

CONCERNING PAYMENTS AND REMITTANCES

Law of the Republic of Kazakhstan dated June 29, 1998 N 237

Chapter 1. General Provisions

Article 1. Relations Governed by This Law

1. This Law shall govern relations arising in making payments and remittances in the Republic of Kazakhstan, except for relations connected with remittances made by the postal service organizations.

2. Relations connected with payments and remittances made between banks of the Republic of Kazakhstan, by organizations performing certain banking operations and by foreign banks (financial institutes) shall be governed by agreements between them and customs of business turnover applicable in banking practice. If actions with respect to these payments and remittances occur in the Republic of Kazakhstan, such relations shall be governed by the given agreements and customs of business turnover applicable in banking practice to the extent not being in conflict with the laws of the Republic of Kazakhstan.

Article 2. Grounds for the Relations Governed by This Law

Relations governed by this Law shall arise in making:

payments and (or) remittances in accordance with terms of payment for civil law transactions;

remittances by order of a client of the bank or organization performing certain banking operations (hereinafter, banks), when such orders are not connected with fulfillment of the terms of payment for civil law transactions;

compulsory payments and (or) remittances made in accordance with the laws of the Republic of Kazakhstan.

Article 3. Basic Concepts

The following basic concepts shall be used in this Law:

beneficiary's bank - a bank which under the terms and conditions of the agreements with a transmitter and (or) a transmitter's instruction has to accept money received in favor of the beneficiary and (or) execute other actions provided for by the instruction or the agreement with a transmitter;

receiving bank - a bank to which an instruction is addressed to make a payment or remittance;

intermediary bank - any bank participating in remittance which is not a bank of a transmitter and a bank of a beneficiary;

beneficiary - a person stated in the order or request as a recipient of funds while making remittance and non-cash payments without remittance;

recoverer - a person who under agreement or by operation of law makes a claim to recover money to be executed by a receiving bank without a transmitter's consent;

remittance originator (hereinafter, originator) - a person who is the first who submits a remittance instruction for execution;

collection order - a method of payment used to withdraw money from a transmitter's banking account without his consent;

clearing - a clearing organization-performed process of collection, reconciliation, assortment and offsetting of counter-claims of the parties to clearing and subsequent determination of their net positions (balance), and execution by the bank of the given actions related to counter claims between its clients;

smart card - a payment card with integrated microcircuit which is used to effect non-cash payment for the goods (works, services), receive cash, make currency exchange and other transactions, as defined by an issuer of the

payment card and on its conditions, and contains information required for a card holder;

national interbank payment cards system - a system of service of interbank transactions by payment cards which is managed by the organization specially constituted by participating banks and is able to assure storage, processing and transfer of necessary information by electronic method with application of smart card technologies to perform nation-wide objectives, as determined by legislative acts of the Republic of Kazakhstan;

trading day - a period of time when a bank accepts remittance instructions and directions to suspend or cancel such instructions from the clients and delivers to them notices connected with remittances in their favor;

sender - a person who sends an instruction connected with payment and (or) remittance, who may also be a transmitter, an originator or a beneficiary;

transmitter - a person on account of whom a payment and (or) a remittance is made;

remittance - sequential performance by the receiving banks of the senders' instructions to remit money relating to payment or other purposes; payment - fulfillment of a pecuniary obligation using cash in hand or without their use by remittance or issue of a payment document containing a pecuniary obligation or an order to pay money;

payment card - means of access to money through electronic terminals or other devices, which contains information enabling a card holder to make payments, receive cash, make currency exchange and other transactions, as defined by an issuer of the payment card and on its conditions;

payment order - a method of payment and (or) remittance under which a sender gives instruction to a receiving bank to remit a designated amount of money in favor of a beneficiary;

request for payment - a method of payment under which a sender's demand to a transmitter is submitted to the transmitter's bank requesting to pay money in the amount stated in such request, based on, and with attachment of, the documents confirming this request;

payment document - a document on the basis of, or with the help of, which payments and remittances are made;

direct debiting of a banking account - a method of payment under which money is withdrawn from a transmitter and transferred in favor of a beneficiary on the basis of the transmitter's prior permission to do so which is effective during a definite period of time and (or) within a definite amount of money;

instruction - an order from a sender to a receiving bank to remit or pay money submitted under contract or by operation of law. Instructions are executed in the form of a payment order or a request for payment;

party to a payment and (or) a remittance - physical persons or legal entities, branches and representative offices of legal entities which have rights and (or) obligations under a payment and (or) a remittance;

cheque - a payment document containing a written order from a drawer of cheque to a receiving bank based on the agreement between them to pay a designated amount of money to the drawer of cheque;

drawer of cheque - a person who draws a cheque;

holder of cheque - a person in favor of whom a cheque was drawn, including a drawer of cheque if a cheque was drawn in its own favor. <*>

Footnote. Article 3, as amended - by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 4. Legislation of the Republic of Kazakhstan on payments and remittances

Legislation of the Republic of Kazakhstan on payments and remittances shall be based on the Constitution of the Republic of Kazakhstan and consist of this Law and other normative legal acts of the Republic of Kazakhstan.

