

*This is an unofficial translation.*

**Law No. 2433-XII of 15th October 1993 of the Republic of Kazakhstan “Concerning Legal Regime during the State of Emergency”  
(As amended and appended by Law No. 347-1 of 12th March 1999 of the Republic of Kazakhstan)**

*The implementation procedure is provided in Resolution No. 2434-XII of 15th October 1993 of the Supreme Council of the Republic of Kazakhstan.*

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**Section I. General Provisions**

**Article 1**

The state of emergency shall be recognized as an interim measure to be introduced in accordance with the Constitution of the Republic of Kazakhstan either over the entire territory of the Republic or over a certain area of the Republic and shall mean a special purpose legal order - to be followed by the bodies of state power and administration in their activities - that imposes restrictions on the rights and freedoms of citizens and also on the rights of legal entities, an additional responsibility being entrusted to them. The state of emergency shall be introduced solely in the interests of ensuring security and protecting the constitutional system of the Republic.

**Article 2**

The objective of introducing the state of emergency is to stabilize, within possible shortest dates, the situation, as well as to restore law and order and to create conditions required for implementing urgent rescue operations and emergency recovery work.

**Section II. Conditions, Grounds and Procedure for the Introduction of the State of Emergency**

**Article 3**

The state of emergency shall be imposed solely where there is the real threat either to public security or to the constitutional system of the Republic, the elimination of which is impossible without applying emergency measures. *Certain issues of security are provided in*

*Law No. 233-1 of 28th June 1998 of the Republic of Kazakhstan "Concerning the National Security of the Republic of Kazakhstan".*

#### **Article 4**

The following may be recognized - in compliance with the requirements of Article 3 of this Law - as grounds for the introduction of the state of emergency:

- a) any attempts - threatening human lives and public security - to alter the constitutional system accompanied by violence as follows: disorders and inter-ethnic conflicts; blockade in certain areas; large-scale crossing of the state boundary outwards the territory of adjoining states;
- b) any natural disasters and crisis environmental situations, epidemics, epizootics, large-scale failures and catastrophes requiring urgent rescue and recovery operations to be implemented to protect lives and health of the population and to reduce damage to national property.

The state of emergency may be also introduced when there is either a real threat of natural disaster or a large-scale technogenic failure and on the basis of substantiations submitted by the bodies of state administration.

#### **Article 5**

The state of emergency may be either introduced or prolonged within the entire territory of the Republic of Kazakhstan, or certain localities, pursuant to Edicts of the President of the Republic of Kazakhstan followed by prompt notification of the Supreme Council of the Republic of Kazakhstan. *In accordance with the Constitution of the Republic of Kazakhstan, the state of emergency over the entire territory or its certain areas shall be introduced by the President of the Republic of Kazakhstan. The state of emergency shall be introduced after official consultations with the Prime Minister and the Chairmen of Chambers of the Parliament of the Republic of Kazakhstan.*

#### **Article 6**

The following shall be indicated in the act concerning the introduction of the state of emergency:

- a) circumstances that give grounds for either introduction or prolongation of the state of emergency, in compliance with the requirements of Articles 3 and 4 of this Law;
- b) substantiation for either introduction or prolongation of the state of emergency, in compliance with the requirements of Article 3 of this Law;
- c) list and limits of emergency measures and an exhaustive list of temporary restrictions in the rights and freedoms of citizens, as well as of the legal powers of legal entities, in compliance with the requirements of Articles 17 and 18 of this Law;
- d) state bodies responsible for the implementation of emergency order and the precise limits of their powers;
- e) boundaries of the area within which the state of emergency is to be introduced;
- f) time when the act is entered into force, as well as exact dates within which the state of emergency is to be either introduced or prolonged.

The Act on the Introduction of the State of Emergency shall be brought to the notice of the population through mass communication media within 6 hours before the Act is entered into force.

## **Article 7**

The Edict of the President of the Republic of Kazakhstan concerning the Introduction of the State of Emergency issued at the time the Supreme Council of the Republic of Kazakhstan is holding sessions shall be forthwith submitted to the Supreme Council of the Republic of Kazakhstan for its consideration. The Supreme Council of the Republic of Kazakhstan shall consider the Edict within time limits not exceeding 48 hours. During the period between sessions of the Supreme Council of the Republic of Kazakhstan, the Chairman of the Supreme Council of the Republic of Kazakhstan shall take a decision to convoke an extraordinary session of the Supreme Council of the Republic of Kazakhstan at which the Supreme Council shall - within 72 hours from the moment the Edict is adopted - consider the Edict concerning the Introduction of the State of Emergency. The People's Deputies of the Republic of Kazakhstan shall - in cases where the state of emergency is declared through mass communication media - be obliged, as soon as possible and without any special notice, to arrive to the place where the Supreme Council of the Republic of Kazakhstan is to hold the session.

