the legal entities in which the national managing holding directly or indirectly owns 50 per cent. or more of voting shares (participatory interests).

7. The deposit development project for solid minerals shall be reviewed by the CCED within one month from the date of receipt of the project by the CCED and approved by the authorized agency for subsoil studies and use within fifteen business days following the date of receipt of proposals from the CCED.

The development flow sheet and pilot development and commercial development projects for hydrocarbons shall be reviewed by the CCED within three months from the date of their receipt and shall be approved by the authorized agency for subsoil studies and use within fifteen business days following the date of receipt of proposals from the CCED.

The project documents for the development of deposits of commonly occurring minerals envisaged by this Article shall be reviewed by the ICED within one month following the date of receipt of the respective project by the ICED, and approved by the territorial body of the authorized agency for subsoil studies within fifteen business days following the date of receipt of proposals from the ICED.

Deposit development projects with respect to ground water at production rate of over two thousand cubic meters per day and for injecting thereof in the formation in accordance with the production flow sheet shall be reviewed by CCED within one month from the date of receipt thereof by CCED and shall be approved by the authorized agency for subsoil studies and use within fifteen business days following the date of receipt of proposals from the CCED.

8. Where amendments and/or additions to the conditions and scope of work determined in the approved projects are necessary, draft amendments and/or additions to the approved project shall be reviewed and approved by the agencies specified by Paragraph 7 of this Article. 64

A subsoil user may be denied in the approval of amendments and/or additions to production works project documents in the following instances:

1) the proposed amendments and/or additions do not comply with the positive practice of deposit development;

2) the proposed amendments and/or additions do not comply with the requirements established for rational and integral use of subsoil;

3) one of the expert examinations listed in Paragraph 5 hereof issued a negative expert opinion.

The consideration and approval of amendments and/or additions to the projects shall not take more than one month following the date of receipt by the CCED or the ICED of such draft amendments and/or additions to the prospecting project.

9. Approved project documents for production operations shall serve as a basis for drafting and concluding a contract.

10. It shall be prohibited to conduct any production operations without the project documents being approved in the established manner and in case of any violation of the requirements of such project documents.

Article 67. Terms of payment of a signature bonus

1. The tender winner, the person with whom a contract is entered into on the basis of direct negotiations and the person which concluded a contract shall pay the signature in compliance with tax legislation of the Republic of Kazakhstan. Under the contracts where the national company is a subsoil user the signature bonus shall be paid to the Republic of Kazakhstan by its strategic partner,

unless otherwise provided for in the joint operation agreement.

2. The control of the timely and full payment of the signature bonus shall be carried out in accordance with tax legislation.

3. If the person declared as the winner of a tender fails to timely pay fifty percent of the signature bonus, the tender commission for awarding the subsoil use (tender commission for awarding the subsoil use right to explore or produce commonly occurring minerals) shall have the right to cancel the decision to recognize such person as the tender winner.

If the person with whom a contract is entered into on the basis of direct negotiations fails to timely pay fifty percent of the stated signature bonus, the competent authority (a regional (city of republican significance or capital city) executive body) shall have the right to cancel the decision to enter into a contract with such person on the basis of direct negotiations.

4. If the tender commission for awarding the subsoil use (tender commission for awarding the subsoil use right to explore or produce commonly occurring minerals) cancels its decision to recognize the person as the tender winner because such person fails to comply with its obligation to pay fifty per cent. of the signature bonus or the competent authority (a regional (city of republican significance or capital city) cancels the decision to enter into a contract on the basis of direct negotiations with the person that fails to comply with its obligation to pay the signature bonus, such person shall lose the right to enter into a contract and the competent authority.

5. If a contract is not entered into within the established time period through the fault of the tender winner or the person with whom a contract is entered into on the basis of direct negotiations, the paid signature bonus shall not be refunded.

The competent authority shall send a written notice to the state agency responsible for ensuring payment of taxes and other obligatory payments to the budget on the fact of non-conclusion of a contract through the fault of the tender winner or a person with which a contract is concluded on the basis of direct negotiations.

Article 68. Entering into and registration of the contract

1. A subsoil use contract shall be concluded after the terms of such contract, the work program and project documents provided for by this Law and approved in the established manner having been finally agreed upon with the competent authority, and the results of the mandatory expert examinations which allow the entering into of the contract have been obtained.

