

On Order of Consideration of References of Individuals and Legal Entities

The Law of the Republic of Kazakhstan dated 12 January 2007 No. 221

This Law regulates public relations linked with filing and consideration of references of individuals and legal entities for the purpose of realization and protection of their rights, freedoms and legal interests.

Article 1. Basic definitions used in this Law

The following basic definitions are used in this Law:

1) an application – a petition of a person on cooperation in realization of his (her) rights and freedoms or rights and freedoms of other persons or a message on breach of the laws and other regulatory legal acts, deficiencies in work of subjects considering the references, civil servants, or a criticism of their activity;

2) anonymous reference – the reference on which it is impossible to establish the authorship, there is no signature, as well as electronic digital signature, mail address of an applicant;

3) repeated reference – the reference that received from one and the same person on one and the same question no less than twice in which:

the decision adopted on a previous reference is appealed;

untimely consideration of previously directed reference is specified, if the established term of consideration is expired from the date of its receipt, but the answer is not received by an applicant;

the other deficiencies admitted upon consideration and resolution of previous reference are specified;

4) a reference – a suggestion, application, appeal, request or response being individual or collective, written, verbal or in the form of electronic document assured by electronic digital signature, directed to a subject considering the reference, or to the civil servant;

5) subjects considering references (hereinafter – subjects) – the state bodies, bodies of local self-government, legal entities with hundred percent state participation or providing the goods (works, services) in accordance with conditions of the state order and (or) the state procurement that shall have the right to consider and adopt decisions on references of individuals and legal entities in accordance with their competence, as well as subjects of big entrepreneurship on references of individuals and legal entities with whom the contract for delivery (performance, rendering) of goods (works, services) is concluded;

6) accounting of a reference – fixing of details on acceptance and consideration of a reference and their reflection in the state legal statistical reporting;

7) acceptance of a reference – the action of a subject, civil servant on acceptance of a reference of individuals and (or) legal entities;

8) consideration of a reference – adoption of decision by a subject, civil servant within the competence on registered reference in accordance with the legislation of the Republic of Kazakhstan;

9) registration of a reference – fixation of brief data on a content of the reference and assignment of registration number to each accepted reference in accounting information document;

10) request – petition of a person on provision of information on interested questions of personal or public nature;

11) suggestion – recommendation of a person on improvement of the Laws and other regulatory legal acts, activity of the state bodies, development of public relations, improvement of social economic and other scopes of activity of the state and society;

12) respond – expression of relation by a person in respect of home and foreign policy pursued by the state, as well as of events and occurrences of public nature;

13) appeal – the requirement of a person on restoration or protection of violated rights, freedoms

and legal interests of this person or other persons, on elimination of illegal actions or omission of the state bodies, bodies of local self-government, legal entities with hundred percent state participation or providing the goods (works, services) in accordance with conditions of the state order and (or) state procurement, subjects of big entrepreneurship upon references of individuals and legal entities with whom the contract for delivery (performance, rendering) of goods (works, services) is concluded, their civil servants, as well as cancellation of their illegal decisions.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 10.02.2011 No. 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 2. Legislation of the Republic of Kazakhstan on order of consideration of references of individuals and legal entities

1. Legislation of the Republic of Kazakhstan on order of consideration of references of individuals and legal entities is based on the Constitution of the Republic of Kazakhstan, consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If the international treaty ratified by the Republic of Kazakhstan establishes other rules than those established by this Law, the rules of international treaty shall be applied.

Article 3. Scope of application of this Law

1. Force of this Law shall apply to individuals and legal entities that filed references, to subjects and civil servants considering the references.

2. Force of this Law shall not apply to references of individuals and legal entities, order of consideration of which is established by the legislation of the Republic of Kazakhstan on administrative infractions, criminal procedure, civil procedure legislation of the Republic of Kazakhstan.

2-1. Terms of consideration of claims on the issues of rendering of the state services shall be established by the Law of the Republic of Kazakhstan “On state services”.

