

On commercialization of the results of scientific and (or) scientific and technical activities

Unofficial translation

Law of the Republic of Kazakhstan dated October 31, 2015 No. 381-V.

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This Law regulates public relations in the field of commercialization of the results of scientific and (or) scientific and technical activities as an integral part of the scientific sphere aimed at the development of the economy of the Republic of Kazakhstan.

Chapter 1: General provisions

Article 1. Basic concepts used in this Law

The following basic concepts are used in this Act:

- 1) the result of scientific and (or) scientific-technical activity - new knowledge or solutions obtained by appropriate scientific methods and means in the course of scientific and (or) scientific-technical activity and documented on any information medium, implementation of scientific developments and technologies in production, as well as models, models, samples of new products, materials and substances;
- 2) introduction (use) of the results of scientific and (or) scientific and technical activity - activity aimed at implementation of the final stage of the scientific and production cycle of development of new products or introduction of new technology;
- 3) commercialization of the results of scientific and (or) scientific and technical activities - activities related to the practical application of the results of scientific and (or) scientific and technical activities, including the results of intellectual activity, in order to bring to the market new or improved goods, processes and services aimed at generating income;
- 4) Centre (office) for commercialization of the results of scientific and (or) scientific and technical activities - a legal entity, structural or separate subdivision of a scientific organization, higher education institution, autonomous or other educational organization, engaged in commercialization of the results of scientific and (or) scientific and technical activities;
- 5) the result of intellectual activity in the field of commercialization of the results of scientific and (or) scientific and technical activity (hereinafter referred to as the result of intellectual activity) - inventions, utility models, industrial designs, breeding achievements, topologies of integrated circuits, programs for electronic computers and databases and other results of intellectual activity obtained as a result of scientific and (or) scientific and technical activity;

6) Grant for commercialization of the results of scientific and (or) scientific and technical activity - budget and (or) extra-budgetary funds provided on a non-repayable and irrevocable basis for the implementation of projects of commercialization of the results of scientific and (or) scientific and technical activity within the priority sectors of the economy;

7) service company - a legal entity providing consulting, engineering, certification, patent and other services necessary for commercialization of the results of scientific and (or) scientific and technical activities;

8) startup company - an individual entrepreneur or a legal entity registered on the territory of the Republic of Kazakhstan, related to small or medium enterprises and meeting one of the requirements:

established with the participation of organizations of higher and (or) postgraduate education, scientific organizations whose activities are aimed at commercialization of the results of scientific and (or) scientific and technical activities;

developing innovations.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan No. 174-"I dated 04.07.2018 (shall be enforced dated upon expiration of ten calendar days after the day of its first official publication); No. 24-VII of 31.03.2021 (shall come into force ten calendar days after the date of its first official publication)

Article 2. Legislation of the Republic of Kazakhstan in the field of commercialization of the results of scientific and (or) scientific and technical activities

1. The legislation of the Republic of Kazakhstan in the field of commercialization of the results of scientific and (or) scientific and technical activity shall be based on the Constitution of the Republic of Kazakhstan and shall consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. The legal relations regulated by this Law with regard to the commercialization of the results of scientific and (or) scientific and technical activities obtained within the framework of scientific research carried out from grant and program-targeted funding shall not be subject to the legislation of the Republic of Kazakhstan, which establishes the requirements for the procedure of procurement, including public procurement.

3. Assistance to the subjects of industrial-innovative activity in the commercialization of technologies is carried out in accordance with the Entrepreneurial Code of the Republic of Kazakhstan.

4. If an international treaty ratified by the Republic of Kazakhstan establishes other rules than those contained in this Law, the rules of the international treaty shall apply.