2. The period for conclusion of an exploration contract shall not exceed eighteen months from the date of the competent authority's decision to enter into the contract and signing of the protocol of direct negotiations in the case of a person with whom a contract is entered into on the basis of direct negotiations, and from the date of declaring the tender results in the case of a person recognized as the tender winner.

The period for conclusion of a production contract shall not exceed twenty four months from the date of the competent authority's decision to enter into the contract and signing of the protocol of direct negotiations, and from the date of declaring the tender results in the case of a person recognized as the tender winner.

amendments and/or additions to the contract shall be deemed valid only upon registration thereof.

4. A copy of the contract, upon its registration with the competent authority, shall be delivered to the authorized agency for subsoil studies and use, the authorized agency for environmental protection and to the authorized agency for budget implementation.

5. The conclusion of a contract shall be the basis for registration of the land plot with the (a regional (city of republican significance or capital city) executive body within thirty business days after the date of an application of the subsoil user, except for cases of forced seizure of land plots (land use right) for the state needs in compliance with land legislation of the Republic of Kazakhstan. Land plots that are owned or used by third parties shall be granted in accordance with the land legislation of the Republic of Kazakhstan. In such event, the spatial boundaries of a land plot to be registered shall be limited to the area which is actually used by the subsoil user, with disturbance of the land surface during the period of the actual use of the land plot.

6. Contracts for exploration or production of commonly occurring minerals shall be concluded and registered by the executive bodies of regions (cities of republican significance or the capital cities).

Article 69. Validity term of the contract

1. An exploration contract shall be concluded for a period of up to six years.

The validity term of an exploration contract in the case of off-shore petroleum operations may be extended by the competent authority for up to two years if six months prior to the expiry of such contract the subsoil user submits to the competent authority an application for an extension of the validity term providing good reasons for such extension.

In the event of a commercial discovery, subsoil user shall be entitled to extend the contract for a period which is required for its appraisal.

An application for an extension of the contract for appraisal of a discovery shall be reviewed within one month after its receipt by the competent authority or a regional (city of republican significance or capital city) executive body.

2. A production contract shall be concluded for a period established in the production project.

The competent authority or the local executive body of oblast, city of republican significance or capital city may extend the term of a production contract, provided there are no violations of contractual obligations by subsoil user and the subsoil user applied for such extension of the contract to the competent authority or the regional (city of republican significance or capital city) executive body six months before the termination of operations, providing good reasons for such extension. An application seeking extension of a contract shall be reviewed within two months after its receipt by the competent authority.

3. If the validity term of a contract is changed, the contract shall be amended accordingly.

Article 70. Territorial area of contract application

1. Within a contract territory, there may be one or more subsoil areas, either adjacent to one another or separate. A subsoil area(s) allocated within a contract territory may be limited to a certain depth.

2. If two or more subsoil users conduct subsoil operations under different contracts within one contract territory, the procedure for conducting subsoil operations shall be determined as such subsoil users may agree.

If the subsoil users conducting subsoil operations under different contracts within one contract territory fail to agree upon such procedure, the subsoil user that conducts exploration or production of minerals under the contract with the competent authority shall have the right to establish the procedure for conducting subsoil operations in the contract territory.

The subsoil user that conducts exploration or production of commonly occurring minerals under a contract concluded with the executive bodies of regions (cities of republican significance or the capital cities) shall be obliged to comply with the procedure for conducting operations in the contract territory established by the subsoil user that conducts exploration or production of minerals under the contract with the competent authority.

If two or more subsoil users conduct subsoil operations within one contract territory under different contracts with the competent authority, the subsoil user that entered into the contract earlier shall have the right to establish the procedure for conducting subsoil operations in the contract territory.

The subsoil user that entered into the contract later shall be obliged to comply with the procedure for

to be made to the contract, including a previously concluded contract, in order to restore the economic interests of the Republic of Kazakhstan.

Article 72. Termination of contracts

1. A contract shall be terminated upon expiry of its validity term unless the parties agree to extend the validity term as provided for by Article 69 of this Law.
2. A contract may be prematurely terminated by agreement between the parties and on demand of either party in instances established by this Law
3. The competent authority may prematurely terminate a contract unilaterally in the following cases:
 - 1) if the subsoil user fails to timely eliminate mo

10. If a contract is early terminated by the competent authority, the national company shall take the contract territory into its trust management. The former subsoil user's property, structures and equipment ensuring continuity of the process flow and industrial safety shall pass into temporary possession and use to the national company for the period until the property is transferred to a new subsoil user. If the former subsoil user is absent or evades transferring its property to the national company, then the national company shall act as the former subsoil user's attorney with respect to its property.

