

LAW No.237 OF 29th JUNE 1998 OF THE REPUBLIC OF KAZAKHSTAN

ON PAYMENTS AND MONEY TRANSFERS

Chapter 1. General Provisions Article 1. Relations Regulated by This Law

1. This Law shall regulate the relations which emerge when performing payments and transfers of funds in the Republic of Kazakhstan, except for the relations associated with the performance of transfers of funds by the organizations of postal communications.

2. The relations associated with payments and transfers of funds as performed between the banks of the Republic of Kazakhstan, organizations which perform separate types of banking transactions and foreign banks (financial institutions) shall be regulated by agreements between them and by tradition of business as is applicable in the banking practice. When acts associated with said payments and transfers of funds take place in the Republic of Kazakhstan, then such relations shall be regulated by said agreements and business tradition as applicable in banking practice, unless it contradicts the legislation of the Republic of Kazakhstan.

Article 2. The Bases for the Emergence of the Relations Regulated by This Law

The relations regulated by this Law shall emerge when performing the following:

- payments and/or transfers of funds in accordance with the conditions of payment under civil transactions,
- transfers of funds pursuant to instructions of clients of banks or organizations which perform individual types of banking transactions (henceforth the bank) when such instructions are not associated with the performance of conditions of payment under civil transactions;
- obligatory payments and/or transfers of funds which are performed in accordance with the legislation of the Republic of Kazakhstan.

Article 3. Fundamental Definitions

The following fundamental definitions have been used in this Law:

- beneficiary's bank - a bank which in accordance with the provisions of an agreement with the sender and/or instructions of the sender is entitled to accept money received for the benefit of beneficiary and/or perform other acts provided for by instructions or agreements with the sender;
- recipient bank - bank to which instructions concerning transfers of funds or payment of funds are addressed;
- intermediary bank - any bank which is a participant of transfers of funds which is not the bank of the sender of funds nor the bank of the beneficiary;
- beneficiary - a person indicated in order or collection as the recipient of funds when performing transfers of funds as well as in cases of non-cash payments performed without transfer of funds;
- exactor - a person who by virtue of an agreement or law files a claim to exact funds, which claim is subject to performance by the recipient bank without acceptance of the sender of funds;

initiator of transfer of hinds (henceforth initiator) - a person who first filed instructions for performance of a transfer of hinds;

collection instructions - a method for the performance of payments used for withdrawal of hinds from bank accounts of senders without sender's consent;

clearing - the process of collection, reconciliation, sorting and offset of counter claims of participants of clearing and subsequent determining of their net positions (balance) as performed by a clearing organization, as well as performance by a bank of said acts with regard to counter claims between its clients;

operational day - a period of time during which a bank performs acceptance of instructions concerning transfers of hinds and ordinances concerning suspension or revocation of such instructions from clients and passing to them of information messages associated with the performance of transfers of funds for their benefit;

sender - a person who sends instructions associated with payment and/or transfer of hinds which may be also the sender of funds, initiator or beneficiary;

sender of hinds - a person at the expense of whom a payment and/or transfer of hinds is carried out;

transfer of hinds - consistent performance by recipient banks of instructions of senders concerning of hinds associated with the performance of payment or for other purposes;

payment - performance of a monetary obligation with the use of cash or without using cash by way of transfer of hinds or issue of a payment document containing monetary obligations or order on payment of hinds;

payment card - a facility for access to hinds through electronic terminals or any other devices, which contain information which allows the holder of such a card to perform payments, receive cash, perform exchange of currencies and other transactions as determined by the issue of a given payment card and on his terms;

payment instruction - payment or a method for the performance of payment and/or transfer of hinds which provides for the filing by the sender of instructions to the recipient bank on transfer of a certain amount of hinds defined in those instructions for the benefit of the beneficiary;

payment collection-instruction - a method for performance of payment whereby the order of the sender on payment of hinds in amount indicated in such a order on the basis and with attachment of documents which confirm said order; is filed to the bank of the sender of hinds;

payment document - a document on the basis of which or with the assistance of which payments and transfers of hinds are carried out;

direct debit of bank account - a method for the performance of payments whereby withdrawal of hinds is carried out from the sender of hinds and the transfer for the benefit of the beneficiary on the basis of a prior permit of the sender of hinds on said withdrawal, which is effective for a definite period of time and/or within the limits of a certain amount of hinds;