Article 3. Principles of state policy in the field of commercialization of the results of scientific and (or) scientific and technical activities

The state policy in the field of commercialization of the results of scientific and (or) scientific and technical activity is based on the principles:

1) transparency in the interaction of all participants in the process;

2) Guaranteeing the rights and interests of persons involved in obtaining the results of scientific and (or) scientific and technical activities, and generating income;

3) economic stimulation of commercialization of the results of scientific and (or) scientific and technical activity in priority sectors of the economy;

4) integration of education, science, production and innovation development institutions.

Article 4. Competence of the authorized body in the field of science

The competence of the authorized body in the field of science (hereinafter referred to as the authorized body) includes:

1) implementation of the state policy in the field of commercialization of the results of scientific and (or) scientific and technical activity;

2) implementation of inter-sectoral coordination in the field of commercialization of the results of scientific and (or) scientific and technical activity;

3) planning and implementation of measures to stimulate the commercialization of the results of scientific and (or) scientific and technical activities;

4) excluded by Law of the RK No. 24-VII of 31.03.2021 (shall be enacted ten calendar days after the date of its first official publication);

5) submission to the Government of the Republic of Kazakhstan of information on the effectiveness of measures to commercialize the results of scientific and (or) scientific and technical activities;

6) excluded by Law of the RK No. 24-VII of 31.03.2021 (shall be enacted ten calendar days after the date of its first official publication);

7) development, approval and implementation of a program for training, retraining and professional development in the field of commercialization of the results of scientific and (or) scientific and technical activities;

8) monitoring the implementation of programs to promote the commercialization of the results of scientific and (or) scientific and technical activities;

9) placement of consolidated analytical information on commercialization of the results of scientific and (or) scientific and technical activities in the public domain on the Internet resources of the authorized body and in periodicals;

10) methodological support of commercialization of the results of scientific and (or) scientific and technical activities;

11) other powers stipulated by this Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan No. 24-VII of 31.03.2021 (shall come into force ten calendar days after the date of its first official publication)

Article 5. Competence of sectoral authorized bodies

The competence of the sectoral authorized bodies includes:

1) implementation of the state policy in the field of commercialization of the results of scientific and (or) scientific and technical activity in the respective branch;

2) Approval of reports on the implemented programs to promote the commercialization of the results of scientific and (or) scientific and technical activities in the relevant industry, funded from the budget;

3) providing information on the effectiveness of measures and on the implementation of measures for the commercialisation of the outcomes of scientific and (or) scientific-technical activities in the relevant sector to the competent authority;

4) methodological support of commercialization of the results of scientific and (or) scientific and technical activities in the relevant industry;

4-1) planning, implementation of measures to stimulate commercialisation of the outcomes of scientific and (or) scientific-technical activities in the relevant sector;

4-2) involvement in the implementation of a programme for training, retraining and advanced training in the commercialisation of the results of scientific and/or scientific-technical activities in the relevant industry;

4-3) monitoring the fulfilment of programmes to promote the commercialisation of the outcomes of scientific and (or) scientific-technical activities in the relevant sector;

4-4) excluded by Law of the RK No. 24-VII of 31.03.2021 (shall be enacted ten calendar days after the date of its first official publication);

4-5) excluded by Law of the RK No. 24-VII of 31.03.2021 (shall be enacted ten calendar days after the date of its first official publication);

5) implementation of other powers provided by this Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 5 as amended by Law No. 347-VI of 25.06.2020 (shall go into effect upon expiration of ten calendar days after its first official publication); No. 24-VII of 31.03.2021 (shall be enacted upon expiration of ten calendar days after its first official publication)).