The competent authority shall be obliged to put the subsoil area under the contract to tender or conduct direct negotiations.

Article 73. Grounds for renewal of an exploration, production or combined exploration and production contract

1. The competent authority may renew in a non-judicial procedure an exploration, production or combined exploration and production contract that was earlier terminated by the competent authority by taking a decision to resume the contract and cancel its earlier decision on the termination of the contract by the competent authority in the following cases:

(1) the fact is established that the decision to terminate the contract was taken on the basis of false information which significantly influenced the adoption of the decision to terminate the contract, including in the event that, as of the date of the decision to terminate the contract, the subsoil user, for a valid reason, had no documents confirming the performance of its contractual obligations;

(2) certain causes are established and confirmed which are beyond the control of the subsoil user and which resulted in a failure to perform, or duly perform contractual obligations, including forcemajeure, that is, emergency circumstances that are insurmountable under the existing conditions (natural calamities, hostilities, etc.) that directly affected the failure to perform, or duly perform contractual obligations.

2. An application received within six months following the decision on termination from the person whose contract was terminated or the independent establishment by the competent authority of the grounds for contract renewal shall be the basis for the competent authority to consider renewing the contract that was earlier terminated on the initiative of the competent authority.

3. The competent authority's decision to renew the contract and cancel its earlier decision to terminate the contract shall be taken within one month after the receipt of an application from the person with whom the contract was terminated, or after the establishment by the competent authority of the circumstances set forth in Paragraph 1 of this Article.

4. If a decision to renew an exploration, production or combined exploration and production contract and cancel an earlier decision to terminate the contract on the initiative of the competent authority is taken on the grounds set forth in Paragraph 1 of this Article, the competent authority and the subsoil user shall, within three months after the date of such decision, agree and sign in the established procedure a supplement agreement to the contract, which shall settle the issues of the renewal of the contract, including the issues relating to the suspension of activities under the contract and liabilities. The period for agreeing and signing a supplement agreement to the contract which is stipulated in this Paragraph may be extended by the competent authority's decision.

5. The competent authority's decision to renew an exploration or production contract and cancel its earlier decision to terminate the contract on the initiative of the competent authority shall be forwarded to the person with whom the contract was earlier terminated within ten business days after its adoption and shall constitute the ground for renewal by the subsoil user of contract activities until a supplement agreement to the contract is signed in accordance with Paragraph 4 of this Article.

6. This Article shall be applicable to decisions adopted by a regional (city of republican significance or capital city) executive body to renew the contracts for exploration or production of commonly occurring minerals.

Article 74. Contract invalidation

1 A contract shall be recognized as invalid on the following grounds:

- 1) the tender for granting the subsoil use right was recognized as invalid;
- 2) the contract does not contain the mandatory terms as established by this Law;
- 3) it is established that the competent authority or a regional (city of republican significance or

capital city) executive body was knowingly provided with false information which influenced its decision to conclude the contract with such person;

4) any other grounds stipulated by legislative acts.

2. An invalidated contract shall entail no legal consequences, with the exception of those relating to its invalidity, and shall be invalid from the moment of its conclusion.

The invalidation of a contract shall not release the subsoil user from its obligations to relinquish the contract territory to the state and eliminate the effects of its subsoil operations in accordance with the requirements set forth in the legislation of the Republic of Kazakhstan.

3. The cancellation in a judicial proceeding or termination of an agreement on the basis of which the subsoil use right was transferred and reissued shall entail the invalidation of the amendments and additions to the contract that were adopted in connection with such transfer of the subsoil use right, but not of the contract itself.

4. The invalidation of a contract shall entail the invalidation of all subsequent transactions the subject of which is the subsoil use right granted on the basis of such contract.