instructions - order of the sender to the recipient bank on transfer or payment of hinds as filed for the virtue of an agreement of law. Instructions shall be compiled in the form of an order or in the form of a collection;

participant of a payment and/or of a transfer of hinds - physical persons and legal entities, affiliates and representations of legal entities who have rights and/or obligations with regard to payments and/or transfers of hinds;

cheque - payment document which contains a written order of the cheque issuer to the recipient bank, based on an agreement between them on payment of amounts of hinds indicated in such an order to the cheque holder;

cheque issuer - a person who writes out cheques;

cheque holder - a person for whose benefit a cheque was written out including cheque issuer if cheque was issued by him for himself

Article 4. The Legislation of the Republic of Kazakhstan Concerning Payments and Transfers of Funds

The legislation of the Republic of Kazakhstan concerning payments and transfers of Rinds shall be based on the Constitution of the Republic of Kazakhstan and it shall consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

Article 5. Funds

1. Funds shall be a method of payment and accumulation, they shall serve as a measure of value,
2. Funds exist in the form of bills (cash money) or in the form of monetary obligations of banks expressed in the form of entries in bank accounts of their clients.
- 3, Bills shall be issued in the form of banknote and coins which have nominal value (nominal).

Article 6. Bank Accounts

1. Bank account is a method of recording contractual relations between a bank and a client with regard to acceptance of deposits and performance by the bank of transactions associated with the following:
 - 1) ensuring availability and use by the bank- of hinds which belong to the client;
 - 2) with acceptance (inclusion) of hinds for the benefit of the client;
 - 3) with withdrawal and/or transfer of Rinds pursuant to instructions in the form of an order of the client or instructions in the form of a collection of a third party.
 2. Accounts under which transactions indicated in paragraph 1 of this article may not be carried out, as well as accounts which show the status of accounting in banks, individual accounts (subpositions) which are components of a balance sheet account including loan accounts shall not be recognized as bank accounts.
 3. Bank accounts shall be subdivided into current accounts and saving accounts of physical persons and legal entities in separate subdivisions of legal entities as well as correspondent accounts of banks.
 4. In the case of application of a claim on funds of clients which are in a bank such a claim shall be executed only from bank accounts of clients except for the cases when client's funds are secured in a safe or a bank on the terms of safe custody.
- Application of claims on funds which are on correspondent accounts of banks shall be carried out only under obligations of banks themselves.

Article 7. Methods for the Performance of Payments and Transfers of Funds

1. In the territory of the Republic of Kazakhstan the following methods for the performance of payments and transfers of funds shall be used:
 - 1) issue of cash money;
 - 2) filing of payment orders;
 - 3) issue of cheques;

- 4) issue of bills of exchange and their transfers in accordance with endorsement;
- 5) use of plastic cards;
- 6) direct debit of bank account;
- 7) filing of payment collections-orders;
- 8) filing of collection instructions;
- 9) other methods as established by legislative acts of the Republic of Kazakhstan.

2. The rules and special considerations in applying methods of performance of payments and/or transfer of funds and the fundamental requirements with regard to contents of instructions shall be established by legislative acts and regulatory legal acts of the National Bank of the Republic of Kazakhstan.

Article 8. Payment Order

The rights and obligations between the sender and the recipient bank associated with the use of a payment order shall be established in an agreement between them and their actual exercise shall emerge as of the moment of filing with the recipient bank of a payment order. A recipient bank upon receiving such instructions must accept it or motivate its refusal to accept it. In the case of the acceptance of a payment order by the recipient bank the sender acquires the right to claim with regard to the performance of the accepted payment order.

Article 9. Cheque

1. Issue of a cheque is a method for the performance of payment under which payments are carried out by way of issuing by the cheque issuer of a synonymous payment document to the cheque holder.

2. Issue of a cheque shall not be recognized as execution of a monetary obligation of the cheque issuer for the performance of which such cheque was issued. The performance of said obligation shall take place at the moment when funds are received under the cheque.

3. Cheque shall be subdivided into covered and uncovered. A covered cheque is a cheque which is secured by deposit previously made by the cheque issuer in the bank.