Article 6. Competence of local executive bodies of oblasts, cities of national importance and the capital

The competence of local executive bodies of oblasts, cities of national importance and the capital city includes

1) implementation of the state policy in the sphere of commercialization of the results of scientific and (or) scientific and technical activities in the respective territory;

2) assistance in attracting grants and investments of private businesses to finance projects of commercialization of the results of scientific and (or) scientific and technical activities, participation in their co-financing;

3) implementation of measures to ensure the interaction of private business entities, the quasi-public sector with the subjects of scientific and (or) scientific and technical activities in

order to create joint ventures that produce high-tech products and (or) the introduction of new technologies;

4) participation in creation and (or) in the authorized capital of legal entities whose activity is in commercialization (practical application) of the results of scientific and (or) scientific and technical activity, including startup companies;

5) participation in the methodological support in the field of commercialization of the results of scientific and (or) scientific-technical activity together with the authorized body and branch authorized bodies;

6) other powers vested in them by this Law and other legislation of the Republic of Kazakhstan.

Article 7. Participants in the commercialization of the results of scientific and/or technical activities

Participants in the commercialization of the results of scientific and (or) scientific and technical activities are:

- 1) Subjects of scientific and (or) scientific and technical activity;
- 2) subjects of private entrepreneurship, as well as the quasi-public sector;
- 3) foreign higher education institutions and scientific organizations accredited in the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan;
- 4) startup companies;
- 5) centers (offices) for commercialization of the results of scientific and (or) scientific and technical activities;
- 6) service companies;
- 7) technological parks;
- 8) individuals or legal entities investing in the commercialization of the results of scientific and (or) scientific and technical activities.

Article 8. Mechanisms to commercialize the results of scientific and/or technical activities

The rights of individuals and legal entities to the results of their scientific and (or) scientific and technical activities shall be exercised through the mechanisms of commercialization of the results of scientific and (or) scientific and technical activities, which are:

- 1) Conclusion of a licensing agreement and (or) agreement on assignment of exclusive rights to the results of scientific and (or) scientific and technical activity;
- 2) establishment of a startup company;
- 3) introduction (use) of the results of scientific and (or) scientific and technical activity in own production;
- 4) other methods stipulated by the legislation of the Republic of Kazakhstan.

Chapter 2. STATE STEMULATE AND SUPPORT OF THE COMMERCIALIZATION OF SCIENTIFIC AND (OR) SCIENTIFIC TECHNICAL ACTIVITIES

Article 9: Government incentives

Government incentives provided to participants in the commercialization of scientific and/or scientific and technical activities include

- 1) payment of remuneration to authors for the creation and implementation (use) of the results of scientific and (or) scientific and technical activities;
- 2) grants for commercialization of the results of scientific and (or) scientific and technical activity;
- 3) assistance in the establishment of production facilities producing high-tech products and (or) introduction of new technologies on the basis of public-private partnership;
- 4) professional development and retraining programs for participants in the commercialization of the results of scientific and (or) scientific and technical activities;
- 5) other measures of stimulation determined by the authorized body and branch authorized bodies, local executive bodies of oblasts, cities of national importance and the capital.

Article 10. Forms of state support

1. The form of state support is the implementation of programs to promote the commercialization of the results of scientific and (or) scientific and technical activities.

2. Programs of assistance to commercialization of the results of scientific and (or) scientific and technical activity are developed and implemented by the authorized body, branch authorized bodies, local executive bodies of oblasts, cities of national importance, the capital, and can be developed and implemented by higher educational institutions, scientific organizations and scientific and educational consortia.

3. Employees of higher educational institutions, scientific organizations, startup companies, and other legal entities may participate in programmes to promote the commercialization of the results of scientific and (or) scientific and technical activities in accordance with the requirements established by the programme developer.

4. Programmes to promote the commercialisation of the results of scientific and/or technical activities should be aimed at developing scientific and production links, regional socio-economic development, establishment and development of startup companies, professional development of employees of higher education institutions, scientific organizations, startup companies and other legal entities and individuals in the field of commercialisation of the results of scientific and/or technical activities.

5. Programs to promote the commercialization of the results of scientific and (or) scientific and technical activities shall not apply to relations related to the provision and use of material and technical basis in the elements of industrial and innovative infrastructure, except for the centers (offices) of commercialization of the results of scientific and (or) scientific and technical activities.

