

On Currency Regulation

Law of the Republic of Kazakhstan No. 54 of 24 December 1996

Newsletter of the Parliament of the Republic of Kazakhstan No. 20-21, 1996, p. 404

This Law defines the principles and the procedures for the currency operations in the Republic of Kazakhstan, the rights and liabilities of currency operations participants, and the responsibility for the infringement of currency legislation¹.

Chapter I. General Provisions

Article 1. Currency regulation of the Republic of Kazakhstan

The currency regulation of the Republic of Kazakhstan is based on the constitution of the Republic of Kazakhstan and comprises this Law and other legal acts of the Republic of Kazakhstan and regulatory legal acts by the currency regulation bodies².

Article 1-1. The main terms and definitions used in the Law

This Law uses the following terms:

1) *currency regulation* is the activity of authorized governmental bodies (currency regulation bodies) in defining the procedure for currency operations in order to consolidate the national payment balance, ensure the national currency stability, encourage development of the domestic currency market and control the currency regulation observation;

2) *currency* is understood as monetary units accepted by the states as the legal means of payment or official cost standards in cash and cashless settlement in the form of bank notes, treasury notes and coins, including coins from precious metals (including the monetary units withdrawn or to be withdrawn from circulation, but which could be exchanged for the valid monetary units), as well as the accounts, including the accounts in international monetary units or units of account;

3) *national currency* is the currency of the Republic of Kazakhstan;

4) *foreign currency* is the currency of other states;

5) *residents* are:

- natural persons with the domicile on the Republic of Kazakhstan, including the persons temporarily being abroad or employed as the officials of the Republic of Kazakhstan abroad;

- legal entities created under the laws of the Republic of Kazakhstan with the domicile in the Republic of Kazakhstan as well as their branches and representative offices with the domicile in Kazakhstan, as well as their branches and representative offices either in Kazakhstan or abroad;

¹ Throughout the entire text figure "120" has been replaced with "180" by Law No. 411 of 8 May 2003.

² Article 1 is the revised version in accordance with Law No. 154 of 30 January 2001 (see article 2 for the enforcement procedure).

- diplomatic, trade and other official missions of the Republic of Kazakhstan beyond the territory of Kazakhstan.

6) *non-residents* are all other legal entities and natural persons either in the Republic of Kazakhstan or abroad, as well as their branches and representative offices, not covered in the definition of "resident";

7) *currency values*:

- foreign currency;
- securities and payment documents denominated in a foreign currency;
- affinated gold bullion;
- national currency, securities and payment documents with the face-value denominated in a foreign currency in operations between residents and non-residents;

8) investments are understood as transfer of money, securities, property, and property rights, including the intellectual property rights, and other property with the purpose:

- to participate in the charter capital of an invested entity;
- to purchase securities;

9) *export-import deals* are understood as:

- deals with transfer of the property rights for goods (including the property qualified as real estate property, except for the investment operations) from a resident to a non-resident (from a non-resident to a resident);
- deals where a resident provides services (work) to a non-resident (or vice versa) as well as where a resident transfers the right for the temporary ownership and use of property qualified as real estate and the intellectual property rights to a non-resident (or vice versa) by a license contract;

10) *authorized banks* are the banks with the license for legally defined banking operations that make currency operations, including operations made on behalf of clients;

11) *organizations authorized for special banking operations* are understood as the legal entities with the license for banking operations in a foreign currency;

12) *exchanges* are specially equipped places for foreign cash exchange operations licensed by the National Bank of the Republic of Kazakhstan³.

Article 1-2. Currency operations

1. The following are currency operations:

1) operations related with the transfer of the right for ownership and other rights for currency values;

2) importation, export, sending in and out of Kazakhstan currency values by any means.

2. Currency operations between residents and non-residents fall into the categories of current operations and capital flow related operations.

3. Current operations are:

³ Article 1-1 was added by law No. 154 of 30 January (see article 2 for the enforcement procedure). Amendments were made by Law of RK No. 411 of 8 May 2003 and Law No. 483 of 10 July 2003 (effective since 1 January 2004).