## **Article 8**

The Edict of the President of the Republic of Kazakhstan concerning the Introduction or Prolongation of the State of Emergency shall be recognized as invalid, unless it is approved by the Resolution of the Supreme Council of the Republic of Kazakhstan in accordance with the procedure and within the dates, as established by Article 7 of this Law, and the population of a given territory shall be notified appropriately through mass communication media.

## **Article 9**

The state of emergency for the entire territory of the Republic of Kazakhstan shall be introduced for a period up to 3 days, and for a certain area it shall be introduced for a period up to 8 days.

Upon expiry of mentioned periods, the state of emergency shall be cancelled by the President of the Republic of Kazakhstan. In the case of a failure to eliminate the circumstances that served as grounds for the introduction of the state of emergency, the President of the Republic of Kazakhstan shall have the right to prolong the period thereof repeatedly for the periods as established by the first part of this Article. The Edict concerning the Prolongation of the State of Emergency shall be also approved by the Supreme Council of the Republic of Kazakhstan. The President of the Republic of Kazakhstan shall have the right to abolish the state of emergency prior to expiry of the established deadline provided the circumstances have been eliminated that served as grounds for its declaring.

Any decision either to abolish or to prolong the state of emergency shall enter into force from the day it is adopted and it shall be made public without delay.

## **Sections III. Forms of State-directed Control to Be Imposed for the Period of the State of Emergency**

### **Article 10**

In accordance with this Law, special forms of control may be imposed within the areas where the state of emergency is introduced by the President of the Republic of Kazakhstan.

The supreme representative bodies and the executive bodies of the Republic of Kazakhstan shall have the right to abolish any decisions of relevant lower bodies applicable within the areas where the state of emergency is introduced.

The state bodies that exercise control under the conditions of the state of emergency may be empowered with extraordinary authority to take measures required to normalize as soon as possible the situation, to restore law and order and to liquidate threat to public security. Said extraordinary measures may envisage temporary restrictions in the rights and freedoms of citizens, except for the rights and freedoms as mentioned in Article 18 of this Law.

### **Article 11**

To coordinate operations associated with the liquidation of the circumstances that caused the introduction of the state of emergency, as well as in cases of a failure of the bodies of executive power to perform their functions within the territory where the state of emergency is introduced, special purpose temporary bodies (commandant's office) may be established within the territory where the state of emergency is introduced, pursuant to the Edict of the President of the Republic of Kazakhstan.

A decision either to establish, abolish, or prolong the effective period of the special forms of control shall enter into force from the moment it is adopted, unless any other special procedure is specified, and be made public immediately.

The mentioned special purpose temporary bodies may be assigned, in whole or in part, the administrative and executive powers of the executive bodies within the territory where the state of emergency is introduced.

The orders and commands of the mentioned bodies concerning ensuring of the emergency order shall be deemed mandatory within a relevant territory.

### **Article 12**

Any executive bodies, enterprises, institutions, public associations and citizens those which are located within the territory where the state of emergency is introduced, shall be obliged to execute the commands and orders of the executive bodies of the Republic of Kazakhstan exercising special purpose control over relevant territory, as well as to render any possible support to said bodies. A failure to execute said commands and orders shall entail responsibility as provided for by the legislation of the Republic of Kazakhstan.

### **Article 13**

The bodies exercising special forms of control over the Republic or its certain areas shall have the following rights:

- to apply measures as provided for by Section IV of this Law;
- to suspend the activities of local representative and executive bodies and to temporarily exercise the functions of said bodies;
- to submit to the supreme bodies of state power and administration of the Republic of Kazakhstan proposals concerning issues of the national, economic and social-cultural development of subordinated territories;
- to place under their authority any enterprises, institutions and organizations located within relevant areas, in accordance with the procedure to be defined by the Government of the Republic of Kazakhstan.