Article 11. Granting of grants for commercialization of the results of scientific and (or) scientific and technical activities

1. The grant for commercialisation of the outcomes of scientific and (or) scientific-technical activities, financed from the state budget shall be provided to an accredited entity of scientific and (or) scientific-technical activities and other participants, declared in the project of commercialisation of the results of scientific and (or) scientific-technical activities in the manner specified in the rules of basic and programme-specific financing of scientific and (or) scientific-technical activities, as well as grant financing of scientific and (or) scientific-technical activities and commercialisation of the outcomes of scientific and (or) scientific-technical activities, financing of scientific organisations carrying out fundamental scientific research.

An agreement on implementation of the state-funded project on commercialization of scientific and (or) scientific and technical activity results, shall be concluded between the accredited scientific and (or) scientific and technical activity entity and another participant (other participants) declared in the project on commercialization of scientific and (or) scientific and technical activity results, and legal entities determined by the authorized body in science, financing commercialization of scientific and (or) scientific and technical activity results throughout its entire implementation period, but no more than five years.

The grant for commercialisation of the outcomes of scientific and (or) scientific-technical activities, financed from extrabudgetary funds shall be provided to the participants of commercialisation of the outcomes of scientific and (or) scientific-technical activities in the manner determined by natural or legal persons, which carry out the financing in commercialisation of the outcomes of scientific and (or) scientific-technical activities.

2. The commercialisation of the outcomes of scientific and (or) scientific-technical activities shall be financed from budgetary and/or extrabudgetary funds.

Footnote. Article 11 as amended by Law of the RK No. 24-VII dated 31.03.2021 (shall come into effect upon expiry of ten calendar days after its first official publication); No. 72-VII of 15.11.2021 (shall be enforced on 01.01.2022); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 12. Rights of participants in the commercialization of the results of scientific and (or) scientific and technical activities

1. The intellectual property right obtained by subjects of scientific and (or) scientific and technical activity as a result of scientific and (or) scientific and technical activity carried out at the expense of budgetary funds belongs to scientific organizations, unless otherwise provided by the contract between them and the author (authors) of the intellectual property object.

The author has the right to receive remuneration for the creation and introduction (use) of the results of scientific and (or) scientific and technical activities, the financing of which was carried out at the expense of the budget funds.

3. Higher education institutions and scientific organizations independently dispose of property rights to the results of intellectual activity, as well as income received from the

activities of established startup companies, including jointly with private businesses and the quasi-public sector.

4. Subjects of private entrepreneurship, quasi-public sector have the right to register their intellectual property rights on the basis of an agreement concluded with another participant in the commercialization of the results of scientific and (or) scientific and technical activities.

Article 13. Rights of authors of the results of scientific and (or) scientific and technical activity

1. the authors of the results of scientific and (or) scientific and technical activity, the exclusive rights to which belong to the employer, the remuneration is paid by the employer within one month from the date of receipt of the relevant patent or certificate of state registration of rights to the object of copyright (security document).

Remuneration for the creation of the results of scientific and (or) scientific and technical activities shall be paid by the employer in the amount of at least one average monthly salary, unless otherwise stipulated by the agreement between them.

In case of introduction (use) of the results of scientific and (or) scientific and technical activity in own production, exclusive rights to which belong to the employer, the author of the result of scientific and (or) scientific and technical activity, the remuneration in the amount of not less than one hundred monthly calculation indices annually during the whole period of validity of the patent or the certificate of state registration of rights to the object of copyright (protection document) shall be paid.

2. In case of conclusion of a license agreement or an agreement on the assignment of exclusive rights, the remuneration to the author shall be not less than thirty percent of the amount of the license agreement (including royalties) without limitation of the maximum amount of remuneration. The remuneration is paid on the basis of the author's contract with the employer. Remuneration for the introduction (use) of the results of scientific and (or) scientific and technical activities shall be paid to the author not later than three months after the end of each financial year in which such result was used, and not later than three months after the receipt of payments under the license agreement during the entire term of validity of the license agreement.