1) transfers to settle accounts by export-import deals, providing for a delay in payment or an advance payment for the goods and services for the term less 180 days;

2) granting and obtaining loans for the term less 180 days;

3) transfer and receipt of dividends, remuneration and other income from deposits, investments, loan and other operations;

4) non-commercial transfers including grants, transfer of inherited sums, salary, pension, aliment, etc;

5) all other currency operations, which are not qualified as capital flow related operations by this Law.

4. The capital flow related operations are:

1) making investments;

2) transfers to settle accounts by deals providing for the complete transfer of exclusive rights for intellectual property;

3) transfers to pay for real estate property rights except for the property qualified as equal to real estate property;

4) transfers to settle accounts by export-import deals providing for a delay in payment or an advance payment for the goods and services for the term over 180 days;

5) granting and obtaining loans for the term over 180 days;

6) (removed);

7) international transfers by deals related with accumulation of pension funds;

8) international transfers by saving insurance and reinsurance contracts;

9) transfer of currency values to the asset management.

5. Residents shall receive the currency for the payment for the export of goods (services) and have it on their accounts in authorized banks within 180 days since the date of the export of goods (services) or within 365 days since the date of the export of certain category of goods, the list of which is defined by the Government of the Republic of Kazakhstan, until the license from the National Bank of Kazakhstan sets a different period.

Having obtained the license from the National Bank of Kazakhstan, residents may transfer the currency received as the payment for the export of goods (services) to the accounts in foreign banks or other financial institutes, which have the right for such financial operations under the laws of the states they were registered in.

6. If a non-resident fails to fulfill its obligations, the resident shall receive back the currency paid in advance to such a non-resident as the payment for the import of goods (services) and have it on its accounts in authorized banks within 180 days since the date of the transfer, until the license from the National Bank of Kazakhstan sets a different period.

7. The failure to return back to Kazakhstan the amounts paid in a foreign currency, which were to be transferred to accounts in authorized banks of the Republic of Kazakhstan under the laws of Kazakhstan, as well as the failure to supply the goods in the amount equal to the amount of money paid for such goods, and the failure to return money by import deals in time entail accountability and responsibility under the laws of the Republic of Kazakhstan⁴.

⁴ Article 1-2 was added by Law of RK No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure). Amendments were made in accordance with Law of RK No. 411 of 8 May 2003.

Chapter II. Currency regulation

Article 2. Currency regulation bodies

1. The National Bank of the Republic of Kazakhstan is the main body on currency regulation in Kazakhstan; it functions in currency regulation under the laws of the Republic of Kazakhstan.

2. The Government of the Republic of Kazakhstan and other governmental bodies make the currency regulation within their terms of reference under the laws of the Republic of Kazakhstan.

2-1. The currency regulation bodies must coordinate development of regulatory legal acts on currency regulation with the National Bank of the Republic of Kazakhstan⁵.

Article 3. Restrictions on currency operations

1. In order to fulfil international obligations and for emergency concerns President of the Republic of Kazakhstan has the right to decree to restrict or suspend any currency operations.

2. The National Bank of the Republic of Kazakhstan has the right to restrict the currency of residents' export operations and introduce the regime of compulsory sale of export operations related currency.

2-1. For the national economic security concerns the National Bank of the Republic of Kazakhstan has the right to impose limitations on the form of payment by certain export-import deals⁶.

Article 4. Licensing operations related with the use of currency values

1. The National Bank of the Republic of Kazakhstan shall issue, suspend and withdraw the licenses for operations with currency values under the laws of Kazakhstan.

2. The National Bank of the Republic of Kazakhstan shall issue licenses for operations with the currency values defined by the Law of the Republic of Kazakhstan "On Licensing".

3. The license for currency values operations shall be issued within one month since the date of submission of all necessary documents.