*In the second clause of Article 14 the words "State Commissions for Emergency Situations of the Republic of Kazakhstan" have been replaced pursuant to Law No. 347-1 of 12th March 1999 of the Republic of Kazakhstan for the words "of the central executive body of the Republic of Kazakhstan for emergency situations"*

## **Article 14**

To ensure public order, to protect the lives, health, security, rights, freedoms and legitimate interests of citizens there shall be employed the forces and facilities of the bodies of internal affairs, national security and other law-enforcement bodies and the Republic's Guard.

The ministries and departments of the Republic shall be attracted - pursuant to the decision of the central executive body of the Republic of Kazakhstan for emergency situations - to liquidate consequences of natural and environmental disasters, epidemics, epizootics, large-scale failures and catastrophes with a view to diminish damage to people's property. *See: Regulations "Concerning the Agency of the Republic of Kazakhstan for Emergency Situations" as approved by Decree No. 481 of 27th April 1999 of the Government of the Republic of Kazakhstan.*

The military units and subdivisions of the Armed Forces may be attracted pursuant to the decision of the President of the Republic of Kazakhstan to ensure compliance with the regime of the state of emergency and to liquidate the consequences of the events that invoked its introduction.

## **Section IV. Measures Applicable under the Conditions of Emergency Situation**

### **Article 15**

In accordance with paragraph "c" of Article 6 of this Law, the Edict concerning the Introduction of the State of Emergency shall set out the list and limits of emergency measures to be taken under the conditions of the state of emergency, including the exhaustive list of interim restrictions imposed on the rights and freedoms of citizens, as well as legal powers of legal entities.

The following measures may be imposed for the period of duration of the state of emergency:

- a) special order of entrance and exit, as well as restriction of freedom of movement over the territory where the state of emergency is introduced;
- b) strengthening of the protection of public order and the facilities ensuring public life support system;
- c) prohibition to hold gatherings, meetings, street processions and demonstrations, as well as mass public events;
- d) prohibition of strikes;
- e) restriction of movement of transport vehicles and their examination.

### **Article 16**

The state bodies exercising control under the conditions of the state of emergency shall take the following measures in cases of the state of emergency:

- a) curfew that implies the prohibition to stay in the streets and other public places without specially issued permits and identification documents within established time round the clock;
- b) restriction of freedom of press and other mass communication media; there shall be allowed a temporary arrest of printed matters, sound amplification facilities and duplicating machines until the curfew is cancelled;
- c) suspension, upon appropriate notice, of the activities of political parties, other public associations and popular actions impeding the normalization of the situation;
- d) check of documents, and in exceptional cases where there is information that citizens may have weapons, personal examination and the examination of belongings, habitation and transport vehicles;

e) prohibition of sale of weapons, strong drinks, temporary seizure of fire, gas and cold arms and ammunitions from citizens, as well as technical facilities from enterprises, institutions and organizations;

f) deportation of violators of public order, those who are not residents of a given locality, either to the place of their permanent residence or outside the territory where the state of emergency is introduced;

g) temporary resettlement (evacuation) of citizens outside the regions which are dangerous for living, stationary or temporary living premises being provided for them in an obligatory procedure;

h) imposition of a special procedure for distributing foodstuff and necessities;

i) establishment of quarantine and conduct of other sanitary preventive arrangements;

j) mobilization of the resources of enterprises, institutions and organizations, irrespective of forms of ownership, alteration of the regime of their work, re-orientation for the manufacture of produce needed under the conditions of the state of emergency, other changes in production activities required to carry out rescue and other urgent operations;

k) removal, for the period of the state of emergency, from office of the heads of state enterprises, institutions and organizations in cases of their failure to perform their duties, and appointment to office of other persons to act temporarily;

l) in exceptional cases associated with a need to carry out urgent rescue operations, it shall be allowed to mobilize able-bodied citizens to form rescue units, as well as the transport vehicles owned by citizens, to carry out mentioned operations.

## **Section V. Guaranties of Rights and Responsibility of Citizens and Official Persons under the Conditions of Emergency Situation**

### **Article 17**

The measures applicable under the conditions of the state of emergency as well as the alteration of statutory powers of the bodies of executive power and administration, the rights of public associations, as well as the rights, freedoms, and duties of citizens shall be implemented within the limits as required depending on the acuteness of the existing situation.

