

On Compulsory Insurance of Legal Liability of Audit Organizations

Unofficial translation

The Law of the Republic of Kazakhstan dated 13 June 2003 No. 440.

Unofficial translation

Footnote. Title as amended by the Law of the Republic of Kazakhstan dated 5 May 2006 No. 139 (the order of enforcement see Article 2 of the Law of the Republic of Kazakhstan No. 139).

Footnote. Through the text the words “auditors and”, “auditor or”, “auditor and”, “auditors carrying out audit activity as individual entrepreneur and”, “auditors and” are excluded by the Law of the Republic of Kazakhstan dated 5 May 2006 No. 139 (the order of enforcement see Article 2 of the Law of the Republic of Kazakhstan No. 139).

This Law regulates public relations arising due to compulsory insurance of legal liability of audit organizations and establishes legal, economic and organizational basis for its conduct

Chapter 1. general provisions

Article 1. Basic definitions used in this Law

The following basic definitions shall be used in this Law:

1) legal liability of audit organization – obligation of audit organization to compensate property damage inflicted to audited subjects upon conduct of audit, established by civil legislation of the Republic of Kazakhstan;

2) an audited subject – legal entity concluded the agreement for conducting audit with audit organization;

3) beneficiary – a person that is a receiver of insurance payment in accordance with this Law;

4) insured accident – event in occurrence of which the compulsory insurance agreement of legal liability of audit organization provides carrying out of insurance payment to an insurant (beneficiary);

5) insurance ombudsman - an individual independent in its activity, resolving disagreements between participants in the insurance market in accordance with the Law of the Republic of Kazakhstan “On Insurance Activities”;

6) insurance amount – sum of money for which an insured object shall be insured and which represents the limit of liability of the insurer in the event of an insured accident;

7) insurance premium – sum of money which an insurer shall be obliged to pay to an insurer for receiving the obligation by a latter to make insurance payment to an insurant (beneficiary) in amount determined by compulsory insurance agreement of legal liability of audit organization;

8) insurance payment – sum of money paid by an insurer to insurant (beneficiary) within insurance coverage upon occurrence of insured accident;

9) an insurer – legal entity registered as insurance organization and having a license for the right to carry out insurance activity, obliged to make insurance payment to an insurant or other person in favour of which (beneficiary) the agreement is concluded upon occurrence of insured accident, within insurance coverage determined by the agreement;

10) an insurant – audit organization concluded compulsory insurance agreement of legal liability of audit organization with an insurer;

11) franchise – release of an insurer from compensation for harm not exceeding determined amount.

Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 2. Legislation of the Republic of Kazakhstan on compulsory insurance of civil responsibility of audit organizations

1. Legislation of the Republic of Kazakhstan on compulsory insurance of legal liability of audit organizations is based on the Constitution of the Republic of Kazakhstan and consists of the Civil Code of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

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

3. The provisions of this Law applied to an insurer, including an insurance company, shall apply to branches of insurance companies that are non-residents of the Republic of Kazakhstan, opened on the territory of the Republic of Kazakhstan.

Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (effective from 16.12.2020).

Article 3. Object of compulsory insurance of legal liability of audit organizations

The object of compulsory insurance of legal liability of audit organizations (hereinafter – compulsory responsibility insurance of audit organizations) is property interest of audit organization linked with its obligation to compensate property damage inflicted to audited subjects upon conduct of audit established by civil legislation of the Republic of Kazakhstan.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 5 May 2006 No. 139 (the order of enforcement see Article 2 of the Law of the Republic of Kazakhstan No. 139).

Article 4. Purpose and main principles of compulsory responsibility insurance of audit organizations

1. Purpose of compulsory responsibility insurance of audit organizations is protection of property interests of audited subjects to which the property damage is inflicted upon conduct of audit by audit organization by carrying out of insurance payments.

2. Main principles of compulsory responsibility insurance of audit organizations are:
carrying out of the activity of audit organizations the responsibility of which shall be insured under the compulsory responsibility insurance agreement of audit organizations;
ensuring of performance of obligations by parties under compulsory responsibility insurance of audit organizations.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 4-1. Special aspects of carrying out compulsory responsibility insurance of audit organizations

1. Is excluded by the Law of the Republic of Kazakhstan dated 27.04.2015 No. 311-V (shall be enforced upon expiry of ten calendar days after its first official publication).