4. The following are the reasons for a suspension or withdrawal of such a license:

1) the licensee fails to submit accurate information required under the regulatory legal acts of the National Bank of Kazakhstan or deliberately submits inaccurate information;

⁵ Article 2 was amended in accordance with Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure).

⁶ Article 3 was amended in accordance with Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure).

- 2) the licensee has violated the currency regulation laws;
- 3) other reasons stipulated by the Law of the Republic of Kazakhstan "On Licensing"⁷.

Article 5. Accountability and reports on currency operations.

The National Bank of Kazakhstan shall define the forms of accounting and accountability on currency regulations upon coordination with the authorized governmental bodies within their competence and all residents as well as non-residents making business in Kazakhstan must use such forms.

All residents of the Republic of Kazakhstan as well as non-residents making business in Kazakhstan must submit data and documents:

- upon requests by the National Bank of the Republic of Kazakhstan and other currency regulation bodies to implement the provisions hereunder;
- to the authorized banks and organizations authorized for special banking operations on the currency operations made in them⁸.

Article 6. Currency control

1. The currency regulation bodies and agents shall make the currency control in the Republic of Kazakhstan.

2. The currency control bodies in the Republic of Kazakhstan are the governmental bodies authorized for the currency regulation functions under the laws of Kazakhstan.

3. The currency control agents are the authorized banks, organizations authorized for special banking operations and other licensed organizations assigned to control the observation of the currency legislation in currency operations.

The currency control agents must:

1) meet the requirements of the currency regulation legislation in making their operations, including the operations on the instructions of clients;

2) keep a profound and objective account and make reports on currency operations;

3) inform the law machinery and the National Bank of the Republic of Kazakhstan on the known facts of violation of the currency legislation by their clients.

4. In order to implement their functions the currency control bodies have the right to involve currency control agents and give them compulsory assignments⁹.

Chapter III. Currency operations

Article 7. Basic Instructions on Foreign Currency Operations in the Republic of Kazakhstan

⁷ Article 4 is the revised version in accordance with Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure).

⁸ Article 5 is the revised version in accordance with Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure).

⁹ Article 6 was amended in accordance with Law No. 154 of 11 July 1997 and Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure).

1. All payments and transfers by operations among residents must be in the national currency of the Republic of Kazakhstan only, except for the cases stipulated by the regulatory legal acts by the National Bank of the Republic of Kazakhstan as well as under the tax and customs laws.

2. The limitations stipulated in paragraph 1 herein shall not be applied to the operations where the National Bank and the Ministry of Finance are one of the parties.

3. Residents and non-residents shall buy, sell and exchange foreign currency in the Republic of Kazakhstan in authorized banks, organizations authorized for special banking operations, and in exchanges in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan.

4. It is prohibited to buy, sell and exchange foreign currency from sources other than the authorized banks, organizations authorized for special banking operations, and exchanges.

5. Payments by operations among residents and non-residents shall be in any currency as the parties may agree, in accordance with the regulatory legal acts of the National Bank of the Republic of Kazakhstan on currency operations¹⁰.

Article 8. Resident Accounts

1. Residents may have foreign currency accounts in the authorized banks in accordance with the procedure stipulated by the National Bank of the Republic of Kazakhstan. Until otherwise stipulated by the currency laws of the Republic of Kazakhstan, they must have the foreign currency received as the payment for the goods and services settled on their accounts in the authorized banks.

2. Residents may have accounts in the national currency of Kazakhstan and in foreign currency in foreign banks in accordance with the procedure defined by the National Bank of Kazakhstan.

3. The authorized banks may have correspondent and other accounts in the banks of the Republic of Kazakhstan and in foreign banks¹¹.

Article 9. Non-Resident Accounts

1. Non-residents may have accounts in a foreign currency and in the national currency of Kazakhstan in the authorized banks in accordance with the procedure defined by the National Bank of Kazakhstan.

2. Foreign banks may have correspondent and other accounts in a foreign currency and in the national currency of the Republic of Kazakhstan in the banks of Kazakhstan in accordance with the procedure defined by the National Bank of Kazakhstan.