The application of said measures within certain areas of the Republic shall not be in conflict with the obligations ensuing from international treaties - in the sphere of human rights - applicable in the entire territory of the Republic and may not entail any alteration of the authority of the bodies of state power and administration, the rights of public associations, as well as the rights and duties of citizens in other localities and in the Republic as a whole.

### **Article 18**

During the period of the state of emergency, there may not be restricted those rights and freedoms of citizens which are provided for by Articles 8, 9, 12, 22, the fifth part of Article 33, Articles 35, 36, 39 and 41 of the Constitution of the Republic of Kazakhstan, as well as the right to human life, honor and dignity, liberty of conscience, the right to habitation, the right to necessary defense, the right to be protected by court.

Nobody shall be subjected to torture, cruel and humiliating treatment and punishment.

### **Article 19**

The procedure and conditions of the application of force, special facilities and fire arms those which are adopted in the armed bodies of internal affairs, the Committee for National Security, other law-enforcement bodies and the Republic's Guard shall be regulated by the laws

of the Republic of Kazakhstan and not be subject to changes under the conditions of the state of emergency.

#### **Article 20**

Any citizens that violate curfew rules shall be detained by law enforcement units until the curfew is over, and any individuals who have no identification documents with them, shall be detained until they are identified, but for no longer than time when the curfew is over; the individual so detained, as well as the things they have with them, may be subjected to examining.

Those violations of the requirements as established by the regime of the state of emergency which either provoke violations of law and order or inflame national or religious hostility, malicious disobedience to any legal command or demand made either by a worker of the bodies of internal affairs or by other persons performing either their official duties, or public duties associated with the protection of public order, or any other actions deemed as elements of an administrative law violation committed within the area where the state of emergency is declared, shall entail administrative arrest for a period up to 3 days.

Protocols on the cases concerning the mentioned law violations shall be compiled by the workers either of the bodies of internal affairs or of commandant's offices of certain areas.

*The procedure for holding responsible for the violation of the regime of the state of emergency is provided in the Administrative Code.*

#### **Article 21**

The acts adopted to ensure the regime of the state of emergency shall cease to be effective simultaneously with the termination of the state of emergency without special notification.

The abolition of the state of emergency shall entail the termination of proceedings on cases on violations of the state of emergency; the persons subjected to administrative arrest in connection with the regime of emergency shall be made free without delay.

#### **Article 22**

The citizens aggrieved under the conditions of the state of emergency or in connection with actions associated with their prevention or liquidation committed by relevant state bodies, as well as by enterprises, institutions and organizations, shall be provided with living quarters, refunded their financial losses in accordance with current legislation, assisted in finding employment and provided with any other necessary assistance.

#### **Article 23**

Any unlawful application of force by the bodies of internal affairs or military servicemen, as well as the exceeding of official powers by official persons, in particular the violation of the guarantees to the rights of citizens as established by this Law, shall entail responsibility in accordance with the effective legislation of the Republic of Kazakhstan.

#### **Article 24**

The administration of justice within the territory where the state of emergency is imposed shall be carried out only by the courts established in accordance with the Constitution of the Republic of Kazakhstan.

Legal proceedings shall be exercised by courts in accordance with the legislation established for the period the state of emergency is declared by the law of the Republic of Kazakhstan. The introduction of extraordinary forms of legal proceedings shall not be allowed.

*See: Constitutional Law No. 132-II of 25th December 2000 of the Republic of Kazakhstan "Concerning the Judicial System and the Status of Judges of the Republic of Kazakhstan".*

In the territory where the state of emergency is imposed, the territorial jurisdiction of criminal and civil cases may be altered pursuant to a decision of the Supreme Court of the Republic of Kazakhstan.

## **Section VI. Conclusive Provisions**

### **Article 25**

The Supreme Council of the Republic of Kazakhstan that approved the Edict concerning the Introduction of the State of Emergency shall exercise control - during the entire effective period of the state of emergency - of compliance with this Law.

### **Article 26**

It shall not be allowed - during the effective period of the state of emergency established over the entire territory of the Republic of Kazakhstan - to alter the Constitution of the Republic of Kazakhstan, electoral laws and laws concerning court proceedings, nor shall be held any referendums and elections.

### **Article 27**

The procedure for financing operations required to liquidate the reasons and consequences of the circumstance that invoke the introduction of the state of emergency shall be defined by the Cabinet of Ministers of the Republic of Kazakhstan.

**The President of the Republic of Kazakhstan**

**N. Nazarbaev**