Article 5. Money

1. Money shall be means of payment and accumulation and serve as measure of value.

2. Money shall exist in the form of monetary notes (cash in hand) or in the form of pecuniary obligations of the banks denominated as a record of banking accounts of their clients.

3. Monetary notes shall be issued in the form of banknotes and coins having a nominal value (nominal).

Article 6. Banking Accounts

1. Banking account - a method of representation of contractual relations between a bank and a client as to the receipt of money and (or) banking service of the client.

Banking accounts shall be opened upon conclusion of a banking account agreement and (or) a bank deposit agreement between a bank and a client. The banking account agreement shall be subdivided into a current account agreement and a carte-account agreement.

2. Banking accounts shall be subdivided into current, savings accounts and carte-accounts of physical persons and legal entities, isolated subdivisions of legal entities, and correspondent accounts of the banks.

2-1. Current account - a banking account opened by the bank for the client on the basis of a current account agreement under which transactions are performed related to:

- 1) ensuring availability and use of the client's money by the bank;
- 2) receipt (cash letter) of money in favor of the client;
- 3) performance of the client's instruction to remit money in favor of third persons under the procedure specified in a current account agreement;
- 4) performance of the third parties' instruction to withdraw money of the client on the grounds stipulated in the legislative acts of the Republic of Kazakhstan and (or) the agreement;
- 5) receipt from, and issue to, the client cash under the procedure specified in a current account agreement;
- 6) payment of interest in the amount and under the procedure, as defined in a current account agreement;
- 7) provision, at the request of the client, of information concerning an amount of the client's money on the banking account and transactions performed under the procedure specified in a current account agreement;
- 8) carrying out any other banking service of the client stipulated by the agreement, legislation of the Republic of Kazakhstan and customs of business turnover applicable in banking practice.

Savings account - a banking account opened by the bank for a client on the basis of a bank deposit agreement to perform transactions related to:

- 1) ensuring availability and use of the client's money (deposit) by the bank;
- 2) receipt of money from the client or third parties by both in cash and non-cash method;
- 3) payment of interest in the amount and under the procedure, as defined in a bank deposit agreement;
- 4) paying back of money (deposit) to the client on the conditions set forth in a bank deposit agreement and legislative acts of the Republic of Kazakhstan, including their transfer to the other banking account of the client.

Carte-account - a banking account opened by the bank for a client on the basis of a carte-account to perform transactions related to:

- 1) ensuring availability of the client's money;
- 2) receipt (cash letter) of money in favor of the client;
- 3) client's payments in favor of third parties using a payment card under the procedure specified in a carte-account agreement;
- 4) performance of the third parties' instruction to withdraw money of the client on the grounds stipulated in the legislative acts of the Republic of Kazakhstan and (or) a carte-account agreement;
- 5) receipt from the client cash under the procedure specified in legislation of the Republic of Kazakhstan and (or) a carte-account agreement;

- 6) issue of cash to the client using a payment card;
- 7) payment of interest in the amount and under the procedure, as defined in a carte-account agreement;
- 8) carrying out any other banking service of the client stipulated by the legislation of the Republic of Kazakhstan and (or) a carte-account agreement.

Correspondent account - a banking account opened for the bank in the other bank under a correspondent account agreement under which banking operations of the bank and its clients are performed.

3. Accounts which can not be used to perform transactions stated in item 2-1 of this Article, and accounts representing accounting items in the banks, personal accounts (subitems) which are components of the balance account including loan accounts shall not be banking accounts.

4. In case of levy of execution upon the clients' money in the bank, such levy shall be carried out only from the banking accounts of the clients.

Levy of execution upon money in the correspondent accounts of the banks shall be carried out only for liabilities of the banks themselves.

Footnote. Article 6 - in the edition of the Law of the Republic of Kazakhstan dated March 29, 2000 N 42; as amended - by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482; July 8, 2005 N 69.

Article 7. Methods of Payments and Remittances

1. The following methods of payments and remittances shall be used on the territory of the Republic of Kazakhstan:

- 1) transfer of cash;
- 2) presentation of payment orders;
- 3) issue of cheques;
- 4) issue of bills of exchange and their transfer by endorsement;
- 5) use of payment cards (including smart cards);
- 6) direct debiting of a banking account;
- 7) presentation of requests of payment;
- 8) presentation of collection orders;
- 9) other methods set by the legislation of the Republic of Kazakhstan.

2. Rules and peculiarities of application of the methods of payments and (or) remittances and basic requirements to the content of instructions shall be established by the legislative acts and normative legal acts of the National Bank of the Republic of Kazakhstan. <*>

Footnote. Article 7 as amended - by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 8. Payment Order

Rights and obligations between a sender and a receiving bank connected with the use of a payment order shall be established in the agreement between them, and their actual fulfillment shall arise from the time of submission of a payment order to the receiving bank. Upon receipt of such instruction the receiving bank should accept it or give a reasoned refusal of such acceptance. In case of acceptance of the payment order by the receiving bank, a right of claim shall arise with the sender with respect to the execution of the accepted payment order.