2. The activity oriented to restriction or elimination of business competition, provision or receipt of unreasonable premiums on conclusion of compulsory responsibility insurance agreements of audit organizations by some insurers before others, impairment of rights and legal interests of insureds shall not be allowed.

Footnote. The Law is supplemented by Article 4-1 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV; as amended by the Law of the Republic of Kazakhstan dated 27.04.2015 No. 311-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 5. Persons the legal liability of which is subject to compulsory insurance

1. Legal liability of audit organizations received a license for carrying out of audit activity in the manner established by the legislation of the Republic of Kazakhstan shall be subject to compulsory insurance.

2. Conclusion of voluntary insurance agreement of the legal liability by audit organization, linked with carrying out of professional activity shall not release it from obligation on conclusion of compulsory responsibility insurance agreement of audit organizations.

Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 5 May 2006 No. 139 (the order of enforcement see Article 2 of the Law of the Republic of Kazakhstan No. 139).

Article 6. Prohibition of carrying out of the activity of audit organization without conclusion of compulsory responsibility insurance agreement of audit organizations

1. Audit organization shall not have the right to carry out audit activity without conclusion of compulsory responsibility insurance agreement of audit organizations.

2. Audit organization carrying out the activity without conclusion of compulsory responsibility insurance agreement of audit organizations shall bear responsibility provided by the Laws of the Republic of Kazakhstan.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 5 May 2006 No. 139 (the order of enforcement see Article 2 of the Law of the Republic of Kazakhstan No. 139).

Article 7. State supervision and control in the field of compulsory responsibility insurance of audit organizations

1. State supervision and control over the activities of insurance organizations is carried out by the authorized body for regulation, control and supervision of the financial market and financial organizations (hereinafter referred to as the authorized body) in accordance with the legislation of the Republic of Kazakhstan.

2. State control of performing requirements of this Law by audit organizations in a part concerning the obligation of concluding compulsory responsibility insurance agreement of audit organizations by them, and taking measures to audit organizations violating this requirement shall be imposed on the relevant authorized state body within its competence in accordance with this Law, established by the legislative acts of the Republic of Kazakhstan.

Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2019 № 262-VI (shall be enforced from 01.01.2020).

Article 7-1. Information interaction

The authorized state authority, prosecution authorities, other state authorities and organizations that have the information necessary to confirm the occurrence of insured event and its consequences shall be required to provide this information to an insurer, insurant (beneficiary), and insurance ombudsman when they apply.

Footnote. Chapter 1 is supplemented by Article 7-1 in accordance with the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 2. Compulsory responsibility insurance agreement of audit organizations

Article 8. Compulsory responsibility insurance agreement of audit organizations, procedure for its conclusion

1. Compulsory responsibility insurance of audit organizations shall be carried out on the basis of agreement concluded in accordance with this Law and the Civil Code of the Republic of Kazakhstan between an insurer and insurant in favour of audited subject the property interests of which may be inflicted by harm upon conducting audit.

2. Compulsory responsibility insurance agreement of audit organizations shall provide carrying out of insurance payment on obligations arising due to infliction of harm to audited subjects upon conducting audit by an insurant, with the exception of compensation for moral damage, loss profit and payment of a penalty.

3. An agreement of compulsory liability insurance of audit organizations shall be concluded only with an insurer having a license for the right to carry out activities for this type of compulsory insurance. The conclusion of such an agreement for the mentioned insurer shall be mandatory, except for the cases provided for by the legislative acts of the Republic of Kazakhstan.

4. Compulsory responsibility insurance agreement of audit organizations shall be concluded in electronic form by issuing the insurance policy by an insurer.

Responsibility for incompleteness of conditions subject to indication in compulsory responsibility insurance agreement of audit organizations shall be borne by an insurer. In case of occurrence of dispute on compulsory responsibility insurance agreement of audit organizations due to incompleteness of its separate conditions, the dispute shall be resolved in favour of an insurant.

4-1. An agreement of compulsory liability insurance of audit organizations, at the request of an insurant, may be concluded by writing to an insurer or by exchanging electronic information resources between an insurant and an insurer.