3. Legal entities providing goods (works, services) in accordance with conditions of the state order and (or) state procurement shall consider the references on the issues of provision of mentioned goods (works, services) in accordance with this Law, unless otherwise provided by the Laws of the Republic of Kazakhstan.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 15.04.2013 No. 89-V (shall be enforced upon expiry of thirty calendar days after its first official publication).

Article 4. Principles of this Law

Main principles of regulating legal relations linked with consideration of references of individuals and legal entities are:

- 1) legality
- 2) unity of requirements to references;
- 3) guarantees of compliance with rights, freedoms and legal interests of individuals and legal entities;
- 4) inadmissibility of bureaucratizing and red-tapery upon consideration of references;
- 5) equality of individuals and legal entities;
- 6) transparency of activity of subjects and civil servants upon consideration of references.

Article 5. References not subjected to consideration

1. It shall not be subject to consideration:

1) anonymous reference, with the exception of cases when such reference contains details on preparing or committed criminal infractions or on a threat of the state or public security and that shall be subject to immediate redirection to the state bodies in accordance with their competence;

2) reference in which the substance of question is not stated.

2. If conditions that served as a ground for leaving a reference without consideration were eliminated in the following, the subject or civil servant shall be obliged to consider the mentioned reference.

Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015).

Article 6. Requirements to written reference

1. Reference shall be addressed to a subject or civil servant the competence of whom includes resolution of the issues raised in the reference.

2. Reference of an individual shall include his (her) last name, first name, as well as patronymic at will, individual identification number (when available), mail address, of a legal entity – its name, mail address, business identification number. Reference shall be signed by an individual or a representative of a legal entity.

Upon filing a claim, the name of a subject or position, last name and initials of civil servants whose actions are appealed, motives of the reference and requirements shall be specified.

3. Applicant that referred immediately to a subject in written shall be issued by a ticket with specification of date and time, last name and initials of a person that received the reference.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 29.12.2014 No. 269-V (shall be enforced from 01.01.2015).

Article 7. Acceptance, registration and accounting of references of individuals and legal entities

1. References filed in the manner established by this Law shall be subject to compulsory acceptance, registration, accounting and consideration.

2. Accounting of references of individuals and legal entities coming to the state bodies, bodies of local self-government, legal entities with hundred percent state participation shall be carried out in the manner established by the state body carrying out statistical activity within the competence in the field of legal statistics and special accountings.

References of individuals and legal entities that came on the issues of rendering of state services shall not be subject to accounting, with the exception of the references provided by subparagraph 3) of paragraph 1 of Article 4 of the Law of the Republic of Kazakhstan “On state services”.

3. Heads of subjects and civil servants shall bear personal liability for organization of work with references of individuals and legal entities, condition of acceptance, registration and accounting.

4. Reference may be introduced through a representative of an individual or legal entity. Formalization of representation shall be performed in the manner established by civil legislation of the Republic of Kazakhstan.

5. References of individuals and legal entities received through publicly available informational systems and conforming to the requirements of the legislation of the Republic of Kazakhstan on electronic document and electronic digital signature shall be subject to consideration in the manner established by this Law.

6. Reference that came to a subject or civil servant, the competence of whom does not include

resolution of the issues raised in the reference, shall be directed to the relevant subjects with reporting to an applicant about this within the term no later than three business days from the date of its coming to the subject or civil servant.

Requirement of this paragraph shall not apply to subjects of big entrepreneurship.

Footnote. Article 7 as amended by the Laws of the Republic of Kazakhstan dated 10.02.2011 No. 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 15.04.2013 No. 89-V (shall be enforced upon expiry of thirty calendar days after its first official publication); by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 8. Terms of consideration of a reference

1. Reference of an individual and (or) legal entity for consideration of which the receipt of information from other subjects, civil servants or inspection with visiting a place is not required shall be considered within fifteen calendar days from the date of coming to the subject, civil servant.