Uncovered cheque is a cheque which was not previously secured by deposit. Cheques may contain a bank guarantee on their payment including those with regard to uncovered cheques.

4. The rights and obligations of the cheque issuer and the bank, associated with the use of cheques shall emerge on the basis of an agreement on use of cheques between cheque issuer and bank. The rights of a cheque holder shall emerge as of the moment of receipt of a cheque from the cheque issuer.

The exercise of said rights and obligations shall be carried out as of the moment of the issue of a cheque by the cheque issuer.

The cheque holder shall acquire the right to monetary claims to the bank of the cheque issuer in amount as indicated in the cheque. The bank of a cheque issuer shall cash a cheque filed by a cheque holder or it shall reasonably deny its cashing within a period provided for by regulatory legal acts of the National Bank of the Republic of Kazakhstan and on the basis established in article 18 of this Law.

Article 10. Bill of Exchange

Application of bills of exchange as a payment method shall be regulated by the legislation of the Republic of Kazakhstan concerning the circulation of bills of exchange.

Article 11 Payment Card

1, Payment card shall be used by its owner for the purposes of performing payments as well as for receiving cash money, currency exchange and other transactions in accordance with the conditions defined by its issuer.

2. Payment cards may be used only in those commercial (servicing) organizations which entered into appropriate contracts with the bank which is the issuer of the payment card or a bank which entered into an agreement with such an issuer, or a bank which services payment cards without agreement with their issuer.

3. The rights and obligations of participants of payments associated with the use of payment card shall emerge as of the moment of consent of the commercial (service) organization to accept payment as performed with the use of the presented payment card.

Commercial (service) organizations shall acquire the right to monetary claims with regard to the bank which entered into an agreement with such an organization on servicing payment cards in amount of payment accepted by said organization. Said bank shall acquire the duty to perform a monetary claim of commercial (service) organization.

Article 12. Direct Debiting of Bank Account

1. Payment by way of direct debiting of bank accounts shall be carried on the basis of the documents submitted by the beneficiary which confirm supply of goods, performance of work or rendering of services. The list of said documents shall be provided for by the agreement entered into by the sender of Rinds and the beneficiary.

2. The rights and obligations of the sender of Rinds and of his bank when performing payments under direct debiting of bank accounts shall arise as of the moment of entering into the relevant agreement by the sender of Rinds and his bank. The bank shall acquire the obligation to perform claims of third parties filed against the bank

account of client within the limits of amounts of hinds and/or period of time stipulated in said agreement.

Article 13. Payment Collections-Orders

1. A payment collection-order shall be subject to performance by the bank of the sender of hinds only if there is acceptance of the sender of hinds.

2. The rights and obligations under payments with the use of payment collections-orders shall arise as of the moment of their filing with the bank of the sender of hinds. The bank of the sender of hinds not later than the working day following a day when payment collection-order is received, must pass received payment collection-order to the sender of hinds for the acceptance. The sender of hinds after receiving a payment-collection order must to accept it or to motivate the denial of its acceptance. In the case of acceptance of a payment-collection order by the sender of hinds the sender of payment collection-order shall acquire the right to claim with regard to its performance.

Article 14. Collection Instructions

1. Withdrawal of funds from a bank account of a client without a client's consent shall be carried out with use of collection-orders on the basis provided for by the legislative acts of the Republic of Kazakhstan and in accordance with the procedure defined by the National Bank of the Republic of Kazakhstan, subject to compliance with the sequence provided for by the legislative acts of the Republic of Kazakhstan.

2. The initiator shall file with the bank of the sender of funds a collection ordinance with the attachment of originals of executive and other documents or their copies which confirm the bases for that exacting on the basis of rules provided for by the legislative acts of the Republic of Kazakhstan, except for the cases when such documents are submitted in accordance with the procedure provided for by article 20 of this Law. Requirements concerning the need of attaching original documents or their copies shall be established by the National Bank of the Republic of Kazakhstan.

3. In a collection ordinance the designation of payment shall be indicated and reference shall be made to the legislative acts which provides with the right to withdraw funds without consent of the sender of funds.

