

## **On Officers of Justice**

### *Unofficial translation*

The Law of the Republic of Kazakhstan dated 7 July, 1997 No. 150.

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### **Article 1. Legal status of officers of justice**

1. An officer of justice – an official, holding government employment and fulfilling goals, assigned on it by this Law.

2. The bailiff shall be issued a uniform (without epaulettes), an identification card and a badge, samples of which shall be approved by the authorized state body in the field of judicial administration (hereinafter referred to as the Authorized body).

Natural forms of providing officials of justice by official uniform (without shoulder boards) shall be confirmed by an authorized body in coordination with the central authorized body on budget planning.

3. Legal requirement of official of justice shall be compulsory for fulfillment by all individuals and legal entities.

Footnote. Article 1 is in the wording of Law of the Republic of Kazakhstan No. 379-IV dated 06.01.2011 (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Laws of the Republic of Kazakhstan No. 239-V dated 29.09.2014 (shall be enforced upon expiry of ten calendar days after its first official publication); dated November 26, 2019 No. 273-VI (shall be enforced six months after the day of its first official publication); dated 27.03.2023 No. 216-VII (shall be enforced upon the expiration of ten calendar days after the day of its first official publication)..

### **Article 2. Goals of officials of justice**

Goals of officials of justice shall be:

- 1) maintenance of public order in the hall during the court session;
- 2) control of execution of punishments, not linked with deprivation of freedom;
- 3) assistance to the court in execution of procedural actions;
- 4) ensuring the protection of court buildings, the protection of judges and other participants in the process.

5) excluded by the Law of the Republic of Kazakhstan dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication).

Footnote. Article 2 as amended by Law of the Republic of Kazakhstan No. 147.dated 22.06.2005; dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication).

### **Article 3. The legislation of the Republic of Kazakhstan on officers of justice**

The legislation of the Republic of Kazakhstan on officers of justice shall be based on the Constitution of the Republic of Kazakhstan, consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

**Article 4. Organization of activity of officers of justice and procedure of their assignment**

1. Divisions of bailiffs shall be formed by the authorized body in the Supreme Court and territorial divisions in the regions, the capital and cities of republican significance (hereinafter referred to as Territorial divisions).

2. Organizational and methodological control of activities of officers of justice in the Supreme Court and territorial subdivisions shall be carried out by an authorized body and its territorial subdivisions.

An authorized body shall:

- 1) organize an operation of officers of justice;
- 2) be engaged in a training of personnel of officers of justice, raising of their professional qualifications;
- 3) colligate a practice of activity of officers of justice, develop methodological recommendations on this basis;
- 4) carry out record keeping of activity of officials of justice;
- 5) provides interaction with other state and law enforcement agencies on issues of ensuring the established procedure for the activities of courts;
- 6) carry out financial and logistical support of divisions of officers of justice.

3. Is excluded by Law of the Republic of Kazakhstan No. 367-IV dated 27.12.2010 (shall be enforced upon expiry of ten calendar days after its first official publication).

4. Officers of justice in territorial subdivisions shall be appointed to the post and released from office by heads of the relevant territorial subdivisions.

Officers of justice in the Supreme Court of the Republic of Kazakhstan shall be appointed to the post and released from office by heads of authorized body.

5. A staff size of subdivisions of officers of justice shall be confirmed by heads of authorized body within a staff size, confirmed by the President of the Republic of Kazakhstan

Footnote. Article 4 is in the wording of Law of the Republic of Kazakhstan No. 409 dated 05.05.2003; as amended by the Laws of the Republic of Kazakhstan No. 147 dated 22.06.2006; No. 258-IV dated 19.03.2010; No. 367-IV dated 27.12.2010 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication); dated 27.03.2023 No. 216-VII (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

**Article 5. Interaction of officer of justice with law enforcement agencies**

1. During execution of goals, assigned on an officer of justice, an officer of justice shall have the right to ask employees of internal affairs bodies, and officer of justice of military court – military command for help.

2. Employees of law enforcement agencies shall render assistance for an officer of justice within realization of goals, assigned on them by the Law.

3. Interaction of officers of justice with employees of law enforcement agencies and military subdivisions shall be carried out in the manner, provided by the relevant subordinate act on interaction, confirmed by heads of mentioned bodies.