3. For late payment of the remuneration provided for in paragraphs 1 and 2 of this Article, the employer shall pay a penalty to the author for each day of delay in accordance with the agreement concluded between them.

4. If the results of scientific and (or) scientific and technical activities are created by the joint creative work of several authors, the exclusive rights to which belong to the employer, each of them shall be paid remuneration in the amount of not less than one average monthly salary.

The remuneration and penalties provided for in paragraphs 2 and 3 of the present article are paid by the employer to the authors in equal shares, unless otherwise provided for in the agreement between them.

5. The payment of remuneration and penalties provided for in paragraphs 2, 3 and 4 of this Article shall also be retained in the event of termination of employment relations between the employer and the employee who is the author of the result of scientific and (or) scientific and technical activity.

6. If the author(s) of the results of scientific and (or) scientific and technical activities, the exclusive rights to which belong to him (them), acts as a founder of the startup company, including jointly with other individuals and (or) legal entities, the share of his (their) participation in the authorized capital of the startup company must be not less than fifteen percent.

7. Disputes related to violation of the rights of authors and owners of intellectual property, conclusion and execution of contracts in the field of commercialization of the results of scientific and (or) scientific and technical activities shall be considered in court.

Article 14. Rights of higher education institutions, scientific organizations

1. Commercialization of the results of scientific and (or) scientific and technical activities, along with educational and scientific activities, is a priority for higher education institutions and scientific organizations.

2. Higher education institutions and scientific organizations, regardless of their organizational and legal form, are entitled to do so:

1) independently dispose of exclusive rights to the results of scientific and (or) scientific and technical activity;

2) grant the right to use the results of scientific and (or) scientific and technical activity under a licensing agreement;

3) alienate the exclusive right to the result of scientific and (or) scientific and technical activity on the basis of the agreement on the assignment of exclusive rights;

4) transfer the exclusive right to the result of scientific and (or) scientific and technical activity as a pledge;

5) to contribute exclusive rights to the result of scientific and (or) scientific and technical activity as a contribution to the charter capital;

6) otherwise dispose of the exclusive right to the result of scientific and (or) scientific and technical activity.

3. State higher education institutions, state scientific organizations, regardless of their organizational and legal form, with a view to commercializing the results of scientific and (or) scientific and technical activities have the right to be founders of a startup company without the consent of the owner of their property.

State higher education institutions, state scientific organizations have the right to contribute to the charter capital of the organization engaged in the commercialization of the results of scientific and (or) scientific and technical activities, without the consent of state bodies to make only the right of intellectual property.

The disposal of intellectual property rights by state scientific organizations and state higher education institutions is carried out without the consent of the authorized state body - the owner of their property.

4. Higher educational institutions, scientific organizations with a view to commercializing the results of scientific and (or) scientific and technical activities have the right to attract other individuals and legal entities as founders (participants) of startup companies.

Contributions to the charter capital of startup companies by such individuals and legal entities may be paid in cash not less than fifty percent of the share of their participation or by the exclusive right of intellectual property, materials, equipment or other property necessary for commercialization of the results of scientific and (or) scientific and technical activities.

5. Higher education institutions and scientific organizations, regardless of their organizational and legal form, have the right to dispose of the income received as a result of the commercialization of the results of scientific and (or) scientific and technical activity independently, without the consent of the authorized state body - the owner of their property.

6. Assessment of intellectual property rights contributed to the charter capital of a startup company shall be carried out in accordance with the legislation of the Republic of Kazakhstan on evaluation activities.

7. State higher education institutions, state scientific organizations have the right to dispose of their shares in the authorized capitals of startup companies without the consent of the owner of their property.