5. If compulsory responsibility insurance agreement of audit organizations is concluded on conditions aggravating a situation of an insurant or audited subject in comparison with that provided by this Law, then upon occurrence of insured accident, an insurer shall bear responsibility before an insurant and audited subject on conditions established by this Law.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 27.02.2017 No. 49-VI (shall be enforced upon expiry of ten calendar days after its first official publication) ; dated 02.07.2018 № 166-VI (shall be enforced from 01.01.2019); dated 12.07.2022 No. 138-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 8-1. Requirements for an insurer and Internet resources when concluding the compulsory responsibility insurance agreement of audit organizations in electronic form

1. When concluding the compulsory responsibility insurance agreement of audit organizations in electronic form, an insurer's Internet resource shall be used to exchange electronic information resources between an insurant (beneficiary) and an insurer.

When submitting an application for concluding the compulsory responsibility insurance agreement of audit organizations in electronic form, the insurant shall not be required to use specialized software.

The list of Internet resources of insurance companies used for conclusion the compulsory responsibility insurance agreement of audit organizations in electronic form shall be placed on the Internet resource of the organization for formation and maintenance of the database.

2. The procedure for exchange of electronic information resources between an insurant (beneficiary) and an insurer shall be established by the regulatory legal act of the authorized agency.

3. When concluding a compulsory responsibility insurance agreement of audit organizations using an insurer's Internet resource, an insurer must ensure:

1) immediate notification to the insurant on conclusion of a compulsory responsibility insurance agreement of audit organizations or refusal to conclude it (indicating the reasons for refusal) in the form of electronic message;

2) ability of an insurant to verify information under a compulsory responsibility insurance agreement of audit organizations via the organization's information system for formation and maintenance of the database;

3) storage of a compulsory responsibility insurance agreement of audit organizations in electronic form with around the clock access for the insurant to the insurer's Internet resource;

4) ability of an insurant (beneficiary) to create and send to an insurer information in electronic form (applications, notifications and (or) other documents, information) necessary for:

changes in information, renewal of a compulsory responsibility insurance agreement of audit organizations;

early termination of a compulsory responsibility insurance agreement of audit organizations;

notifications of occurrence of an insured event;

assessment of the amount of harm caused;

receipt of insurance payment.

Notification on conclusion of a compulsory responsibility insurance agreement of audit organizations shall be sent from the organization for formation and maintenance of the database.

The requirements for the procedure and content of notification on conclusion of a compulsory responsibility insurance agreement of audit organizations shall be determined by the authorized agency.

4. When concluding a compulsory responsibility insurance agreement of audit organizations using the insurer's Internet resource, this insurance agreement shall be considered to be concluded by an insurant on the terms and conditions proposed by the insurer from the date the insurant pays insurance premium (first insurance contribution in case of payment the insurance premium by installments), unless otherwise provided by a compulsory responsibility insurance agreement of audit organizations.

5. When concluding a compulsory responsibility insurance agreement of audit organizations using an insurer's Internet resource, an insurant pays the insurance premium (first insurance contribution in case of payment the insurance premium by installments) after reviewing the insurance conditions provided by this Law, thereby confirming his consent to conclude this joining agreement on the terms proposed to him.

6. An insurer provides the opportunity for concluding the compulsory responsibility insurance agreements of audit organizations using an insurer's Internet resource around the clock.

7. The activities of insurance agents on conclusion of compulsory responsibility insurance agreements of audit organizations using information systems of insurance organizations intended for conclusion of insurance agreements in electronic form through information interaction between the insurant and the insurer shall not be allowed.

Footnote. Chapter 2 is supplemented by Article 8-1 in accordance with the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced from 01.01.2019).

Note!

Article 8-1 is provided for in the version of the Law of the Republic of Kazakhstan dated 12.07.2022 No. 138-VII (shall be enforced from 01.01.2024).

Article 9. Validity of compulsory responsibility insurance agreement of audit organizations

1. Unless otherwise provided by compulsory responsibility insurance agreement of audit organizations, it shall enter into force and become compulsory for parties from the moment of paying insurance premium by an insurant, and in its paying by installment – from the first insurance contribution.

2. Compulsory responsibility insurance agreement of audit organizations shall be concluded for the term of twelve months from the date of its entering into force.

Validity period of insurance protection shall align with the validity term of compulsory responsibility insurance agreement of audit organizations.

3. Validity of compulsory responsibility insurance agreement if audit organizations shall be limited by the territory of the Republic of Kazakhstan, unless otherwise provided by compulsory responsibility insurance agreement of audit organizations.