#### **Article 6. Requirements, submitted to officer of justice**

1. An officer of justice may be appointed by a person, that is a citizen of the Republic of Kazakhstan at the age of more than twenty one year, having secondary-level (post-secondary) education, capable to fulfill the obligations, assigned on him (her) on his (her) business and personal qualifications, as well as on a state of health and that passed a special checkup.

Officers of justice shall pass a special checkup, after which they shall have the right to keep and carry fire government-issue and electric weapon, as well as use of special features.

2. Persons who have previously been convicted or released from criminal responsibility on the basis of items 3), 4), 9), 10) and 12) of the part one of Article 35 or Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan may not be appointed to the post of officer of justice, and also those dismissed for negative reasons from the civil service and law enforcement agencies.

**Footnote. Article 6 as amended by Laws of the Republic of Kazakhstan No. 320 dated 27.07.2007 (See Article 2 for the enactment procedure); No. 262-IV dated 02.04.2010 (shall be enforced from 21.10.2010); № 233-V dated 04.07.2014 (shall be enforced from 01.01.2015).**

#### **Article 7. Rights and obligations of officer of justice**

1. For the purpose of execution of goals, assigned on an officer of justice, he (she) shall have the right to:

1) require a conformity of established order of court activity from citizens, as well as termination of unlawful acts in a court-house and in a courtroom;

**1-1) shall be excluded by the Law of the Republic of Kazakhstan dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication);**

2) to carry out in the premises of the court (in the case of an offsite session - in the premises where the court session is held) administrative detention of the offender;

3) make a protocol on infraction for bringing to responsibility in the manner, established by the legislation;

4) convey a law breaker to internal affairs bodies;

5) use a fire and electric weapon, special features and physical force in the manner, prescribed by the legislation of the Republic of Kazakhstan.

2. An officer of justice shall be obliged to:

1) use the rights, afforded to him (her) in a strict conformity with the Law and not to allow impairment of rights and legal interests of citizens and legal entities within his (her) competence;

2) provide protection for judges and other persons participating in the trial;

3) secure a protection of consultation rooms, other courtrooms and court-houses;

4) excluded by the Law of the Republic of Kazakhstan dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication);

5) prevent and suppress offenses in the courtroom and courtroom;

6) secure delivery of criminal case and material evidences and their preservation during holding a trial by order of a judge, away from the permanent seat of court;

7) execute the regulations of a judge, linked with conformity of the procedure for conducting a trial;

8) to carry out the bringing of persons evading the appearance in court;

9) interact with employees of escort service on the issues of protection and security of persons, accused in custody.

Footnote. Article 7 as amended by Laws of the Republic of Kazakhstan No. 409 dated 05.05.2003; No. 147 dated 22.06.2006; No. 262-IV dated 02.04.2010 (shall be enforced from 21.10.2010); № 164-V dated 15.01.2014 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 26.06.2020 No. 349-VI (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

#### **Article 8. Procedure for use of fire and electric weapon, special features and physical force**

Footnote. The title of Article 8 as amended by Law of the Republic of Kazakhstan No. 262-IV dated 02.04.2010 (shall be enforced from 21.10.2010).

1. Use of fire and electric weapon, special features and physical force by an officer of justice may be provided only by execution of goals, mentioned in Article 2 of this Law.

2. Officers of justice shall have the right to use a fire weapon for the purpose of:

1) holding off an attack on judges and participants of a trial, when their lives and health are exposed to danger;

2) repelling an attack on a bailiff in the performance of his official duties, when his life and health are endangered;

3) suppression of attempt to gain possession of a weapon or special features;

4) holding off of the grouped or armed attack on a court or court-houses.

3. Physical force, including combat actions, as well as electric weapon, special features, the list of which shall be determined by the special legislation, may be used by an officer of justice for:

1) holding off an attack on judges and participants of a trial;

2) suppression of physical resistance and attacks on the bailiff in the performance of his official duties;

3) detention of a person, if this person refuses to fulfill requirements on a termination of unlawful acts;

4) suppression of escape of a person from custody, as well as suppression of attempt of rescue of a person in custody.

4. Use of weapon, special features and combat actions in respect of women, minors and persons with abundant signs of permanent disability, except for cases of commission of armed attack and armed resistance by them or grouped attack shall be prohibited.