CHAPTER 7. RIGHTS AND OBLIGATIONS OF THE SUBSOIL USER

Article 75. Rights of the subsoil user

1 The subsoil user shall have the following rights:

1) to independently take any actions relating to subsoil use within the contract territory allocated to it, in accordance with the terms established in the contract;

2) to use at its own discretion the results of its activities, including mineral raw materials, unless otherwise stipulated by the contract or Kazakhstan legislation;

3) to construct within the contract territory and, where necessary, on other land plots allocated to the subsoil user in accordance with the established procedure, industrial and social facilities which are required for the conduct of operations, and upon mutual agreement, to use facilities and utility systems of common use both within and outside of the contract territory;

4) to carry out negotiations on an extension of the contract beyond the established period;

5) to retain subcontractors for the performance of certain types of work relating to subsoil operations;

6) to assign all or part of its rights to other persons in compliance with the requirements established by this Law;

7) to terminate its activities on the conditions established by this Law and the contract.

Article 76. Obligations of the subsoil user

1 The subsoil user shall:

1) conduct subsoil operations in accordance with the contract and the legislation of the Republic of Kazakhstan and comply with the legislative requirements for subsoil operations;

2) ensure the safety of human life and health and environmental safety in the course of subsoil operations;

3) use the contract territory only for the purposes stipulated by the contract;

4) choose the most efficient methods and technologies for the conduct of subsoil operations, which shall be based on good subsoil use practice;

5) proceed to exploration or production on the registration date of the contract unless another date is stipulated in the contract;

6) comply with the provisions of the Memorandum of Understanding in respect of the implementation of the Initiative Concerning Transparency of Activities in Mining Industries of the Republic of Kazakhstan, with the exception of contracts for ground water and commonly occurring minerals;

7) comply with the provisions of project documents and process flow sheets relating to the conduct of subsoil operations that are agreed as provided for by the legislation of the Republic of Kazakhstan and that ensure the safety of the health and life of the personnel and the population, as well as a rational and integrated use of the subsoil and environmental protection;

8) not prevent other persons from moving freely within the contract territory and use facilities and utility systems of common use unless it is connected with special security conditions and unless such

activities interfere with its subsoil operations;

9) mandatorily use equipment, materials and finished products that are manufactured in the Republic of Kazakhstan, provided that they comply with the requirements of the tender and Kazakhstan legislation;

10) mandatorily retain Kazakhstan organizations to perform work and provide services in the course of subsoil operations, including the use of air, railway, water and other types of transport, if such services comply with the standards, and the price and qualitative characteristics of similar work and services performed or provided by non-residents of the Republic of Kazakhstan;

11) give preference to Kazakhstan personnel in the conduct of subsoil operations;

12) finance, in accordance with the contract, the training and re-training of the Republic of Kazakhstan citizens employed under the contract;

13) provide the competent authority or a regional (city of republican significance or capital city) executive body with information about the implementation of the work program;

14) without hindrance, provide controlling bodies of the Republic of Kazakhstan with necessary documents, information and access to workplaces in the performance of their official duties and timely eliminate any violations revealed by them;

15) submit geological reports on the results of its activities within the contract territory to the authorized agency for subsoil studies and use;

16) timely and fully pay taxes and make other obligatory payments to the budget;

17) on an annual basis by 1 February of the year planned for procurement or within sixty calendar days following registration of a subsoil use contract, submit to the competent authority an annual program for the procurement of goods, work and services for the following year in the form and procedure approved by the Government of the Republic of Kazakhstan;

18) on an annual basis by 1 February or within sixty calendar days following the subsoil use contract registration to submit to the competent authority medium- and long-term program for procurement of goods, works and services for the subsequent periods in the form and procedure approved by the Government of the Republic of Kazakhstan;

19) on a quarterly basis, not later than the fifteenth day of the month following the reporting period, submit reports on procured goods, works and services as well as its compliance with Kazakhstan content in personnel to the competent authority in the form and procedure approved by the Government of the Republic of Kazakhstan;

20) on a quarterly basis not later than the fifteenth day of the month following the reporting period, submit to the competent authority (in the forms and the procedure approved by the Government of the Republic of Kazakhstan) the reports on its compliance with its obligations with respect to the amount of funds allocated to training, professional development and re-training of Kazakhstan citizen employees engaged in the contract implementation or to education of Kazakhstan citizens based upon the list of professions approved by the competent authority;

21) on an annual basis not later than the fifteenth day of the month following the reporting period, submit to the competent authority its report on compliance with its obligations with respect to Kazakhstan content in personnel;

22) submit reporting documents, which shall be confirmed by an audit report, in compliance with the requirements set forth in the Initiative Concerning Transparency of Activities in Mining Industries and in accordance with the procedure approved by the Government of the Republic of Kazakhstan;