Article 10. Termination of validity of compulsory responsibility insurance agreement of audit organizations

Compulsory responsibility insurance agreement of audit organizations shall terminate its validity in cases of:

- 1) expiration of the validity term of agreement;
- 2) early termination of agreement;
- 3) carrying out of insurance payment (insurance payments) by an insurer in the size of insured amount, determined in compulsory responsibility insurance agreement of audit organizations.

Article 11. Early termination of compulsory responsibility insurance agreement of audit organizations

1. Compulsory responsibility insurance agreement of audit organizations shall be terminated in advance in the manner and cases provided by civil legislation of the Republic of Kazakhstan.

2. If early termination of compulsory responsibility insurance agreement of audit organizations is occurred by non-fulfillment of its conditions due to the fault of an insurer, the latter shall be obliged to compensate insurance premium or insurance contributions in full measure to an insurant paid by him (her). In other cases of early termination of compulsory responsibility insurance agreement of audit organizations, and insurer shall have the right to the part of insurance premium proportionally to time during which the insurance was valid.

Article 12. Invalidity of compulsory responsibility insurance agreement of audit organizations

Conditions, grounds and consequences of recognizing the compulsory responsibility insurance agreement of audit organizations invalid, shall be determined in accordance with civil legislation of the Republic of Kazakhstan.

Article 13. rights and obligations of an insurant

1. An insurant shall have the right to:
 - 1) require clarifications of conditions of compulsory responsibility insurance agreement of audit organizations, own rights and obligations under agreement of compulsory responsibility insurance agreement of audit organizations from an insurer;
 - 2) receive insurance payment in the manner and on conditions provided by this Law;
 - 2-1) get acquainted with the results of an assessment of the amount of damage caused and the calculations of the amount of insurance payment made by the insurer (including through the insurer's Internet resource);
 - 3) apply to an insurer, subject to specific aspects provided by Article 19-1 of this Law, or to an insurance ombudsman or the court to resolve issues arising from compulsory responsibility insurance agreements of audit organizations;

4) send an application and attached documents to the insurance ombudsman (directly to the insurance ombudsman, including through his/her Internet resource, or through the insurer, including through his/her branch, representative office, another separate structural unit, Internet resource), taking into account the specifics provided for by the Law of the Republic of Kazakhstan "On Insurance Activities".

Compulsory responsibility insurance agreement of audit organizations may provide the other rights of an insurant not inconsistent with the legislative acts of the Republic of Kazakhstan.

2. An insurant shall be obliged to:

1) pay insurance premium in amount, procedure and terms established by the compulsory responsibility insurance agreement of audit organizations;

2) represent details to an insurer required for conclusion of compulsory responsibility insurance agreement of audit organizations upon conclusion of compulsory responsibility insurance agreement of audit organizations;

3) notify an insurer by available method (orally, in written) on submission of requirement or statement of claim on compensation for harm inflicted in the result of conducting audit by him (her) immediately, but no later than five business days as he (she) came to knowledge about this;

4) represent all available information and documentation to an insurer, enabling to estimate on the reasons, course and consequences of the accident, upon occurrence of which, the insurant shall have the obligation to compensate inflicted harm, as well as on nature and sizes of inflicted harm;

5) represent the opportunity to an insurer for participation in regulating the issues linked with requirements of an audited subject on compensation for harm;

6) take measures for prevention or reduction of losses from insured accident;

7) ensure transfer of the right of counter demand to a person, responsible for occurrence of insured accident to an insurer;

8) notify the person to whom the insured rendered the audit services about the insurance of his/her civil-legal liability for compensation for the damage caused to the property interests of the audited entities during the audit.

Compulsory responsibility insurance agreement of audit organizations may provide other obligations of an insurant not inconsistent with the legislative acts of the Republic of Kazakhstan.

Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.07.2022 No. 138-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 14. Rights and obligations of an insurer

1. An insurer shall have the right to:

1) require information upon conclusion of the compulsory responsibility insurance agreement of audit organizations on previous compulsory responsibility insurance agreements of audit organizations, insured accidents, insurance payments and other details required for conclusion of compulsory responsibility insurance agreement of audit organizations;

2) request documents and details from the relevant state bodies and organizations proceeding from their competence, linked with the fact of occurrence of insured accident and determination of the size of harm inflicted in the result of occurrence of insured accident in the manner established by the legislation of the Republic of Kazakhstan;

3) take participation in regulating the issues linked with requirements of audited subjects on compensation for harm inflicted by an insurant in the result of fulfilling his (her) obligations linked with conduct of audit;

4) assert the right of counter demand to a person responsible for infliction of harm in cases provided by Article 20 of this Law;

5) refuse in carrying out of insurance payment fully or partially on the grounds provided by Article 21 of this Law.