2. Reference of an individual and (or) legal entity for consideration of which the receipt of information from other subjects, civil servants or inspection with visiting a place is required shall be considered and decision on it shall be adopted within thirty calendar days from the date of coming to the subject, civil servant.

In the cases when it is necessary to conduct supplementary study or inspections, the term of consideration shall be prolonged no more than for thirty calendar days, about which the applicant shall be reported within three calendar days from the date of prolongation of the term of consideration.

3. Term of consideration on reference shall be prolonged by a head of a subject of his (her) deputy.

4. If resolution of issues stated in a reference requires long period, the reference shall be placed on additional control up to its final execution, about which the applicant shall be reported within three calendar days from the date of adoption of decision.

3. Laws of the Republic of Kazakhstan may establish the other terms of consideration of references.

Footnote. Article 8 as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 9. Consideration of references of individuals and legal entities

1. Within the competence, the subjects and civil servants shall:

1) ensure objective, comprehensive and well-timed consideration of references of individuals and legal entities, when necessary – with their participation;

2) take measures oriented to restoration of violated rights and freedoms of individuals and legal entities;

3) inform applicants on results of consideration of their references and taken measures;

4) notify applicants on direction of their references for consideration of other subjects or civil servants in accordance with their competence.

2. Acts, documents and other materials having significance for consideration of references, with the exception of those containing the state secrets or another secrets protected by the Law, shall be provided to subjects or civil servants immediately considering the references within fifteen calendar days from the date of receipt of the reference.

References on impairment of rights, freedoms and legal interests of individuals and legal entities

on multiple or gross breaches of the Law may be investigated with visiting a place by the order of a head of a subject.

3. Following the results of consideration of references, the one of the following decisions shall be adopted:

- 1) on full or partial satisfaction of the reference;
- 2) on refusal in satisfaction of the reference with substantiation of adoption of such decision;
- 3) on explanation on a substance of the reference;
- 4) on termination of consideration of the reference.

4. Upon receipt of several references on one and the same issue in favor of one and the same person, the first reference shall be registered as main reference, and the following shall be attached to the main reference and be considered as one reference with notification of applicants on results of their resolution within the established term that began from the date of receipt of the first reference.

Footnote. Article 9 as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 10. Answers for references

1. Answers for references shall be substantiated and motivated in matter in the state language or the language of reference as referred to the legislation of the Republic of Kazakhstan, shall contain particular facts denying or confirming the arguments of an applicant, with explanation of their right to appeal the adopted decision.

2. In the absence of any recommendations, requirements, petitions, requests, the references shall be taken into account and written into the case by a head of a subject or his (her) deputy.

Article 11. Termination of consideration of references

1. Consideration of references shall be terminated, if there are no new arguments or newly opened circumstances in repeated references, and there are exhaustively materials of inspections in materials of the previous reference and the applicant gave the answers in established manner.

2. Decision on termination of consideration of references shall be adopted by a head of a subject or his (her) deputy.

Footnote. Article 11 as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 12. Appeal of decisions adopted following the results of consideration of references

Complaint to actions (omission) of civil servants, as well as to decisions of a subject shall be filed to the superior civil servant or the subject in the manner of subordination no later than three months from the date when the individual or legal entity became known on commission of the action or adoption of decision by the relevant subject or civil servant. The term missed for appeal is not a basis for a subject or civil servant to refuse in consideration of a complaint. Reasons for missing the term shall be clarified upon consideration of a complaint in essence and may be one of the grounds for refusal in satisfaction of the complaint.

In the absence of a superior civil servant or subject or non-agreement of an applicant with adopted decision, the application shall be filed directly to court.

Article 13. Personal reception of individuals and representatives of legal entities

1. Heads of state bodies, bodies of local self-government and their deputies shall be obliged to conduct personal reception of citizens and representatives of legal entities, as well as employees of these bodies no less than once per month according to the schedule of reception approved by the head of the relevant state body.

2. Reception shall be conducted at the work place on the days and hours established and brought to the notice of individuals and legal entities.

