

CHAPTER 31. FREE WAREHOUSE

Article 238

Purpose of the Free Warehouse Customs Regime

‘Free warehouse’ shall mean the customs regime under which foreign and Kazakhstani goods are placed and used in specialized rooms (places) recognized as free warehouses, without being charged customs duties or taxes and without having non-tariff regulatory measures applied to them, except for requirements regarding safety of goods.

Article 239

Goods to be Placed into a Free Warehouse

Goods intended for processing as well as goods contributing to operations on processing, except for the goods provided for by legislative acts of the Republic of Kazakhstan, shall be placed into a free warehouse.

Article 240

Operations with Goods at Free Warehouses

1. The following operations shall be performed at free warehouses:

1) operations to ensure safety of goods - cleaning, airing, drying (including inflow of heat), creation of optimal temperature storage conditions (cooling, freezing, heating), placement into protective packaging, coating with protective lubricants and preservatives, anticorrosive coating, introduction of protective additives;

2) pre-sale and pre-transport operations:

- division of goods into shipments, formation of shipment lots, sorting of goods, packaging, re-packaging, marking, loading, unloading, re-loading, simple operations connected with bringing up to strength or bringing into working order, movement of goods within the warehouse with the purpose of their rational placement, placement of goods on demonstration stands, testing;

3) processing operations:

- manufacturing (working) a different product, including mounting, assembly and adjustment, when imported goods preserve their basic characteristics; actual processing of goods when foreign goods lose their individual nature but preserve, in the processed products, characteristics which allow the identification of the imported goods in the processed products, when identification is a mandatory condition of processing; repair of goods, including reconstruction; use of several goods intended to facilitate the production of processed products through their full or partial use in the course of processing;

4) operations on:

- use of goods as technological equipment and spare parts thereof; use of goods as loading and unloading equipment; other technical means used at a free warehouse.

2. Operations with goods placed into a free warehouse, which are specified in Sub-paragraphs 1) and 2) of Paragraph 1 of this Article, shall be performed upon notification of the customs authority and shall not change the classification code of the goods under the foreign economic activity commodity nomenclature.

Goods temporarily stored at a free warehouse may undergo the operations specified in Sub-paragraph 1) of Paragraph 1 of this Article.

When performing operations for processing foreign goods at a free warehouse, Kazakhstani goods may be used as additives or additional components for manufacturing processed products.

For the purpose of ensuring compliance with the legislation of the Republic of Kazakhstan and executing customs control, the Government of the Republic of Kazakhstan shall be entitled to establish certain prohibitions and restrictions with regard to operations with goods at free warehouses.

Article 241

Time Limit for Storing Goods at Free Warehouses

Goods may be stored at free warehouses without time limitations, provided the free warehouses are operating.

Article 242

Customs Control and Customs Clearance of Goods Placed under the Customs Regime of a Free Warehouse

Customs control and customs clearance of goods being placed in free warehouses, as well as those being exported from free warehouses, shall be carried out in accordance with the procedure defined by an authorized body on customs issues.

Article 243

Record-Keeping for Goods Stored at Free Warehouses

1. Owners of free warehouses shall keep records of goods placed into free warehouses, as well as of operations that are fulfilled with such goods, and shall provide customs authorities with reports on these goods in compliance with the procedures determined by the authorized body on customs issues.
2. Documents used for record-keeping and reporting purposes, in compliance with the legislation of the Republic of Kazakhstan, shall be used for the purpose of recording goods which are stored at a free warehouse and operations fulfilled with them, under the condition that these documents contain the name and identification characteristics of the goods, their quantity, data on movement of goods within the free warehouse, and on any changes taking place with these goods at a free warehouse.

Article 244

Obligations of Owners of Free Warehouses

The owner of a free warehouse shall be obliged to:

- 1) ensure compliance of a free warehouse with the established requirements within the entire period of the free warehouse operation;
 - 2) ensure safety of goods and compliance of operations with goods with the requirements of the customs legislation of the Republic of Kazakhstan;
- ensure customs control;
- ensure impossibility of taking goods in the warehouse without customs control;
- meet terms and conditions of the license issued for the establishment of a free warehouse and requirements of customs authorities, including the ensuring of access to goods;
- provide customs authorities, in accordance with the procedure defined by legislation of the Republic of Kazakhstan, with premises, equipment and communication facilities in a free warehouse to carry out customs control and customs clearance;

7) keep accounts of goods and provide customs authority with reports on goods placed at a free warehouse and on operations with them in compliance with the procedures stipulated by Article 243 of this Code.

Article 245

Charging of Customs Duties and Taxes, and Application of Non-Tariff Regulatory Measures

When foreign and Kazakhstani goods are placed into free warehouses, customs duties and taxes shall not be charged, and non-tariff regulatory measures shall not be applied, except for requirements regarding safety of goods. When goods are removed from free warehouses onto the rest of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be charged, and non-tariff regulatory measures shall be applied in compliance with the terms of the declared customs regime, except for the import of Kazakhstani goods.

When goods are removed from free warehouses and exported outside the Republic of Kazakhstan, customs duties shall not be charged, and non-tariff regulatory measures shall not be applied, in regard to the following:

- 1) goods, which are of foreign origin;
- 2) goods, which were manufactured at free warehouses;
- 3) goods, which underwent processing at free warehouses.

A certificate of origin shall confirm the origin of goods from free warehouses. When such a certificate is not available, goods shall be regarded:

- 1) when exported outside the Republic of Kazakhstan - as Kazakhstani goods, for the purposes of charging export customs duties and applying non-tariff regulatory measures;
- 2) when imported onto the rest of the customs territory of the Republic of Kazakhstan - as foreign goods, for the purposes of charging import customs duties and taxes and applying non-tariff regulatory measures.