Compulsory responsibility insurance agreement of audit organizations may provide other rights of an insurer not inconsistent with the legislative acts of the Republic of Kazakhstan.

2. An insurer shall be obliged to:

1) familiarize an insurant with conditions of compulsory responsibility insurance agreement of audit organizations, clarify his (her) rights and obligations arising from the compulsory responsibility insurance agreement of audit organizations;

1-1) upon notification of an insured case (an event considered as an insured case) that occurred during the period of validity of insurance protection under a contract of compulsory liability insurance of audit organizations, immediately register it and provide information on this insured case (an event considered as an insured case) to the organization for the formation and maintenance of the database in accordance with the regulatory legal act of the authorized body;

2) refund insurance premium to an insurant fully or partially upon early termination of compulsory responsibility insurance agreement of audit organizations in cases and in the manner established by civil legislation of the Republic of Kazakhstan;

2-1) with insufficient documents confirming occurrence of insured accident and the amount of damage to be compensated by an insurer, inform the applicant within three working days from the day they were received, indicating the full list of missing and (or) incorrectly executed documents;

3) make insurance payment in the manner and on conditions provided by this Law upon occurrence of insured accident;

4) compensate an insurant for expenses inflicted by him (her) for the purpose of prevention or reduction of losses upon insured accident;

5) ensure insurance secrecy;

6) upon receipt of an application from an insurant (beneficiary), to consider the requirements of an insurant (beneficiary) and provide a written response indicating the further procedure for resolving the dispute within five working days;

7) upon receipt from an insurant (beneficiary) of application sent to an insurance ombudsman, redirect this application, as well as the documents attached to it, to an insurance ombudsman within three working days from the date of receipt.

Compulsory responsibility insurance agreement of audit organizations may provide other obligations of an insurer not inconsistent with the legislative acts of the Republic of Kazakhstan.

Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.07.2022 No. 138-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 3. Insurance coverage and insurance premium

Article 15. Size of insured amount

Size of insurance coverage shall be established under agreement of parties in compulsory responsibility insurance agreement of audit organizations, but by this the size of insurance coverage shall be no less than:

1) **(is excluded by the Law of the Republic of Kazakhstan dated 5 May 2006 No. 139 (the order of enforcement see Article 2 of the Law of the Republic of Kazakhstan No. 139);**

2) 10 000-fold monthly calculation index established by the Law on republican budget on the relevant financial year, on the date of conclusion of compulsory responsibility insurance agreement of audit organizations, concluded with audit organization.

Article 16. Size of insurance premium

Size of insurance premium shall be established under agreement of parties in compulsory responsibility insurance agreement of audit organizations, but by this the size of insurance premium shall not exceed 4,5 percent from insured amount, established in compulsory responsibility insurance agreement of audit organizations.

Article 17. Procedure and terms of paying insurance premium

1. Procedure and terms of paying insurance premium under agreement of compulsory responsibility insurance agreement of audit organizations shall be established under agreement of parties.

2. If otherwise provided by compulsory responsibility insurance agreement of audit organizations, for the late payment of regular insurance contribution an insurant shall be

obliged to pay penalty to an insurer as for illegal use by money of other persons in the manner and amount established by the Civil Code of the Republic of Kazakhstan.

3. An insurer provides the opportunity for payment the insurance premium in a non-cash way through an insurer's online resource.

Footnote. Article 17 as amended in accordance with the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced from 01.01.2019).

Chapter 4. Insured accident and insurance payment

Article 18. Determination of insured accident and amount of insurance payment

1. Insured accident under compulsory responsibility insurance agreement shall be considered as the fact of occurrence of legal liability of an insurant on compensation for harm inflicted to property interests of audited subjects upon conduct of audit.

2. Insured accident shall be considered as occurred from the date of entering of court decision on compensation for harm inflicted by an insurant into force or recognition of requirements of audited subjects on compensation for harm by an insurant as reasonable and agreement of an insurer with recognition of requirements of an insurant.

3. Size of insurance payment shall be determined by an insurer proceeding from the sum of requirement of an audited subject or court decision on compensation for inflicted harm entered into force in recognition of provisions of paragraph 2 of Article 8 of this Law.