Article 10. Currency Exchange Operations

¹⁰ Article 7 was amended in accordance with Law No. 154 of 11 July 1997 and Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure).

¹¹ Article 8 was amended in accordance with Law No. 411 of 8 May 2003.

1. The authorized banks may freely exchange, buy and sell foreign currency both in the Republic of Kazakhstan and abroad within the limit of the open foreign exchange position defined by the National Bank of the Republic of Kazakhstan.

2. The authorized banks may exchange, buy and sell currency through the National Bank of the Republic of Kazakhstan .

3. The organizations authorized for special banking operations may exchange, buy, and sell foreign currency in the Republic of Kazakhstan for their operations in accordance with their license.

4. Residents and non-residents have the right to exchange, buy and sell foreign currency in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan¹².

Article 11. International Bank Payments and Transfers

1. The authorized banks may make international bank payments and transfers for their current operations among residents and non-residents without restrictions in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan.

2. International bank payments and transfers for the capital flow related operations with the national currency of the Republic of Kazakhstan and a foreign currency shall be made in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan.

3. International bank payments and transfers made for the following purposes: residents purchase securities issued by non-residents; non-residents purchase securities issued by residents; - shall be made in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan and coordinated with the governmental body on financial market and financial operations regulation and control, taking into account the provisions of international agreements, to which Kazakhstan is a party.

4. The currency proceeds from the export of goods and services from Kazakhstan shall be transferred to resident accounts in banks of the Republic of Kazakhstan without any restrictions¹³.

Article 12. International Postal Money Orders and Transfer of Currency Values

The National Post Operator shall make international postal money orders and transfer currency values in accordance with the existing laws of the Republic of Kazakhstan¹⁴.

¹² Article 10 was amended in accordance with Law No. 154 of 11 July 1997.

¹³ Article 11 was amended in accordance with Law No. 411 of 8 May 2003; Law No. 416 of 16 May 2003; Law No. 483 of 10 July 2003 (effective since 1 January 2004).

¹⁴ Article 12 was amended in accordance with Law No. 411 of 8 May 2003.

Article 13. Import and Export of Currency Values, Foreign National Currency, Securities and Payment Documents with the Face-Value and (or) Cost Denominated in the National Currency

1. Residents and non-residents shall import currency values in accordance with the laws of the Republic of Kazakhstan.

2. The National Bank of the Republic of Kazakhstan defines the procedure and norms for import of currency values.

3. *(removed)*

4. Import and export of national cash and payment documents in the national currency shall be made in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan.

5. The authorized body on financial market and financial operations regulation and control shall define the procedure for import and export of securities denominated in the national currency upon coordination with the National Bank of the Republic of Kazakhstan.

6. The customs treatment of import and export of currency values shall be made in accordance with the customs laws¹⁵.

Chapter IV. Final Provisions¹⁶

Article 14. The Rights and Liabilities of Currency Control Bodies and Agents' Officers

1. Within their terms of reference and under the laws of the Republic of Kazakhstan, officers of the currency control bodies and agents have the right to obtain necessary explanations and information on the issues arising from inspections.

2. Officers of the currency control bodies and agents may not divulge the information qualified as an official secrecy, commercial secret or other legally protected confidential information of residents and non-residents.

Article 15. Responsibility for Violation of Currency Legislation of the Republic of Kazakhstan

Persons guilty in violation of the currency legislation of the Republic of Kazakhstan shall be held responsible under the laws of the Republic of Kazakhstan.

*President
of the Republic of
Kazakhstan*

¹⁵ Article 13 was amended in accordance with Law of RK No. 277 of 9 July 1998; Law No. 154 of 30 January 2001 (see paragraph 2 for the enforcement procedure); and Law No. 483 of 10 July 2003 (effective since 1 January 2004).

¹⁶ Chapter 4 is the revised version in accordance with Law No. 411 of 8 May 2003.