4. The rights and obligations of participants of payments shall arise as of the moment of the submission by the initiator of a collection-ordinance to the bank of the sender of funds. A bank of the sender of funds after receiving such instructions must accept it or to deny its acceptance and motivate it in writing. In the case of acceptance of a collection-ordinance by the bank of the sender of funds the sender of collection ordinance shall acquire the right to claim with regard to its performance

5. Amounts of collection-ordinances filed on the basis of claims fully or partially recognized by the sender of funds must be consistent with the amount of acknowledged claims.

6. The liability for the substantiation of withdrawal of funds without consent of the sender of funds shall rest with the exactor.

Article 15. Documents Which are Used When Collection-Ordinances are Filed

The following shall be the documents on the basis of which collection-ordinances shall be filed for withdrawal of funds without consent of the sender of funds:

executive writs or decrees of courts on exacting funds as issued on the basis of decisions, sentences, definitions and orders of courts;

ordinances of the bodies of the tax service on forcible withdrawal of taxes and other obligatory payments to the budget which have not been paid in time, as established by the legislation of the Republic of Kazakhstan, fines and penalties assessed for nonpayment or for untimely payment of taxes and other obligatory payments to the budget;

ordinances of the custom's bodies on forcible exacting of custom's duties and other obligatory payments the collection of which is entrusted to the custom's bodies, and which have not been paid within deadlines established by legislation of the Republic of Kazakhstan, fines and penalties assessed for non-payment or untimely payment of such payments;

resolution on exacting fines as past by administrative bodies or official persons authorized to process cases of administrative violations;

documents which contain executory notes of notaries;

claims partly or fully acknowledged by senders of funds in writing as well as claims of payment not paid in time but accepted by the sender of funds;

agreement between the exactor and sender of funds which contains the right of the exactor with regard to withdrawal of funds without consent of the sender of funds;

other documents as established by the legislative acts of the Republic of Kazakhstan.

Article 16. Acceptance of Instructions

1. Acceptance of instructions in the form of an order means the consent of the recipient bank to perform instructions of the sender (client).

Acceptance of instructions in the form of a claim means the consent of the sender of funds and/or recipient bank to perform claims of the initiator.

2. Acceptance of instruction may be expressed by way of making an entry or fixing a note on a payment document which directly indicate the performance of that acceptance or payment by the recipient bank of an amount of funds as defined in instructions, to the sender or pursuant to his instructions to a third party.

Acceptance of instructions may also be expressed in the form of signature and seal (if any).

3. When acceptance of instructions is carried out by way of making a note or fixing a note on a payment document or signature and seal (if any) then said notes or entries must contain the date and time of their commission.

4. Instructions may be accepted without appropriate note when in accordance with the provisions of an agreement or legislation of the Republic of Kazakhstan, the acceptance must be expressed by acts or any other methods.

5' Acceptance of instructions or denial of its acceptance must be performed not later than three working days after the day of receiving instructions except for the cases provided for by article 38 of this Law.

Article 17. Rights and Obligations Which Emerge in the Case of Acceptance of Instructions

1. Prior to the acceptance of an order by the Recipient bank its sender shall be obliged to provide for amount of money which is required for performance of orders after its acceptance by the recipient bank. When performing transfers of funds upon results of clearing, the sender shall be obliged to provide for the amount of funds which is required for performance of his order only in the case if he has negative balance.

2. In the case of acceptance of instructions the following rights and obligations shall emerge:

1) when order is accepted by the recipient bank the recipient bank shall acquire the obligation before the sender with regard to performance of accepted order;

2) when order is accepted by the bank of the beneficiary the bank of the beneficiary shall acquire the obligation associated with the receipt for the benefit of the beneficiary of amount of funds indicated in instructions;

3) in the case of acceptance of a claim by the sender of funds the beneficiary shall acquire the right to claim with regard to accepted claims and the sender of funds shall acquire the obligation with regard to its execution for the benefit of the beneficiary;

4) in the case of acceptance of a claim by the recipient bank the sender shall acquire the right to claim under accepted claim and the recipient bank shall acquire obligations with regard to its performance.

3. A beneficiary bank shall have the right to perform offset for the benefit of a third party or for his own benefit of amounts of funds indicated in the instructions accepted by the bank against the amount of obligations of the beneficiary before the third party or that bank, the period of performance of which arrived by the moment of receipt of such instructions by the bank of the beneficiary subject to compliance with the sequence of withdrawal of funds from the bank as established by the legislative acts of the Republic of Kazakhstan.

