

KAZAKSTAN
LAW ON CURRENCY REGULATION

Warning

Warning... Warning... Warning... Warning... Warning...
Warning...

Particular care should be taken in the use of these clauses: the specificities of each PPP project may render these examples inappropriate or irrelevant in a particular situation.

Coherence with other documents of the legal framework should also be carefully checked.

LAW OF THE REPUBLIC KAZAKHSTAN ON CURRENCY REGULATION

[Adopted by the Supreme Soviet of the Republic Kazakhstan, 14 April 1993. Sovety Kazakhstana, 25 May 1993, p. 2]

The present Law shall determine the principles of effectuating currency operations on the territory of the Republic Kazakhstan, the rights and duties of subjects of currency relations, and responsibility for a violation of currency legislation. The principal tasks of the system of currency regulation shall be:

- support of the specified procedure for the settlement of accounts in the national currency of the Republic Kazakhstan;
- the preparation and introduction of a market exchange rate for the national currency of the Republic Kazakhstan;
- the introduction of convertibility with regard to current currency operations and ensuring the proper procedure for conducting external payments and proceeds.

Section 1. General Provisions

Article 1. Basic Concepts

The concepts used in the present Law shall mean the following:

1. "Currency" - the various monetary units adopted by States as legal means of payment or official standards of value in the form of banknotes and coins, including from precious metals (including those withdrawn or removed from circulation, but subject to exchange for monetary notes in circulation), and also assets in accounts, including in international monetary or settlement units.
2. "Currency of the Republic Kazakhstan" - the monetary unit as the legal means of payment obligatory for acceptance on its territory.
3. "Foreign Currency" - monetary units of foreign States (legal means of payments).
4. "Convertible Foreign Currency" - the currency of another State which is on the list of currencies possessing convertibility published by the National Bank of the Republic Kazakhstan (hereinafter: NatBank).
5. "Residents":
 - (a) natural persons having a permanent place of residence in the Republic Kazakhstan, including those temporarily abroad;
 - (b) all juridical persons created in accordance with legislation of the Republic Kazakhstan with a location in the Republic Kazakhstan, and also their branches and representations with a location in the Republic Kazakhstan;

(c) diplomatic, trade, and other official representations of the Republic Kazakhstan abroad, and also other representations not having the status of a juridical person and not effectuating economic or other commercial activity.

6. "Nonresidents" - all juridical and natural persons in the Republic Kazakhstan or abroad, and also their branches and representations not specified in the concept of "residents."

7. "Currency valuables":

(a) currency;

(b) securities and payment documents expressed in foreign currency, including, but not exclusively: cheques, bills of exchange, traveller's cheques, letters of credit, deposit certificates, stocks, bonds, share certificates, and others;

(c) precious metals - gold, platinum, and metals of the platinum group in the form of ingots, old coinage, semi-fabricates, except those used in dental technology, and also manufactures of such metals, except for jewellery and other domestic manufactures.

8. "Currency operations":

(a) operations connected with the transfer of the right of ownership and other rights to currency valuables, including operations connected with the use of foreign currency and payment documents in foreign currency as a means of payment;

(b) the import and sending to the Republic Kazakhstan, and also the export and sending by any means from the Republic Kazakhstan of currency valuables;

(c) the effectuation of international banking and postal transfers.

9. "Current currency operations":

(a) transfers to the Republic Kazakhstan and from the Republic Kazakhstan for the settlement of accounts without delay of payments relating to the export and import of goods and services;

(b) the effectuation of the settlement of accounts connected with the crediting of export-import operations for a period of not more than 180 days;

(c) the granting and receipt of official credits for a period of not more than 180 days;

(d) the transfer and receipt of dividends, interest, and other revenues relating to contributions, investments, loans, and other operations;

(e) transfers to the Republic Kazakhstan and from the Republic Kazakhstan of a non-trade character, including transfers of amount of earnings, pensions, inheritances, alimony, and others.

10. "Currency Operations Connected with the Movement of

(a) direct investments (investment of capital having the basic purpose of the acquisition directly or indirectly Or control over a juridical person);

- (b) portfolio investments (investments of capital whose basic purpose is the receipt of revenues on the invested capital);
- (c) transfers to pay up property and other rights to an immovable;
- (d) the granting and receipt of a delay of payment relating to the export and import of goods and services for a period of more than 180 days;
- (e) the granting and receipt of financial credits for a period of more than 180 days;
- (f) all other currency operations which are not current currency operations.

11. "Empowered Banks" - banks and other credit institutions who have received a license of the Nat Bank to conduct currency operations.

12. "Exchange points" - juridical persons having a license of the NatBank to effectuate exchange operations with cash currency.

13. "Currency Regulation" - includes the working out of normative acts, collection of information, control over compliance with currency legislation, and the application of sanctions to persons who have permitted a violation of currency legislation.