4. Expenses incurred by an insurant for the purpose of prevention or reduction of losses shall be subject to compensation by an insurer, if such expenses were necessary or were carried out for performance of instructions of an insurer, even if the relevant measures were unsuccessful.

Such expenses shall be compensated in actual amounts, but for the purpose that the common sum of insurance payment and compensations of expenses do not exceed insured amount, provided by compulsory responsibility insurance agreement of audit organizations, if the expenses occurred in the result of fulfilling instructions of an insurer by an insurant, they shall be compensated in full measure irrespective to insured amount.

5. Size of franchise on each insured accident shall be established under agreement of parties, but by this the size of franchise shall not exceed five percent from insured amount, established in compulsory responsibility insurance agreement of audit organizations.

In cases when the size of inflicted harm exceeds established size of franchise, the insurance payment shall be carried out in full measure.

Article 19. Conditions and procedure for carrying out of insurance payment

1. The requirement for an insurance payment to an insurer shall be presented by the insurant or the audited entity in writing, including through the Internet resource of the insurer

in accordance with the regulatory legal act of the authorized body, with the documents necessary for making the insurance payment attached.

At the request of an insurer, the applicant shall be obliged to submit the original documents to the insurer necessary for the implementation of the insurance payment, with the exception of documents available in electronic form in the databases and (or) information systems of state bodies, to which the insurer has access.

2. The application on insurance payment shall accompanied by:

1) is excluded by the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication);

2) requirement of audited subject recognized by an insurant on compensation of harm with attachment of documents confirming inflicted harm and its size, or court decision entered into force on compensation for harm inflicted by an insurant upon conduct of audit;

3) power of attorney issued to representative of a legal entity;

4) notarized copy of the agreement for conduct of audit concluded between an insurant and audited subject;

5) documents (in existence) confirming expenses linked with taking of measures on prevention and reduction of the extend of harm;

6) copy of audit report with agreement of audited subject.

3. An insurer that accepted the documents shall be obliged to issue certificate to an applicant with specification of full list of represented documents and date of their acceptance.

If an insurant (beneficiary) sends the requirements on insurance payment in electronic form, an insurer may provide him with this certificate in electronic form.

4. Upon carrying out of insurance payment, an insurer shall not have the right to require acceptance of conditions restricting his (her) right of demand to an insurer from a beneficiary.

5. A beneficiary is an audited subject being inflicted by harm by an insurant in the result of conducting audit, and in case of reorganization of audited subject – his (her) legal successor.

A beneficiary may be an insurant or other person as well, compensated inflicted harm to an audited subject (his (her) legal successor) within the volume of responsibility of an insurer established by this Law and received the right to compensate own expenses from an insurer.

6. Insurance payment shall be made by an insurer not later than seven business days from the date of receiving the documents by him (her) provided by paragraph 2 of this Article.

7. In cases when the size of amount payment is disputed by parties of compulsory responsibility insurance agreement of audit organizations or by a beneficiary, an insurer shall be obliged to carry out insurance payment in the part that is not disputed by any of mentioned persons, within the term established by paragraph 6 of this Article.

Disputed part of insurance payment shall be paid by an insurer within three business days from the date of conclusion of amicable agreement and its approval by court or from the date

of entering of court decision into force on this dispute, unless decision turned by court to immediate fulfillment.

8. Requirement on insurance payment for harm inflicted in the period of validity of compulsory responsibility insurance agreement of audit organizations may be submitted to an insurer within three years from the date of occurrence of insured accident.

9. Upon untimely carrying out of insurance payment, an insurer shall be obliged to pay penalty to the beneficiary in the manner and amount established by the Civil Code of the Republic of Kazakhstan.

Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (order of enforcement see Article 2); dated 12.07.2022 No. 138-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 19-1. Special aspects for settlement of disputes on compulsory insurance of legal liability of audit organizations

1. If there is a dispute arising from the agreement of compulsory liability insurance of audit organizations, an insurant (beneficiary) shall have the right to:

send to an insurer (including through a branch, representative office, an insurer's Internet resources) a written application indicating the requirements and attaching documents confirming his/her requirements, or send an application to an insurance ombudsman (directly to an insurance ombudsman, including through his/her Internet resource, or through of an insurer, including through his/her branch, representative office, another separate structural unit, Internet resource) or to the court to resolve disputes arising from the agreement of compulsory liability insurance of audit organizations, taking into account the specifics provided for by the Law of the Republic of Kazakhstan "On Insurance Activities".