3. If a reference may not be resolved by a civil servant during reception, it shall be stated in written form and work with it is conducted as with written reference.

Article 14. Rights of individuals and legal entities upon consideration of a reference

Individual or legal entity that filed a reference shall have the right to:

1) represent additional documents and materials for confirmation of own reference or ask their vindication;

2) state the arguments to a person considering the reference;

3) familiarize with materials linked with consideration of its reference, participate in consideration of the reference, if it does not violate the rights, freedoms of other persons;

4) receive substantiated respond in written or verbal form on adopted decision;

5) require compensation of losses, if they become a result of violations of established order of consideration of references;

6) appeal the actions (omission) of civil servants or decision adopted upon reference;

7) petition on termination of consideration of the reference, with the exception of cases provided by the Tax Code of the Republic of Kazakhstan.

Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

Article 15. Rights and obligations of subjects and civil servants

1. Subjects, civil servants shall have the right to:

1) request and receive information required for consideration of references in established manner;

2) go to court on recovery of expenses incurred due to inspection of references containing knowingly false details.

2. Subjects and civil servants shall be obliged to:

1) accept and consider references of individuals and legal entities in the manner and in terms established by this Law;

2) adopt legal and substantiated decisions;

3) ensure control of execution of adopted decisions;

4) inform individuals and legal entities on adopted decisions in written form or in the form of electronic document;

5) restrain pursuing of individuals, as well as those representing in favor of a legal entity, their family members due to filing a reference to subjects and civil servants with a criticism of their activity or for the purpose of protection of rights, freedoms and legal interests;

6) not to direct a complaint for consideration of civil servants, actions (omission) of whom are appealed;

7) exclude the cases of imposition of inspections on persons in respect of whom there are the

grounds to suppose than they are not interested in objective resolution of the issue;

8) not to admit a reference of individuals and legal entities for harm of a person that filed it, or in favor of whom it was filed;

9) not to divulge details on private life of individuals, as well as those representing in favor of a legal entity, without their consent or details that are the state secrets or the other secret protected by the Law, not to admit establishment of data on a personality of the individual not related to the reference;

10) analyse and generalize the references of individuals and legal entities, censorious remarks containing in there, study public opinion for the purpose of improvement of work and elimination of the reasons creating the complaints of individuals and legal entities;

11) check systematically the condition of work on consideration of references of individuals and legal entities;

12) provide the state legal statistical information on a quantity of received, considered references and results of their consideration within the terms and in scopes established by the state body carrying out statistical activity within the competence in the field of legal statistics and special accounts. Requirement of this subparagraph shall not apply to subjects of big entrepreneurship.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 10.02.2011 No. 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 16. Record management on references of individuals and legal entities

Record management on references of individuals and record management on references of legal entities in the state bodies, bodies of local self-government, legal entities with the hundred percent state participation or providing the goods (works, services) in accordance with conditions of the state order and (or) state procurement shall be maintained separately from other types of record management in the manner established by the legislation of the Republic of Kazakhstan, in subjects of big entrepreneurship in accordance with internal regulation on record management.

Footnote. Article 16 is in the wording of the Law of the Republic of Kazakhstan dated 10.02.1011 No. 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 17. Liability for breach of the legislation of the Republic of Kazakhstan on order of consideration of references of individuals and legal entities

Breach of the legislation of the Republic of Kazakhstan on order of consideration of references of individuals and legal entities shall entail liability in accordance with the Laws of the Republic of Kazakhstan.

Article 18. Order of entering of this Law into force

1. This Law enters into force from the date of its official publication.

2. Decree of the President of the Republic of Kazakhstan having a force of the Law dated 19 June 1995 No. 2340 “On order of consideration of references of citizens” (The Bulletin of the Supreme Soviet of the Republic of Kazakhstan, 1995 No. 9-10, Article 71) shall be deemed to have lost force.

*The President
of the Republic of Kazakhstan*