Article 18. Bases for Denial of Acceptance of Instructions by the Recipient

Bank

1. A denial of acceptance of instructions by the recipient bank shall be carried out as follows:

- 1) when the amount of funds which is required for performance of transfer of funds is not secured;
- 2) when payment document contains signs of forgery;
- 3) when the sender does not comply with the requirements established by the legislation and/or provisions of the agreement with regard to the procedure for compilation and submission of instructions concerning transfer of funds;
- 4) in the case of non-compliance with other requirements established by legislation and/or provisions of an agreement.

2. In the case of filing collection ordinances without attaching to them of one of the documents provided for in article 15 of this Law, the recipient bank shall be obliged to deny acceptance of such collection ordinances.

Article 19. Performance of Instructions

1. Performance of instructions by the recipient bank shall be carried out on the basis of acceptance by it of such instructions.

Performance by the recipient bank of its obligations before the sender with regard to the transfer or payment of funds in accordance with received instructions shall be recognized as performance of instructions.

Performance of instructions shall be recognized as follows:

- 1) transfer by the recipient bank to the following bank recipient of instructions on transfer of funds for the benefit of the beneficiary provided recipient bank is not the bank of the beneficiary;
- 2) completion of a transfer of funds when the recipient bank is the bank of the beneficiary;
- 3) issue of cash money to the sender who submitted instructions on payment of cash money when the recipient bank is the bank of the sender of funds;

2. Performance of instructions shall be carried out by the recipient bank in compliance with the provisions of such instructions and not later than the operational day of the recipient bank following the day of acceptance of received instructions unless the provisions of such instructions specify any other period of its performance.

When conditions of performance of instructions on transfer of funds are impossible to perform by the bank of the recipient, the compliance with them may entail delay of transfer of funds or additional costs, then the recipient bank within the operational day must notify of that the sender. Performance of instructions shall be carried out subject to the date and time of their receipt.

Article 20. Special Considerations in the Performance of Court Decisions on Exacting Funds

1. Decisions of the court of the Republic of Kazakhstan on exacting funds shall be submitted to the relevant subdivisions of the National Bank of the Republic of Kazakhstan where court proceedings take place.

2. The National Bank of the Republic of Kazakhstan upon receiving a court decision on exacting funds within three working days shall send its copies for performance to all banks.

3. Banks shall be obliged not later than the operational day following the day of receipt of said funds to send to the court which passed the relevant decision information on availability of banking accounts of persons from whom the exacting of funds is carried out or on their absence. Information on availability of bank accounts must include all appropriate details of bank accounts and amounts of balances in them.

4. A court upon receiving from banks said information shall determine the bank (banks) on which the duty will be imposed with regard to performance of a decision to exact funds and it shall send to such a bank (banks) instructions with the attachment of appropriate executive document.

5. When a court at the moment of passing a decision to exact funds has information on availability of funds in a bank account of a person from whom exacting of funds is to be carried out then the court decision shall be filed for execution directly into the relevant bank passed the subdivisions of the National Bank of the Republic of Kazakhstan.

Chapter 2. Payments

Article 21. Payments

1. Payments shall be carried out on the basis and in accordance with the provisions of civil law transactions, provisions of the legislation of the Republic of Kazakhstan and court decisions.

2. Payments in accordance with the provisions of the civil law transactions shall provide for their performance on a voluntary basis.

3. Payments in accordance with the rules of the legislation of the Republic of Kazakhstan and court decisions shall provide for their performance in an obligatory procedure.

4. Payments shall be carried out either with the use of cash money or without their use (non-cash payments).

Article 22. Payments with the Use of Cash Money

1. Payments with cash money shall be carried out by way of transfer of cash money in the form of banknote and coins which are legal tender.

2. Payments with cash money shall be carried out in a physical transfer of banknote and/or coins by a person who performs a payment (payer) to a person (persons) before whom the payer has obligations which emerge by virtue of circumstances provided for by paragraph 1 of article 21 of this Law.

3. Payments of cash money may be carried out to persons before whom monetary obligations performed directly or through intermediaries.