23) unless otherwise established by the contract and except for the information set out in Paragraph 3 of Article 78 of this Law, disclose information on the content of operations to third parties, if necessary, only with mutual consent of the parties;

24) preserve cultural and historic sites;

25) restore land plots and other natural sites disturbed as a result of subsoil operations to a condition suitable for their further use in accordance with legislation;

26) forecast the environmental consequences of its activities at the design stage;

27) insure its civil liability for causing harm to the environment;

28) include in its balance sheets all wells previously drilled within the contract territory and monitor them;

29) ensure the organization of monitoring of the condition of the subsoil and control over the development of the field/deposit;

30) notify the competent authority of the transactions related to disposal of subsoil use right to affiliated and other persons as well as the participatory interest in the charter capital of the subsoil

user or the block of shares within five days following entering into such a transaction;

31) register in the register of goods, works and services used for subsoil use operations and producers thereof except for persons indicated in Paragraph 7 of Article 77 of this Law;

32) submit to competent authority (in the forms and the procedure approved by the Government of the Republic of Kazakhstan) information on amendments and/or additions to annual program of procurement of goods, works or services within five business days following such changes;

1. In the performance of subsoil operations in the Republic of Kazakhstan, the subsoil user and its subcontractors shall acquire goods, work and services from Kazakhstan producers in accordance with this Law, provided that the project document and

reserves.

The conditions and period of test production shall be established by the authorized agency for subsoil studies and use.

4. Petroleum reserves of a field, as well as a petroleum recoverability level, shall be subject to state expert examination of the subsoil and to approval by the State Commission on Mineral Reserves of the Republic of Kazakhstan.

Article 83. Exploration and test production at hydrocarbon fields

1. Exploration shall include field geological and geophysical studies, structural drilling, drilling, well sampling and testing of prospecting wells and exploration wells. Exploration shall be conducted in accordance with an approved prospecting project, which shall substantiate the number and location of wells and dates of their drilling, as well as the goals to be achieved and a set and scope of necessary surveys.

2. In the course of exploration at oil and gas and oil fields, test production shall be carried out at wells in accordance with a test production project, which shall be approved in accordance with the procedure established by this Law.

3. It shall be prohibited to carry out test production without a test production project approved in accordance with the established procedure, or to breach the requirements set forth in such test production project.

be suspended until a relevant agreement with that state is reached. In such event, the contract shall be deemed suspended until the competent authority gives its consent to resume exploration or production.

3. The rules of this Law and other subsoil legislation of the Republic of Kazakhstan shall apply to relations involving exploration or production at cross-border fields to the extent they do not contradict international treaties to which the Republic of Kazakhstan is a party.

The procedures and terms of exploration or production at cross-border fields defined by international treaties to which the Republic of Kazakhstan is a party shall prevail over the rules of this Law.

Article 90. Exploration or production at a field as a single object

1. If a part of the field at which the subsoil user conducts exploration or production operations is located within the contract territory of another subsoil user, such subsoil users at their discretion shall:
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- with a hydrogen sulphide content in the gas exceeding six percent of the volume;
- onshore, with a depth of more than five thousand metres;
- offshore, with a depth of more than four thousand metres;
- with wellhead pressure of more than thirty five megapascals.

A construction project for other types of wells shall be approved by the subsoil user.

3. Special requirements for preparing well construction projects shall be approved by the competent authority.

CHAPTER 9. OFFSHORE PETROLEUM OPERATIONS AND PETROLEUM OPERATIONS IN INLAND WATER BODIES

Article 93. General terms of conducting offshore petroleum operations and petroleum operations in inland water bodies

1. A subsoil user conducting offshore petroleum operations shall perform those operations in such a manner so as not to impede or damage marine navigation, fisheries or any other legitimate activity which is usually conducted in a specific part of the sea.

2. Subsoil user conducting offshore petroleum operations shall be guided by the best marine environment protection practice.

3. A national company having a subsoil user's participating interest of at least fifty percent in a given contract shall be a mandatory condition of tenders for the subsoil use right to conduct offshore petroleum operations.

The right to use the sea bed for conducting petroleum operations thereon shall be granted on the basis of a permit issued by the authorized agency for land resources management.

4. A subsoil user conducting offshore petroleum operations shall be liable for any damage and loss

and/or providing services for state offshore geological subsoil studies.