5. In all cases of use of weapon, special features and combat actions, an officer of justice shall be obliged to make required arrangements for security protection of citizens and emergency medical care to injured persons, report on use of weapon, special features and combat actions to head of the relevant territorial subdivision. An officer of justice of the Supreme Court of the Republic of Kazakhstan shall be obliged to report on use of weapon, special features and combat actions to head to authorized body.

In the each of case of use of weapon, special features and combat actions, entailing loss of life or other heavy consequences, a prosecutor shall be informed without delay.

6. List of types of fire weapon and its ammunition, electric weapon and special features, being in service of officers of justice, and procedure for their selection shall be established by the Government of the Republic of Kazakhstan. Provision of weapon and special features for subdivisions of officers of justice shall be assigned on authorized body.

**Footnote.** Article 8 as amended by Laws of the Republic of Kazakhstan . No 409 dated 05.05.2003; No. 147 dated 22.06.2006; No. 262-IV dated 02.04.2010 (shall be enforced from 21.10.2010); No. 367-IV dated 27.12.2010 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication).

## **Article 9. Responsibility of officers of justice**

Officers of justice shall bear responsibility for committed offences and infractions, non-fulfillment or improper fulfillment of their obligations in the manner, established by the legislation.

### **Article 9-1. Appeal against actions (inaction) of a bailiff**

Actions (inaction) of a bailiff may be appealed by an interested person in the manner prescribed by the laws of the Republic of Kazakhstan.

**Footnote.** The Law was supplemented by Article 9-1 in accordance with the Law of the Republic of Kazakhstan dated 29.06.2020 No. 351-VI (effective from 01.07.2021).

## **Article 10. Measures of social protection of officers of justice**

1. Mandatory insurance of officers of justice shall be carried out in accordance with the legislative acts of the Republic of Kazakhstan on account of budget funds.

**2. Is excluded by Law of the Republic of Kazakhstan No. 244 dated 07.05.2007.**

3. In case of loss of life (death) of officer of justice during fulfilling official duties or in the course of year after dismissal as a consequence of injury, suffered during fulfilling official

duties, dependent persons and heirs shall be paid by immediate compensation in amount of ten-fold annual rate of wages on the last held post.

4. In establishment of permanent disability to officer of justice, due to injury, wound (contusion), maim, disease, sustained during fulfilling official duties, he (she) shall be paid by immediate compensation in amount of:

- 1) for disabled person of group I - five-year job wages;
- 2) for disabled person of group II - three-year job wages;
- 3) for disabled person of group III - one-year job wages.

5. In case of sustain of serious maim (injury, wound, contusion) by an officer of justice during fulfilling official duties, not entailed permanent disability, he (she) shall be paid by a compensation in amount of trimonthly job wages, minor maim – one month job wages. By this, the immediate compensations, provided by this Article shall be paid independently from other payments, including insurance payments and payments in procedure for compensation of damage.

6. Immediate compensation, provided by this Article shall not be paid, if it is proved in established order, that loss of life (death), injury, wound (maim) of officer of justice was in connection of circumstances, not linked with fulfillment of official duties.

7. A family of died and his (her) dependents shall be granted by benefits on a case of loss of the breadwinner in the manner, established by the legislation.

8. Payment for a burial of decedent or died officer of justice shall be issued in amount, established by the Law of the Republic of Kazakhstan on republican budget for the relevant year.

**Footnote. Article 10 as amended by Law of the Republic of Kazakhstan No. 244.dated 07.05.2007; dated 27.06.2022 No. 129-VII (shall come into effect ten calendar days after the day of its first official publication).**

#### **Article 11. Financing of activity of officers of justice**

Financing of activity of officers of justice shall be carried out on account of budget funds.

**Footnote. Article 11 as amended by Law of the Republic of Kazakhstan No. 13 dated 20.12.2004 (shall be enforced from 01.01.2005).**

#### **Article 12. Control of activity of officers of justice**

Control of activity of officers of justice in the Supreme Court and territorial subdivisions shall be carried out by an authorized body and its territorial subdivisions.

**Footnote. Article 12 is in the wording of Law of the Republic of Kazakhstan No. 367-IV dated 27.12.2010 (shall be enforced upon expiry of ten calendar days after its first official publication).**

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