Article 23. Non-Cash Payments

1. Non-cash payments shall be carried out as follows:

1) by way of issuing payment documents which contain monetary obligations or instructions on payment of funds;

2) submission of a payment document which contains monetary obligations or instructions on payment of funds;

3) transmission of a payment document or an electronic message which contains instructions on payment of funds.

2. Performance of non-cash payments may be carried out either with the use of a bank account of client or without it.

Article 24. Completion of Payments

1. When a payment is carried out with the use of cash money then completion of payment shall take place at the moment when funds are received by the person for whose benefit the payment is made or by the person authorized and/or person indicated for whose benefit payment is made.

2. When a payment without use of cash money is carried out by way of transfer of funds then the completion of payments shall take place at the moment of the completion of transfer of funds.

2. In the cases provided for by legislative acts or in accordance with agreements, instructions in the form of claims shall be filed by third parties who are not clients of the recipient bank.

When payment without use of cash money is carried out by way of issuing payment documents then the completion of payment shall take place at the moment when the person for whose benefit payment is made receives funds.

3. Conditions of a civil law transaction or a labour agreement may provide for other time for the completion of payment.

Article 25. Authorized and Unauthorized Payments

1. A payment shall be recognized as authorized payment if it is performed by a person who had authority to perform that payment and it does not contradict the legislation of the Republic of Kazakhstan. In the event that a payment is performed by way of transfer of funds payment shall be recognized as authorized also provided instructions were accepted by the recipient bank with compliance by it with the established procedure for protection measures from unauthorized payments.

2. Unauthorized payments shall be recognized as a payment performed without compliance with the requirements provided for by paragraph 1 of this article. Unauthorized payments shall be recognized as payments with the use of counterfeit payment documents or forged money (cash money).

Article 26. Protection from Unauthorized Non-Cash Payments

1. Compliance with the relevant rules established by the legislation of the Republic of Kazakhstan and/or agreement between the sender of instructions and their recipient and consisting in checking data on initiation (authorization) of instructions or ordinances on the revocation by the sender and identification of potential mistakes shall be recognized as protection from unauthorized payments.

2. Signatures of authorized persons (seals), algorithms, codes (digital, literal, those with use of symbols and combines), identification words or identification numbers, codes, methods of revocation or any other methods of protection which do not contradict the legislation of the Republic of Kazakhstan shall be recognized as elements of protective acts.

Article 27. Refund of Money Under Unauthorized Non-Cash Payments

1. When fact of unauthorized non-cash payments is established the person who received funds shall be obliged to carry out refund of money with regard to said payment.

2. The procedure, time and conditions for refund of money under unauthorized payments shall be established in agreement between the sender and the recipient bank and/or by the legislation of the Republic of Kazakhstan.

Chapter 3. Transfer of Funds

Article 28. Bases for Transfer of Funds

1. Transfers of funds may be carried out on the basis of instructions of the sender on transfer of funds for the benefit of the beneficiary submitted to the recipient bank.

Article 29. The Fundamental Methods for Transfer of Funds

1. Transfers of funds shall be carried out upon results of clearing or by way of individual performance of each instruction of the sender.

2. Transfers of funds based on results of clearing shall take place after the termination of the process of offset of counter claims of participants of clearing. In this case transfer based on results of clearing shall not obligatorily entail withdrawal of funds of the participant of clearing from his service bank. A participant of clearing who acquired a negative balance shall perform payments for its canceling.

3. Transfer of funds by way of individual performance of each instruction of the sender shall be carried out irrespective of his rights and obligations which arise due to other instructions.

Article 30. Methods for Filing Instructions on Transfer of Funds

1. Filing of instructions on transfer of funds for their performance shall be carried out as follows:

- 1) by way of submission of original payment document performed on a paper carrier,
- 2) by way of transfer of instructions by electronic method without compilation on paper with the use of appropriate electronic channels of communications and telecommunications.

2. Submission of instructions by an electronic method shall be allowed only provided the requirements are complied with as established by the National Bank of the Republic of Kazakhstan. If there are no such requirements the uniform rules and/or traditions of business practice shall be used as it is custom in the banking practice

3. It shall be prohibited to submit by electronic methods the instructions, the compilation and transfer of which is envisaged by the legislation of the Republic of Kazakhstan only on paper.