1. A subsoil user performing the construction and operation of offshore oil and gas pipelines may not commence the construction, installation or laying of oil and gas pipelines without the written consent of the competent authority. Such consent shall be issued in accordance with the general procedure established by Paragraph 8 of Article 93 of this Law.
2. In the course of the construction and operation of offshore oil and gas pipelines, the requirements and rules ensuring the safety of the conducted operations for human life and health and for the environment shall be complied with.
3. Peculiarities of the construction and operation of offshore oil and gas pipelines shall be provided for in project documents approved in accordance with the established procedure.

Article 97. Construction and operation of offshore petroleum storage facilities and tanks

1. Construction and operation of offshore petroleum storages facilities and tanks shall be prohibited.
2. It shall be prohibited to store and accumulate petroleum at offshore facilities, with the exception of temporary (not more than twenty days) storage of petroleum when such petroleum is transported by tankers directly from the offshore facilities.

Article 98. Artificial islands, dams, structures and installations

1. The Government of the Republic of Kazakhstan shall have the exclusive right to permit and regulate the creation, operation and use of artificial islands, dams, structures and installations intended for offshore petroleum operations for scientific research and for any other purposes, provided that the protection and conservation of the natural environment and biological resources are ensured.

Article 109. Environmental basis for carrying out subsoil operations

2. In case of termination of subsoil operations, the subsoil user shall promptly proceed with abandonment or conservation operations at the subsoil use facility. If there is a need to take an urgent decision to terminate production, the subsoil user shall implement all measures ensuring the preservation of the facilities until their abandonment or conservation begins.
3. Abandonment or conservation of subsoil use facilities shall be carried out in accordance with abandonment or conservation project documents, which shall be developed by a design organization having an appropriate license for the performance of operations and provision of services in the area of environmental protection and which shall be agreed with the authorized environmental protection agencies, for subsoil studies and use, industrial safety, sanitary and epidemiological service, and management of land resources and which shall be approved by the subsoil user financing work associated with the designing and implementation of the project, on the basis of the Rules for the Abandonment and Conservation of Subsoil Use Facilities approved by the Government of the Republic of Kazakhstan.
4. Operations involving abandonment or conservation of subsoil use facilities shall be deemed to be completed upon the signing of an act on the acceptance of work associated with the abandonment or conservation of the subsoil use facility, by a commission created by the competent authority and consisting of representatives of the authorized bodies for environmental protection, study and use of subsoil, industrial safety, sanitary-and-epidemiological service, management of land resources and a regional (city of republican significance or capital city) executive body.
5. After the receipt of an act on the acceptance of work associated with the abandonment or conservation of a subsoil use facility approved by the authorized environmental protection agencies, the geological, surveyor and other documentation shall be replenished as of the time of the completion of the work and shall be delivered for storage to the authorized agency for subsoil studies and use in accordance with the established procedure.
6. Operations connected with the abandonment or conservation of a facility shall be financed from the abandonment fund. Subsoil user shall make contributions to the abandonment fund into a special deposit account with any bank in the territory of the Republic of Kazakhstan. The subsoil user shall use the abandonment fund with the consent of the competent authority, which consent shall be agreed with the authorized agency for subsoil studies and use. Provisions regarding the procedure for forming the abandonment fund, the amount of contributions thereto and the periodicity of such disbursements shall be stipulated by the contract.

Article 112. Subsoil areas of special environmental, scientific, cultural and historic or other value

1. Subsoil areas of special environmental, scientific, cultural and historic or other value shall be referred to specially protected natural territories with the legal regime of special protection or regulated regime of business activities, which are intended for the preservation of typical, unique or rare geological, geomorphological and hydrogeological items of the state-owned natural preserve stock.
2. Peculiarities of the protection and use of subsoil areas having special environmental, scientific, cultural or other value shall be established in the legislation of the Republic of Kazakhstan on specially protected natural territories.
3. Subsoil areas of special environmental, scientific, cultural or other value may not be alienated for any other needs.
4. If a subsoil user discovers a geological, geomorphological or hydrogeological site having special environmental, scientific, cultural or other value, su

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of their occurrence shall be allowed with the consent of the authorized agency for subsoil studies and use, and the authorized agency for industrial safety, provided that the possibility for recovery of minerals is ensured or economic expedience of the development is proved.