Article 246

Qualification Requirements to the Operation of a Free Warehouse

1. The premise intended for the establishment of a free warehouse must meet and comply with the following requirements:

- 1) to be in the possession of the owner of the free warehouse or to be rented by him/her for a period of not less than three years as of the moment of filing application on the license issuance;
- 2) to be marked and enclosed along the entire perimeter;
- 3) buildings (structures) and constructions that are not part of the warehouse shall not be located on the territory of the warehouse;
- 4) to have available places for search of goods;
- 5) to be constructed and equipped in the way appropriate for fulfilling operations on processing of goods.

2. Free warehouses must comply with the established requirements within the entire period of their operation.

Article 247

License for Establishing a Free Warehouse

1. A free warehouse shall be established after obtaining a license from the authorized body on customs issues. The license shall be issued to the Kazakhstani resident who owns the premises intended for the establishment of a free warehouse, or who is authorized to dispose of them, based on ownership or operating rights.
2. Relations concerning licensing, which are not covered in this Chapter, shall be regulated by the law of the Republic of Kazakhstan on licensing.
3. The authorized body on customs issues shall ensure publication of information on free warehouses that have been established and are operating.
4. A license for establishing a free warehouse shall not be transferred to another person.

Article 248

Documents Required to Obtain a License for Establishing a Free Warehouse

1. The following documents shall be required to obtain a license for establishing a free warehouse:
 - 1) an application to issue a license, completed according to the established format;
 - 2) documents confirming compliance with the existing fire prevention requirements, and with sanitary and technical standards;
 - 3) notarially certified copies of the registration documents;
 - 4) documents confirming payment of the license fees;
 - 5) documents confirming the right of ownership, possession or disposal with regard to the respective premises or places;
 - 6) plans and drawings of the premises and territories intended to be used as a free warehouse.
2. When the information stated in the application and in the documents specified in Sub-paragraphs 5)-6) of Paragraph 1 of this Article changes, the licensee shall notify the customs authority of these changes within a period of time not to exceed thirty calendar days following the date that the changes were introduced.

Article 249

Suspension of a License for Establishing a Free Warehouse

1. When the owner of a free warehouse fails to meet the requirements and terms stipulated by this Code, the authorized body on customs issues shall make a decision to suspend the license for a period of up to six months, and shall indicate the reasons for suspension, except for subjects of small enterprise the license of which is suspended based on the decision of the court.
2. The decision to suspend the license shall be made by the order of the head of the authorized body on customs issues, and shall indicate the reasons for suspension.
3. The license shall be suspended from the day that the decision was made. When a license is suspended, goods shall not be placed into a free warehouse. Goods placed into a free warehouse prior to suspension of the license shall be subject to placement under customs control at a different free warehouse or to placement under a different customs regime.
4. After elimination of the reasons for which the license was suspended, the validity of the license shall be renewed starting on the date that the authorized body on customs issues made the decision to renew the license.

Article 250

Withdrawal of a License for Establishing a Free Warehouse

1. A license may be withdrawn by the authorized body on customs issues in the following cases:
 - 1) deliberate submission of false information;
 - 2) the licensee fails to comply with the requirements specified in the license;
 - 3) the reasons that caused the previous suspension of the license have not been eliminated;
 - 4) the court prohibits the licensee to be engaged in the activity for rendering services of a free warehouse.
2. The decision to withdraw a license shall be made by the order of the head of the authorized body on customs issues, and shall indicate the grounds for making the decision.
3. The license for establishing of a free warehouse of the owner who is the subject of small enterprise, shall be withdrawn based on the decision of the court.
4. Withdrawal of the license shall become effective as of the date that the decision on withdrawal was made.
5. In case of the withdrawal of a license, the owner of the free warehouse shall be obliged to return the license to the authorized body on customs issues within a period of time not to exceed fifteen calendar days after receipt of the decision on withdrawal.
6. A repeated application for the issuance of a license for establishing a free warehouse may be considered upon the expiration of two years after the date that the decision on withdrawal was made, provided that the reasons, which caused its withdrawal, were eliminated.

Article 251

Termination of the Validity of a License for Establishing a Free Warehouse

1. The validity of a license for establishing a free warehouse shall terminate upon a decision by the authorized body on customs issues in the following cases:
 - 1) the license is withdrawn;
 - 2) the owner of the free warehouse submits a written application to the authorized body on customs issues for termination of free warehouse operations;
 - 3) a juridical person, who is the holder of a free warehouse license, is re-organized or liquidated.
2. The decision to terminate the validity of a license for establishing a free warehouse shall be made by the order of the head of the authorized body on customs issues, and shall indicate the reasons for the termination.
3. When a free warehouse terminates operations or, in the event that a juridical person re-organizes or is liquidated, the owner of the free warehouse shall be obliged to return the license to the authorized body on customs issues within a fifteen calendar day period as of the moment of termination of the validity of the license.
4. When a free warehouse terminates operations, goods which were placed under the free warehouse customs regime prior to when the decision to terminate the validity of the license was made may be moved to a different free warehouse, pursuant to procedures determined by Chapter 12 of this Code or, with regard to these goods, the validity of the free warehouse customs regime must terminate within thirty calendar days as of the day that the decision to terminate the license was made.

When goods stored at a free warehouse undergo processing operations, the customs authority shall inform the person who placed those goods into the free warehouse of its liquidation.

In the process, the customs free warehouse regime shall be valid with respect to those goods until the final processing operation is completed.