

## **Annex 13**

### **On Special Economic Areas in the Republic of Kazakhstan**

Law of the Republic of Kazakhstan No. 274 of 6 July 2007

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#### TABLE OF CONTENTS

The present Law shall define procedure and terms of creation, operation and abolishment of special economic areas in the territory of the Republic of Kazakhstan.

#### **Chapter 1. GENERAL PROVISIONS**

##### **Article 1. Main terms used in the present Law**

The following terms are used in the present Law:

1) special economic area - limited area of the Republic of Kazakhstan with clearly marked boundaries, where favorable conditions for fulfilling priority activities have been created;

2) administration of special economic area - regional subdivision of an authorized body, which operates in territory of special economic area;

3) participant of special economic area - legal person, which conducts priority activities in territory of special economic area and having concluded agreement on carrying out the activity;

4) infrastructure resources - complex of structures which satisfy needs of participants of special economic area in heat and power energy, water supply, sewage system, transportation, communications and other services;

5) priority activities - kinds of activities, covered by legal regime of special economic area;

6) treaty on activities - agreement which is concluded between participants of special economic area and administration of special economic area, stipulating rights and obligations of parties concerning issues of conducting priority activities in the territory of special economic area;

7) operating company (operator) - a legal person, defined by authorized body in order to attract participants of special economic area, effectively provide them with infrastructure resources and other conditions to conduct priority activities;

8) experts council - consultative-advisory body, which is created within authorized body with purpose to prepare conclusions on appropriateness of creating or abolishing special economic areas;

9) authorized body - central executive body which fulfills state regulation in field of creation, operation and abolishment of special economic areas.

## **Article 2. Legislation of the Republic of Kazakhstan concerning special economic areas**

1. Legislation of the Republic of Kazakhstan concerning special economic areas shall be based on the Constitution of the Republic of Kazakhstan and consist of the present Law and other normative legal acts of the Republic of Kazakhstan.

2. When an international treaty, ratified by the Republic of Kazakhstan, stipulates any other rules than those which are contained in the present Law, then the rules of international treaty shall apply.

## **Article 3. Purposes for creating special economic areas**

Special economic areas are created with purpose to develop and support industries, to facilitate development of regions and to solve social problems, to increase efficiency of entrepreneurial activity, to attract investments, technologies and modern management, to create highly efficient and competitive manufactures.

## **Article 4. Procedure for creating special economic area**

1. Decision on creation of special economic area shall be made by the President of the Republic of Kazakhstan upon submission of the Government of the Republic of Kazakhstan. The provision on special economic area, approved by the Decree of the President of the Republic of Kazakhstan, shall define list of priority types of activities.

2. Proposal concerning creation of special economic area shall be submitted to the authorized body by local and (or) central executive authorities, business associations and unions in form of an application, concept paper, economic justification for creation of special economic area with assessment of impact on environment and draft provision on special economic area.

3. The authorized body shall refuse the proposal on creation of special economic area in the following cases:

- 1) inexpediency of creating special economic area on the basis of the conclusion made by experts council;
- 2) inconformity of the proposal on creation of special economic area to the priorities of the state economic policy;

- 3) incomplete or unreliable information submitted;
- 4) incompliance of the proposal with the requirements in field of environment protection.

4. To consider the proposal concerning creation of special economic area, the authorized body shall submit an application, concept paper, economical justification for creating special economic area with assessment of impact on environment and draft provision on special economic area for which the experts council has made positive decision, to the Government of the Republic of Kazakhstan.

#### **Article 5. Terms for creation and operation of special economic areas**

1. Special economic areas shall be created for the period up to twenty five years.

2. Special economic areas shall be created on the state-owned land, not given for land tenure, or land which has been expropriated from land owners or users for state needs according to the land legislation of the Republic of Kazakhstan. The reason for such expropriation shall be creation of special economic areas in case when there is no required land in state ownership for these purposes.

3. In respect of the land where a special economic area is created, the administration of special economic area shall execute rights of the state as a land owner for the period of functioning of special economic area.

The administration of special economic area shall grant land plot where a special economic area is created to participants of special economic area for temporary land use (rent) on the basis of sub-paragraph 5), Article 10 of the present Law, as well as to the legal persons, individual entrepreneurs and non-residents working through permanent institution registered on the territory of special economic area.

4. Sale and other alienation of land plots on the territory of special economic areas during operation of special economic area shall be prohibited.

5. Land plots shall be supplied with adequate infrastructure resources, construction of which is made at the expense of budget funds and other sources, not prohibited by laws of the Republic of Kazakhstan.

All the structures which are built wholly or partly at the expense of budget funds shall be transferred to the balance of the administration of special economic area.

6. Upon completion of special economic area operation, the owner of the premises located on the territory of special

economic area, which has been built within the frames of agreement on activities, shall have priority right to buy the relevant land out in accordance with the procedure established by the legislation of the Republic of Kazakhstan at its cadastre (assessed) value.

7. The land plots which have not been purchased for private ownership within one year after completion of the special economic area operation, as well as infrastructure resources at the balance of administration of special economic area, shall be transferred by the administration of special economic area to the local authorities of the relevant territorial unit.

#### **Article 6. Abolishment of special economic area**

1. Special economic area shall be abolished upon expiration of period for which it has been created. Terms and procedures of abolishment shall be defined by the provision on the special economic area.