3. Unauthorized development of areas where minerals occur shall be terminated without

subsoil user shall suspend its operations and shall have no right to resume subsoil operations without creating safe conditions for the health and life of people and without preventing the threat that arose. Where it is impossible to take other steps for the prevention of such threat, the subsoil user shall have the right to resume subsoil operations only after relocating the population from the risk areas affected by subsoil operations.

8. Rescue departments shall provide services to subsoil users based upon relevant agreements in accordance with regulations approved by the Government of the Republic of Kazakhstan.

2. State control over the performance of subsoil use operations shall be effected in the form of inspections and otherwise.
3. All inspections shall be effected in compliance with the Law of the Republic of Kazakhstan on Private Entrepreneurship. Other types of state control shall be effected pursuant to this Law.

CHAPTER 13. STATE SUBSOIL STOCK

Article 119. Records of the condition of the state subsoil stock

1. The state subsoil stock shall comprise the subsoil of the Republic of Kazakhstan.
2. The following shall be carried out in order to ensure the rational use of the state subsoil stock:
 - 1) state subsoil monitoring;
 - 2) state expert examination of the subsoil;
 - 3) state storage of geological information;
 - 4) maintenance of the state reserve register of minerals;
 - 5) maintenance of state cadastres of:
 - deposits and occurrences of minerals;
 - burials of harmful substances, radioactive waste and discharge of waste waters into the subsoil;
 - man-made mineral formations.
3. Geological reporting documents on the condition of the subsoil which is based on the materials of primary records shall be submitted by subsoil users in accordance with special forms approved by the Government of the Republic of Kazakhstan.

Article 120. State subsoil monitoring

1. State subsoil monitoring shall mean a system of observing the condition of subsoil to ensure the rational use of the state subsoil stock and timely identification of its changes, and the assessment, prevention and elimination of consequences of negative processes.
2. The structure and content of, as well as the procedure for conducting, the state subsoil monitoring shall be established by the Government of the Republic of Kazakhstan.

Article 121. State expert examination of subsoil

1. For the purposes of creating conditions for the rational and integrated use of the subsoil, establishing fees for subsoil use and establishing boundaries of subsoil areas allocated for use, the mineral reserves in explored fields/deposits shall be subject to state expert examination.
2. A subsoil user having the subsoil use right to carry out production shall have the right to commence production only after conducting a state expert examination of mineral reserves. An opinion of state experts on the economic feasibility of the development of explored mineral reserves shall be the basis for their inclusion in state registers.
3. A state expert examination may be carried out at any stage of the geological study of a field/deposit, provided that the geological materials submitted for state expert examination make it possible to provide an objective assessment of the quantity and quality of the mineral reserves, their significance for the economy of the Republic, and of the mining, hydrogeological, environmental and other terms of production.
4. Geological information about subsoil areas which are suitable for the construction and operation of underground facilities unrelated to exploration and/or production shall also be subject to state expert examination. Such subsoil areas may be granted for use only after the state expert examination of geological information.
5. A state expert examination of the subsoil shall be carried out by the State Reserves Commission of the Republic of Kazakhstan and by inter-regional commissions for mineral reserves of common minerals.
6. The Regulations concerning the State Committee on Mineral Reserves of the Republic of Kazakhstan and Inter-regional Committees for Mineral Reserves of the Republic of Kazakhstan shall establish the organization procedure, composition, work procedures and records keeping thereof and shall be approved by the Government of the Republic of Kazakhstan.

Article 122. State register of mineral reserves

1. The state register of mineral reserves shall be maintained by the authorized agency for subsoil studies and use for the purposes of recording the status of the mineral and raw material base of the Republic of Kazakhstan.
2. The state register of mineral reserves shall contain information about the quantity, quality and extent to which each type of mineral has been studied, for each commercial discovery, as well as about their location, degree of their commercial use, production, losses and the availability of explored mineral reserves to the industry.
3. A procedure for the inclusion of mineral reserves into the state register of reserves and for their writing off from the state register of reserves shall be established by the Government of the Republic of Kazakhstan.
4. The authorized agency for subsoil studies and use shall provide state bodies with information about the state register of mineral reserves in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

Article 123. State cadastre of fields / deposits and occurrences of minerals

1. The state cadastre of deposits and occurrences of minerals shall be maintained by the authorized agency for subsoil studies and use for the purposes of ensuring the development of industry (sectoral) and regional programs for the geological study of the subsoil, integrated use of fields/deposits, as well as for the resolution of other tasks.
2. The state cadastre of deposits and occurrences of minerals shall include information on each deposit, describing the quantity and quality of the base minerals and associated minerals and components, and mining, hydrogeological, environmental and other conditions of deposit development and its geological and economic appraisal, as well as information concerning any discovered occurrences of minerals.
3. The Government of the Republic of Kazakhstan shall establish the procedure for maintaining the state cadastre of deposits and occurrences of minerals.