2. Upon receipt of an application from an insurant (beneficiary), an insurer shall consider and provide a written response within five working days indicating the further procedure for resolving dispute.

3. If an insurant (beneficiary) applies to an insurance ombudsman, an insurer shall be obliged, upon request of an insurant (beneficiary), insurance ombudsman, to submit documents related to the consideration and resolution of dispute within three working days from the date of receipt of the request.

Footnote. Chapter 4 is supplemented by Article 19-1 in accordance with the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 12.07.2022 No. 138-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 20. Right of exoneration to a person that inflicted harm

1. An insurer that carried out insurance payment shall have the right of exoneration to an insurant within carried out insurance payment I the following cases:

1) intended actions of an insurant oriented to occurrence of insured accident, or enabling its occurrence;

2) commission of actions by an insurant, recognized as intended crimes or administrative infractions being in causal connection with insured accident in the manner established by the legislative acts of the Republic of Kazakhstan;

3) intended non-taking of measures on reduction of losses upon insured accident by an insurant;

4) informing knowingly false details on object of insurance, insurance risk, insured accident and its consequences by an insurant to an insurer;

5) refuse of an insurant from his (her) right of demand to a person responsible for occurrence of insured accident, as well as refuse to transfer the document to an insurer, required for the transfer of the right of demand.

2. Within the paid sum, the right of exoneration that an insurant has to a person responsible for losses, compensated by an insurer in the result of insurance shall be transferred to an insurer carried out the insurance payment.

Footnote. Article 20 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 21. Basis of release of an insurer from carrying out of insurance payment

1. An insurer shall have the right to refuse fully or partially in carrying out of insurance payment, if insured accident occurred due to:

1) intended actions of audited subject oriented to occurrence of insured accident or enabling its occurrence;

2) actions of an audited subject recognized as intended crimes or administrative infractions being in causal connection with insured accident in the manner established by the legislative acts of the Republic of Kazakhstan.

2. The ground for refusal of an insurer in carrying out of insurance payment may be as follows:

1) receipt of the relevant compensation of loss by an insurant from a person guilty in infliction of the loss;

2) non-notifying or untimely notifying an insurer on occurrence of insured accident with the exception of cases established by this Law;

3) impeding by an insurant of an insurer in investigation of circumstances of occurring insured accident and in establishment of the size of inflicted harm;

4) violation by an audited subject of obligations provided by the agreement for conducting audit;

5) carrying out of the activity by an insurant not conforming to functions and obligations of audit organization, determined by the legislation of the Republic of Kazakhstan on audit activity;

6) provision of incomplete and (or) unreliable documentation and other information by an audited subject for an insurant, required for conduct of audit.

3. Non-notifying or untimely notifying an insurer on occurrence of insured accident entitles him (her) to refuse in insurance payment, unless it is proved that the insurer came to knowledge on occurrence of insured accident in proper time or the absence of details about this of the insurer might not have an impact on his (her) obligation to carry out insurance payment.

4. If there are grounds for refusal of insurance payment, an insurer shall be obliged, within seven working days from the date of receipt of the documents provided for in Article 19 of this Law, to send to the person who submitted the application for insurance payment the appropriate decision on the full or partial refusal of the insurance payment in writing with a reasoned justification of the reasons for refusal and notification of the right of the insurant (insured, beneficiary) to apply to the insurance ombudsman to resolve disputes, taking into account the specifics of the legislation of the Republic of Kazakhstan.

5. An insurer shall not have the right to refuse in insurance payment on the grounds not provided by this Article.

Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 03.07.2014 No. 227-V (shall be enforced from 01.01.2015); dated 12.07.2022 No. 138-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 5. Final provisions

Article 22. Procedure for consideration of disputes

Disputes arising from compulsory responsibility insurance agreement of audit organizations shall be considered in the manner established by the legislation of the Republic of Kazakhstan.

Article 23. Responsibility for violation of the legislation of the Republic of Kazakhstan on compulsory insurance of legal liability of audit organizations

Persons, guilty in violation of the legislation of the Republic of Kazakhstan on compulsory insurance of legal liability of audit organizations shall bear responsibility in accordance with the Laws of the Republic of Kazakhstan.

The President of the Republic of Kazakhstan