Article 2. Sphere of Application Or Law

The present Law shall apply to the regulation of relations arising in connection with:

- (a) the settlement of accounts relating to operations in the currency of the Republic Kazakhstan, and also in foreign currency in the Republic Kazakhstan;
- (b) currency operations occurring in the Republic Kazakhstan, and also conducted by residents of the Republic Kazakhstan abroad.

Section II. Currency Regulation

Article 3. Powers of Agencies of State Power in Domain Of Currency Regulation

1. The President and Cabinet of Ministers of the Republic Kazakhstan shall within the limits of their competence adopt normative acts in the domain of currency regulation which are not contrary to the provisions of the present Law.
2. The National Bank of the Republic Kazakhstan shall be the principal agency of currency regulation in the Republic Kazakhstan.
3. The National Bank of the Republic Kazakhstan shall effectuate the functions of currency regulation in accordance with Article 25 of the Law of the Republic Kazakhstan "On the National Bank of the Republic Kazakhstan."

Article 4. Operations with Foreign Currency in Republic Kazakhstan

1. All contracts and operations between residents must be concluded and effectuated only in the currency of the Republic Kazakhstan except for instances provided for by the Rules on Currency Operations.
2. The settlement of accounts between residents shall be effectuated in the currency of the Republic Kazakhstan without limitations.

3. Residents shall have the right to purchase foreign currency on the internal currency market of the Republic Kazakhstan in the procedure and for the purposes specified by the NatBank.

4. The purchase and sale of foreign currency in the Republic Kazakhstan shall be through empowered banks and exchange points in the procedure determined by the NatBank.

The purchase and sale of foreign currency while bypassing empowered banks and exchange points shall not be permitted.

5. Account settlement operations between residents and non-residents on the territory of the Republic Kazakhstan shall be effectuated by agreement of the parties in any currency in accordance with the Rules on Currency Operations.

Article 5. Accounts Or Residents and Nonresidents in Banks

1. Residents may have accounts in foreign currency in empowered banks in the procedure established by the NatBank. Foreign currency received by residents shall be subject to obligatory crediting in their accounts in empowered banks unless provided otherwise in an authorization of the NatBank received by the particular juridical person.

2. Residents may have accounts in foreign currency in foreign banks in the presence of an authorization of NatBank.

3. Nonresidents may have accounts in foreign currency and in the currency of the Republic Kazakhstan in empowered banks in the procedure established by NatBank.

Article 6. Movement of Currency Valuables Abroad

1. The import of currency valuables by residents or nonresidents shall be effectuated without limitations.

2. Imported currency valuables shall be subject to declaration at customs in instances of exceeding the established minimum amount of such valuables determined by NatBank.

3. Residents may export foreign currency in accordance with the rules determined by NatBank.

4. The export by nonresidents of currency shall be in accordance with the declaration drawn up upon the import. In the event of exceeding the amount specified in the declaration when importing, the person must present a document from an empowered bank confirming the legality of receiving the amount being exported.

5. The import and export of currency valuables, besides currency or securities, shall be effectuated in the procedure determined by the Cabinet of Ministers of the Republic Kazakhstan.

Article 7. Operations Whose Performance Requires Preliminary Registration at the National Bank of Republic Kazakhstan

Preliminary registration at NatBank shall be required when performing:

- currency operations connected with the movement of capital. Operations connected with investments abroad shall be regulated by a separate normative act adopted by the Cabinet of Ministers of the Republic Kazakhstan;
- the granting and receipt of loans and credits by residents abroad in foreign currency.

Section III. Exchange Operations in the Republic Kazakhstan

Article 8. Exchange Rate

1. The exchange rate of the currency of the Republic Kazakhstan with monetary units of foreign States shall be determined by the NatBank on the basis of market currency exchange operations and shall be published in the press.
2. Exchange rates for the sale and purchase of foreign currency for the equivalent currency of the Republic Kazakhstan shall be determined by the purchaser and seller autonomously.

Article 9. Exchange Operations

1. With respect to exchange operations which are conducted in regard to own accounts, each empowered bank may freely purchase and sell foreign currency both in the Republic Kazakhstan and abroad, proceeding from their positions with regard to the foreign currency.
2. Operations relating to the purchase-sale of foreign currency shall be effectuated only by empowered banks and exchange points.
3. Operations relating to purchase-sale of foreign currency by empowered banks also may be effectuated through NatBank.
4. The purchase and sale of foreign currency shall, without a license of NatBank, not be permitted while bypassing empowered banks and exchange points.