Article 124. State cadastre of burials of harmful substances, radioactive waste and discharges of waste water into the subsoil

1. The state cadastre of burials of harmful substances, radioactive waste and discharges of waste water into the subsoil shall be organized by the authorized environmental protection agency for the purposes of prompt receipt of information, decision making with regard to environmental protection matters and for exercising planned control over the condition of places of burial of harmful substances, radioactive waste and the discharge of waste water into the subsoil.
2. The state cadastre of burials of harmful substances, radioactive waste and discharges of waste water into the subsoil shall contain information describing the type and form of buried substances and discharged water, indicating their quantity and quality parameters, and mining, special engineering geological, hydrogeological and ecological conditions of the burial or discharge.
3. The Government of the Republic of Kazakhstan shall establish the procedure for maintaining the state cadastre of burials of harmful substances, radioactive waste and discharges of waste water into the subsoil.

Article 125. State cadastre of man-made mineral formations

1. The state cadastre of man-made mineral formations shall be maintained by the authorized agency for subsoil studies and use in the procedure established by the Government of the Republic of Kazakhstan.
2. The state cadastre of man-made mineral formations shall contain information about stored items, characterizing the type and form of the man-made mineral formations and indicating their quantity and quality parameters, and mining and environmental conditions of storage.

CHAPTER 14. LIABILITY FOR VIOLATIONS OF THE REQUIREMENTS FOR THE USE AND PROTECTION OF SUBSOIL

Article 126. Liability for violations of the requirements for the subsoil use and protection

1. Any violation of the legislation of the Republic of Kazakhstan on the subsoil use and protection shall entail liability as stipulated in the legislation of the Republic of Kazakhstan.

2. Transactions involving the use of the subsoil which are consummated in violation of the requirements set forth in the legislation of the Republic of Kazakhstan shall be invalid.

Persons guilty of the consummation of such transactions shall bear administrative or criminal liability as stipulated in the legislation of the Republic of Kazakhstan.

Article 127. Compensation for damage (harm) resulting from violation of legislation on subsoil and subsoil use

1. Persons that caused harm due to a violation of the requirements for the subsoil use and protection shall compensate for the harm caused, unless they prove that such harm resulted from force Majeure or the intent of the affected person, in the amounts and in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

into the high viscosity, flooded, marginal or worked out deposits/ fields which list is adopted by the Government of the Republic of Kazakhstan in compliance with the tax code of the Republic of Kazakhstan shall be entitled to apply to the competent authority to enter into separate production contracts with respect to such deposit(s)/field(s). Such contract shall be valid for remaining validity period of the initial contract.

Article 130. Procedure for the enactment of this Law

1. This Law shall take effect in ten calendar days following its first publication in official press except for Paragraph 3 of Article 77 which will come into force from 1 October 2010.

2. The following laws of the Republic of Kazakhstan shall be recognized invalid:

1) Law of the Republic of Kazakhstan "On Petroleum", dated 28 June 1995 (Bulletin of the Supreme Council of the Republic of Kazakhstan, 1995, Paragraph 11, Article 76; Bulletin of the Parliament of the Republic of Kazakhstan, 1997, Paragraph 11 Article 150; 1999, Paragraph 21, Article 787; 2003, Paragraph 6, Article 34, Paragraph 11, Article 56; 2004, Paragraph 22, Article 131, Paragraph 23, Article 142; 2005, Paragraph 16, Article 70; 2006, Paragraph 16, Article 99; Paragraph 24, Article 148; 2007, Paragraph 2, Article 18, Paragraph 3, Article 22, Paragraph 8, Article 52, Paragraph 9, Article 67, Paragraph 19, Article 148; 2008, Paragraph 23, Article 114; Paragraph 24, Article 129; 2009, Paragraph 2.3, Article 18);

2) Law of the Republic of Kazakhstan "On the S