2. In case of failure to achieve objectives on creation of special economic area it may be abolished earlier by the Decree of the President of the Republic of Kazakhstan in pursuance of proposals of the Government of the Republic of Kazakhstan.

Proposals on pre-term abolishment of special economic area shall be made by the authorized body on the basis of the conclusion of the experts council to the Government of the Republic of Kazakhstan.

After making decision on pre-term abolishment of special economic area, the administration of special economic area shall operate during one year in order to complete the procedure of abolishing special economic area.

#### **Article 7. Legal regime of special economic area**

1. The legal regime of special economic area shall cover participants of special economic area and shall be established by the present Law and other laws of the Republic of Kazakhstan.

2. Taxation of organizations which operate in the territory of special economic area shall be made in accordance with the tax legislation of the Republic of Kazakhstan.

3. Terms and order for placing goods under customs regime of free customs area in the territory of special economic area shall be stipulated by the customs legislation of the Republic of Kazakhstan.

### **Chapter 2. SPECIAL ECONOMIC AREA MANAGEMENT**

#### **Article 8. Competence of the Government of the Republic of Kazakhstan**

The competence of the Government of the Republic of Kazakhstan shall include the following:

- 1) elaboration of main directions of state policy in field of creation and operation of special economic areas;
- 2) determination of authorized body;
- 3) approval of provision on experts council and its members;
- 4) preparation of proposals to the President of Kazakhstan on creation or pre-term abolishment of special economic area;
- 5) approval of operator identifying rules.

#### **Article 9. Competence of authorized body**

The competence of the authorized body shall include the following:

- 1) implementation of single state policy in field of creation and operation of special economic areas;
- 2) coordination of activity of state bodies in field of creation, operation and abolishment of special economic areas;
- 3) elaboration of rules for identifying operator;
- 4) elaboration and approval of the rules to permit natural and legal persons to operate in the territory of special economic area;
- 5) approval of documents regulating activity of special economic areas:
  - application form for creation of special economic areas;
  - standard agreements between authorized body and operating company, as well as between operating company and participants of special economic area, which regulate order of exercising activity of participants of special economic area;
- 6) agreement upon amount of fees for the use of lands in the territory of special economic areas;
- 7) establishment of requirements on developing concept, economic justification and draft provision on special economic area;
- 8) making proposals to the Government of the Republic of Kazakhstan concerning pre-term abolishment of special economic area;
- 9) determination of the operating company.

#### **Article 10. Competence of the administration of special economic area**

The competence of the administration of special economic area shall include the following:

- 1) interaction with state bodies concerning the issues of activity of special economic areas;
- 2) granting participants of special economic area, legal persons, individual entrepreneurs and non-residents, operating through permanent institution, which are registered in the territory of special economic area with temporary onerous land use (rent), where special economic areas are created;
- 3) making calculations of amount of payment for the use of

lands in the territory of special economic areas in accordance with land legislation of the Republic of Kazakhstan;

4) making decisions concerning permissions for natural and legal persons to operate in the territory of special economic area in the order, stipulated by the authorized body;

5) conclusion of agreements with the participants of special economic area on exercising activities;

6) audits with regard the fulfillment of agreements on conducting activities by the participants of special economic area;

7) submission of information related to activity of special economic areas to the public authorities in the order, stipulated by the legislation of the Republic of Kazakhstan;

8) arrangement of building and subsequent maintenance of the infrastructure resources, carried out at the expense of budget funds in accordance with the legislation of the Republic of Kazakhstan.

### **Article 11. Competence of operators**

The competence of the operator shall include the following:

1) attraction of the potential participants of special economic area for the participation in the activity of special economic area;

2) preparation of proposals to the administration of special economic area concerning the permission for the natural and legal persons to the activity in the territory of special economic area;

3) to represent interests of the participants of special economic area in the relations with the state bodies with purpose of prompt procedure of state registration of legal persons, obtaining permits required for carrying out the priority activities in the territory of special economic area;

4) building and the following maintenance of the infrastructure resources, rendering services to the participants of special economic area;

5) conclusion and termination of contracts with the participants of special economic area, as well as with other natural and legal persons, permitted to carry out activity in the territory of special economic area;

6) carrying out any other economic activity not contradicting with the present Law and other laws of the Republic of Kazakhstan.

## **Chapter 3. FINAL AND TRANSIT PROVISIONS**

### **Article 12. Guarantees of rights of the participants of special economic areas**

In case of pre-term abolishment or changes in the legal regime of a special economic area, including changes in the boundaries of its territory, the participants of special

economic area shall be guaranteed with the right to continue this activity under conditions, stipulated in the agreement on conducting activity, before expiration of the period for which a special economic area is created, but not exceeding ten years.

The period is calculated from date of cancellation or change of legal regime of special economic area.

### **Article 13. Effect of the present Law upon previously created special economic areas**

Special economic areas, created before the present Law has come into force, shall retain their status until the decision on their abolishment is made.

### **Article 14. Final provisions**

1. The present Law shall come into force from date of its official publication.

2. To nullify the Law of the Republic of Kazakhstan of 26<sup>th</sup> January 1996 "On special economic areas in the Republic of Kazakhstan " (KZ Parliament Statements, 1996, N 1, p. 179; N 14, p. 274; 1998, N 24, p. 443; 1999, N 6, p. 191; 2001, N 15-16, p. 224; 2003, N 23, p. 169; 2007, N 2, p. 18).

*President of the Republic of Kazakhstan*