4. Methods, procedure and conditions for the filing by the sender of instructions and transfer of funds to the recipient bank shall be shown in agreement between them when the sender is a client of the recipient bank. When the sender is not a client of the recipient bank then the submission of instructions shall be carried out in accordance with the rules of this Law and regulatory legal acts of the National Bank of the Republic of Kazakhstan adopted in accordance with it.

Article 31. Time for Acceptance of Instructions in Transfer of Funds

1. Acceptance of instructions and ordinances on their revocation or suspension of their performance shall be carried out by the recipient bank only within the operational day as established by.

2. When instructions or ordinances on revocation or suspension of their performance is received after the termination of the operational day then such instructions or ordinances shall be deemed to be received by the recipient bank at the beginning of the following operational day.

Article 32. Exchange of Messages Between the Sender and the Recipient Bank When Funds are Transferred

1. When transfers of funds are performed the sender and recipient bank shall perform exchange of messages which contain the following:

- 1) information on acceptance or denial of acceptance of instructions;
- 2) information on performance of instructions;
- 3) information on mistaken instructions;
- 4) information on revocation or suspension of performance of instructions;
- 5) other information concerning transfer of funds.

2 Forms and methods for exchange of the above-mentioned instructions shall be established by agreement between the sender and the recipient bank which receives transfer of funds, unless it is otherwise provided for by the National Bank of the Republic of Kazakhstan.

Article 33. Mistaken Instructions on Transfer of Funds

Instructions on transfer of funds shall be recognized as mistaken if it:

- 1) contains details which are not consistent with the details of instructions received from the previous sender;
- 2) is sent twice.

Article 34. Refund of Funds in Transfers

1. Refund of funds in case of uncompleted transfer of funds shall be carried out in the following cases:

- 1) establishing fact of unauthorized payment performed by way of transfer of funds;
- 2) transfer of funds on the basis of a counter fate document;
- 3) performance of a mistaken instructions.

2. When funds are refunded each sender who participate in the transfer of funds (including the bank intermediary) shall have the right to compensation of costs associated with such transfer of funds and actually incurred as a result of refund of funds.

Article 35. Revocation of Instructions and Suspension of Performance of Instructions in Transfers of Funds

1. Non-accepted instructions may be revoked prior to expire of period of commission of acceptance.

2. Suspension of performance of instructions or revocation of accepted instructions shall only be possible prior to its performance by the recipient bank.

3. Revocation of accepted and non-accepted instructions as well as suspension of performance of instructions shall be carried out by its initiator by way of sending to the recipient

bank of appropriate instructions. Other senders shall have the right to send such ordinances only if there is a similar ordinance received from preceding sender or from a third party authorized accordingly by law or agreement. Period for performance of such ordinances as well as methods for its transfer shall be established by agreement and/or regulatory legal acts of the National Bank of the Republic of Kazakhstan.

4. When such ordinances are sent by an electronic method it shall be required to comply with the procedure for protective acts as established by agreement between the sender of such ordinances and their recipient.

5. Performance of an accepted instruction may be suspended if the recipient bank in accordance with the legislative acts of the Republic of Kazakhstan receives decisions from the authorized state body or official person on imposition of arrest, restriction of disposal of funds in his bank account, freezing (blocking) of funds of the sender of funds or recipient bank as well as the decision from the authorized state body or official person on withdrawal of funds from the sender of funds, which in accordance with the legislative acts of the Republic of Kazakhstan is subject to performance before the accepted instruction. A recipient bank shall not be liable for losses associated with suspension of performance of instructions because of the above-mentioned reasons.

Article 36. Completion of Transfer of Funds

Transfer of funds shall be deemed to be completed as of the moment:

when the accounting entry is made in the bank account of the beneficiary when funds are received for his benefit;

actual issue of cash money to the beneficiary by the bank of the beneficiary where the beneficiary has no bank account;

performance of offset provided for by paragraph 3 of article 17 of this Law;

performance of an accounting entry in any other account which shows acceptance of funds for the benefit of the client of the bank.

Chapter 4. Concluding Provisions

Article 37. Liability for Violation of the Rules for Performance of Payments and/or Transfer of Funds

1. In the case of a failure to comply or improper performance by participants of payments and/or transfer of funds of obligations associated with payments and/or transfer of funds, they shall be liable on the basis in accordance with the procedure and in amounts provided for by agreement between the participants of those relations and/or by legislative acts of the Republic of Kazakhstan.