Article 10. Purchase of Foreign Currency

1. Every resident shall have the right to purchase foreign currency for an equivalent amount of currency of the Republic Kazakhstan on condition that this foreign currency is necessary in order to effectuate current currency operations abroad or in the Republic Kazakhstan in the procedure established by NatBank.
2. A nonresident shall have the right to purchase foreign currency on condition that the assets used when paying for foreign currency in the Republic Kazakhstan are a receipt from a current payment received by him from a resident in the Republic Kazakhstan in accordance with the regime of accounts established by NatBank.

Article 11. Sale Or Foreign Currency

1. Residents and nonresidents shall have the right to sell foreign currency in the Republic Kazakhstan in the procedure determined by NatBank through empowered banks and exchange points in exchange for an equivalent amount of the currency of the Republic Kazakhstan.
2. Every resident-recipient of currency proceeds from abroad or from a nonresident in the Republic Kazakhstan shall sell in the procedure established by NatBank the amounts received in foreign currency from any proceeds of such nature in exchange for an equivalent amount in the currency of the Republic Kazakhstan, except for those instances when the amounts received in foreign currency are placed by the recipient in a currency

account of an empowered bank and shall be kept at his disposition for current payments abroad when there is an authorization of NatBank.

Section IV. Procedure for External Payments

Article 12. Current Payments and Transfer of Revenues

1. The effectuation of current currency operations between residents and nonresidents shall be without limitations.
2. Current currency operations and operations connected with the movement of capital must be effectuated in the procedure established by NatBank taking world practice into account.

Article 13. Accounts Abroad

1. Empowered banks may have correspondent accounts in foreign banks for operations conducted with regard to own accounts and the account of residents and nonresidents.
2. NatBank may demand any information which it considers to be necessary in order to defend the interests of the Republic Kazakhstan with respect to payments and proceeds being effectuated through accounts abroad.

Article 14. Conditions for Payment of Contracts for Export of Goods, Services, and Capital

1. Payments for the export of goods, services, and capital from the Republic Kazakhstan shall be effectuated by means of the transfer of an export receipt through one of the empowered banks as the recipient bank.
2. Upon the receipt of foreign currency as an export receipt the recipient must transfer these assets through an empowered bank in accordance with Article 11 of the present Law.

Article 15. Issuance of License

1. NatBank shall, on condition of compliance with the technical and skills requirements, and also where there is an organisational structure, issue a license for the right to perform operations in foreign currency to the following subjects:
 - (a) any bank as an empowered bank;
 - (b) any juridical person, as an exchange point.
2. NatBank shall determine the minimum amount of the charter fund necessary for banks to receive the status of an empowered bank.
3. NatBank shall keep a register of empowered banks and publish it in the press.

Article 16. Limitation and Revocation of Licenses

NatBank may limit the right to conduct operations with foreign currency or to annul this right wholly if an empowered bank or exchange point does not fulfil the conditions on which the license was received by them.

Section VI. Reports. Responsibility for Violation of Currency Legislation

Article 17. Reports on Currency Operations and Submission of Information

1. The procedure and forms for records and reports relating to currency operations shall be established by NatBank by agreement with the State Committee for Statistics and Analysis and by the Ministry of Finances of the Republic Kazakhstan, which shall be binding for execution by all juridical and natural persons in the Republic Kazakhstan.
2. All juridical and natural persons in the Republic Kazakhstan shall be obliged to submit to NatBank and to an empowered bank the information needed by them and documents for the purposes of ensuring compliance with the present Law, which shall not be subject to divulgence.

Article 18. Responsibility for Violation of Currency Legislation

Officials of juridical persons-residents, including empowered banks, and also natural persons guilty of a violation of currency legislation, shall bear responsibility in accordance with the norms of criminal and civil legislation of the Republic Kazakhstan.

Article 19. Fulfilment of International Obligations

For the purposes of the fulfilment of international obligations the President of the Republic Kazakhstan shall have the right to adopt a decision binding for execution by NatBank regarding the limitation or suspension of any currency operations.

Article 20. External Debt

1. The Supreme Soviet of the Republic Kazakhstan annually shall, when confirming the republic budget of the Republic Kazakhstan, determine the maximum ceiling of external indebtedness of the Republic Kazakhstan and the maximum ceiling of guarantees of the Republic Kazakhstan (sovereign guarantees) issued under external loans.
2. Within the framework of the confirmed ceiling the President of the Republic Kazakhstan shall have the right to delegate to the Cabinet of Ministers of the Republic Kazakhstan or other empowered agency the powers to conduct negotiations and to sign international treaties on loans with a guarantee of the Republic Kazakhstan granted to the Republic Kazakhstan or other borrowers in the Republic Kazakhstan by international organizations of which the Republic Kazakhstan is a member.
The same regime shall extend to other loans received under a guarantee of the Republic Kazakhstan.

Article 21. Procedure for Settlement of Disputes

All disputes arising in the domain of currency regulation between the subjects of currency relations shall be settled in a judicial procedure in accordance with legislation of the Republic Kazakhstan and international treaties.