8. Income received from the disposal of stakes in the authorized capitals of startup companies, the founders (participants) of which are state higher education institutions, state scientific organizations, as well as part of the income of startup companies received by these state higher education institutions, state scientific organizations, go to their independent disposal.

Income received from the activities of startup companies is used for legal protection of intellectual property, payment of remuneration to the author and persons who assisted in commercialization of the results of scientific and (or) scientific and technical activities, and other expenses of the startup company provided for by the charter.

9. Unless otherwise provided for in the internal documents of higher education institutions and scientific organizations, the share of authors should be not less than thirty percent of the share of profits of a startup company received by higher education institutions and scientific organizations.

10. In the event of liquidation of a startup company, the exclusive rights to the results of scientific and (or) scientific and technical activities contributed by state higher education institutions, state scientific organizations as a contribution to the charter capital shall be transferred to these organizations. If the right to use the results of intellectual activity was contributed to the charter capital, the relevant license agreement terminates from the date of liquidation of the startup company.

Article 15. Centers (offices) for commercialization of scientific and (or) scientific and technical activity

1. The activity of the centers (offices) for commercialization of the results of scientific and (or) scientific and technical activities is aimed at providing a range of services for commercialization of the results of scientific and (or) scientific and technical activities, including, but not limited to, search and evaluation of technologies for commercialization, marketing research, provision of consulting services in the field of protection and defense of intellectual property rights, development of a strategy for commercialization of the results of scientific and (or) scientific and technical activities, organization of interaction between

2. The functioning of centres (offices) for the commercialization of the results of scientific and (or) scientific and technical activities is ensured at the expense of higher education institutions and scientific organizations in the amount of at least two per cent of the grant funding allocated for research and development.

3. In order to ensure the effectiveness of the activities of the centres (offices) for the commercialization of the results of scientific and (or) scientific and technical activities of higher education institutions, scientific organizations send them funds not less than ten per cent of the amount of license agreements and agreements on the assignment of intellectual property rights concluded by higher education institutions and scientific organizations.

Article 16. Exclusive rights to the results of scientific and (or) scientific and technical activity

1. Exclusive rights to the results of scientific and (or) scientific and technical activity, created within the framework of research and development work by subjects of scientific and (or) scientific and technical activity together with subjects of private business, quasi-public sector, belong to them jointly, unless otherwise agreed in the contract between them.

2. If the contract provides that the exclusive rights to the results of scientific and (or) scientific and technical activities belong to the subject of scientific and (or) scientific and technical activities, the subject of private entrepreneurship, quasi-public sector retain the right to a non-exclusive license for the use of these results in their own production free of charge.

Article 17. Monitoring of commercialization of the results of scientific and (or) scientific and technical activities

The authorized body, branch authorized bodies, local executive bodies of oblasts, cities of national importance and the capital shall monitor the implementation of programs to promote the commercialization of the results of scientific and (or) scientific and technical activities for the purposes:

1) assessment of the cost effectiveness of the programs to promote the commercialization of the results of scientific and (or) scientific and technical activities;

2) assessment of the achievement of targets and indicators of the implementation of programs to promote the commercialization of the results of scientific and (or) scientific and technical activities;

3) assessment of social and economic effects from the implementation of programs to promote the commercialization of the results of scientific and (or) scientific and technical activities;

4) Defining the objectives of development and improvement of programs to promote the commercialization of the results of scientific and (or) scientific and technical activities.

Chapter 3: Closing and FRONTLY POSITIONS

Article 18. Responsibility for violation of the legislation of the Republic of Kazakhstan in the field of commercialization of the results of scientific and (or) scientific and technical activities

Violation of the legislation of the Republic of Kazakhstan in the field of commercialization of the results of scientific and (or) scientific and technical activities shall entail liability established by the laws of the Republic of Kazakhstan.

Article 19. Procedure for implementation of this Law

This Law shall be enforced upon ten calendar days after the date of its first official publication.

*The President of the
Republic of Kazakhstan*

N. Nazarbaev