2. When transfer of funds is not completed then bank (including intermediary bank), who fail to perform or improperly performed instructions received from the preceding sender shall be liable to him. In this respect the duties of the sender of funds before the beneficiary with regard to payment under civil law transactions shall not be terminated even when that sender of funds performed his obligations with regard to transfer of funds, unless it is otherwise provided for by the provisions of the civil law transaction between the sender of funds and beneficiary. The sender of funds shall not be liable with regard to payments under civil law transactions before the beneficiary, unless transfer of funds was completed for the fault of the bank of the beneficiary.

3. When violation of rules for performance of transfer of the funds is associated with unlawful use by the participants of the payment and/or transfer of funds by somebody else's funds, as well as in violation of time for acceptance or performance of instructions such a participant shall

be obliged to pay damages as provided for by civil legislation of the Republic of Kazakhstan, to the person whose funds he unlawfully used.

4. The recipient bank shall not be liable when in performance of payment it failed to comply with the procedure for protection acts but funds were received by the beneficiary

- 1) as indicated in the instructions or claim of transfer of funds;
- 2) within time acceptable for beneficiary;
- 3) in amount indicated in the order for transfer of funds;
- 4) in this respect no loss (loses) were incurred neither by the sender nor by the beneficiary.

Article 38. Instructions Which are Subject to Performance Within Indefinite Period of Time

1. In the case of absence or shortage of amounts of funds of the sender of funds or the recipient bank, which is required for performance of instructions the recipient bank shall be obliged to accept and keep for one month instructions received until funds are received into the bank account of the sender of funds or the recipient bank which is sufficient for their performance only in the cases provided for by:

- 1) agreement between the sender of funds and recipient bank;
- 2) legislative acts and/or regulatory legal acts of the National bank of the Republic of Kazakhstan.

2. Performance by the recipient bank of instructions provided for in paragraph 4 of this article shall be carried out in a calendar sequence in accordance with the procedure of their receipt by the recipient bank subject to compliance with the sequence for performance of instructions as provided for by the legislative acts of the Republic of Kazakhstan, the calendar sequence envisages the date and time of receipt of instructions by the recipient bank.

3. When performing instructions provided for in paragraph 1 of this article the date and time of acceptance shall be recognized as the date and time when such instructions were performed by the recipient bank.

4. When upon expire of the period established in paragraph 1 of this article a submitted instruction of the sender is not performed because of shortage of funds of the sender of funds or of the recipient bank, then the recipient bank shall be obliged to return such instructions to its sender without performance.

Article 39. Prohibition of Payment or Transfer of Funds

Performance of payment, issuing of instructions on transfer of funds, performance of instructions, issue of funds by a bank to beneficiary or receipt by the beneficiary of funds may be prohibited by the state bodies or official persons authorized appropriately by relevant legislative acts of the Republic of Kazakhstan and only on the basis provided for by the legislative acts of the Republic of Kazakhstan.

Article 40. International Treaties

Should an international treaty ratified by the Republic of Kazakhstan provide for any other rules than those which are stipulated in this Law the rules of the international treaty shall apply.

Article 41. Measures for the Implementation of This Law

From the date of introduction into effect of this Law the paragraph 6 of Decree of 30th January 1993 of the Supreme Soviet of the Republic of Kazakhstan ((Concerning the Report of the Chairman of the Board of the Republic of Kazakhstan on the Issue of Strengthening the Payment and Credit Discipline in the Republic», Temporary Regulations «Concerning Economic Sanctions for Violation of the Procedure for Conducting Non-Cash Settlements in the Republic of Kazakhstan» and «Concerning Sanctions Applied to Commercial Banks for Violation of Economic Rules of the National Bank of the Republic of Kazakhstan» as approved by said Decree (the Bulletin of the Supreme Soviet of the Republic of Kazakhstan, 1993, No.4, i. 68; the Bulletin of the Parliament of the Republic of Kazakhstan, 1996, No.8-9, i. 239) shall be recognized as invalid.

President of the Republic of Kazakhstan

N. NAZARBAEV