Article 9. Cheque

1. Issue of a cheque - a method of payment under which payment is effected by issue of the payment order of the same name by the drawer of cheque to the holder of cheque.

2. Issue of a cheque shall not be fulfillment of the pecuniary obligation of the drawer of cheque, in fulfillment of which this cheque was drawn. The fulfillment of this obligation shall occur at the time of cashing the cheque.

3. Cheques shall be subdivided into covered and uncovered. Covered shall

be the cheques which are secured by the deposit preliminarily made by the drawer of cheque. Uncovered shall be the cheques which were not preliminarily secured by the deposit. Cheques can contain the bank's guarantee for their payment, including for uncovered cheques.

4. Rights and obligations of the drawer of cheque and the bank shall arise on the basis of the agreement for the use of cheques between the drawer of cheque and the bank. The rights of the holder of cheque shall arise from the time of the receipt of the cheque from the drawer of cheque.

Fulfillment of these rights and obligations shall be carried out from the time of the issuance of the cheque by the drawer of cheque.

The holder of cheque shall have the right of a pecuniary claim towards the bank of the drawer of cheque in the amount stated in the cheque. The bank of the drawer of cheque shall pay a cheque submitted by the holder of cheque or give a reasoned refusal of such payment within the dates stipulated in the normative legal acts of the National Bank of the Republic of Kazakhstan and on the grounds specified in Article 18 of this Law.

Article 10. Bill of Exchange

Application of bills of exchange as a method of payment shall be governed by the laws of the Republic of Kazakhstan on circulation of notes.

Article 11. Payment Card

1. A payment card shall be applied by its holder for the purpose of payment, as well as to receive cash, to perform currency exchange and other transactions on the conditions defined by its issuer.

2. A payment card can be used only in those trading (service) organizations which concluded a respective agreement with the issuing bank or the bank which concluded an agreement with such bank, or the bank servicing payment cards without any agreement with the issuer.

2-1. Trading (service) organizations which are categorized by the Government of the Republic of Kazakhstan shall be liable in making trading operations (providing services) on the territory of the Republic of Kazakhstan to accept payments with the use of payment cards.

3. Rights and obligations of the parties to payment related to the use of payment cards shall arise from the time of the consent of the trading (service) organization to accept payment effected with the use of a payment card.

The trading (service) organization shall have the right of a pecuniary claim towards the bank which concluded a payment card service agreement with such organization, in the amount of payment accepted by this organization. The bank shall become liable to satisfy a pecuniary claim of the trading (service) organization.

Footnote. Article 11 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42; by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 11-1. National Interbank Payment Card System

The general requirements to the functioning of the national interbank payment card system and activities of the special organization of the national interbank payment card system shall be established by the normative legal acts of the National Bank of the Republic of Kazakhstan. <*>

Footnote. The Law is amended by the new Article 11-1 - by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 12. Direct Debiting of a Banking Account

1. A payment by way of the direct debiting of a banking account shall be effected on the basis of the agreement between a transmitter and his bank under which the transmitter gives consent to withdraw money from his banking

account on the basis of a beneficiary's demand for the goods delivered, works performed or services rendered, with the appropriate documents to be enclosed to the aforesaid agreement.

2. Rights and obligations of the transmitter and his bank in effecting payment by way of the direct debiting of a banking account shall arise from the time of the conclusion of the respective agreement between the transmitter and his bank. The bank shall become liable to fulfill the third parties' demands made to the banking account of the client within the amount and (or) a period of time stipulated in the given agreement.

Footnote. Article 12 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 13. Request for Payment

1. A request for payment shall be subject to execution by a transmitter's bank only if the transmitter's acceptance is available.

If a sender submits the request for payment to the transmitter's bank enclosing documents containing the transmitter's consent for non-acceptable withdrawal of money from his banking account, such request for payment shall not require the transmitter's acceptance.

A procedure for the submission of the requests for payment and the requirements relating to the necessity to enclose originals or copies of the documents confirming justification of withdrawal shall be established by the normative legal acts of the National Bank of the Republic of Kazakhstan.

2. Rights and obligations in making payments under requests for payment shall arise from the time of their submission to the transmitter's bank. The transmitter's bank, not later than a business day following the day of the receipt of the request for payment, should transfer the request for payment received to the transmitter for acceptance, except for cases when the request for payment submitted to transmitter's bank does not require the transmitter's acceptance. Upon receipt of the request for payment, the transmitter should accept it or give a reasoned refusal of such acceptance. In case of acceptance of the request for payment by the transmitter or the transmitter's bank, if the request for payment does not require the transmitter's acceptance, a right of claim shall arise with the sender of the request for payment with respect to its execution.

Footnote. Article 13 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 14. Collection Order

1. Withdrawal of money from a client's banking account without his consent shall be made using collection orders on the grounds stipulated by the legislative acts of the Republic of Kazakhstan and under the procedure specified by the National Bank of the Republic of Kazakhstan, based on the order of priority stipulated by the legislative acts of the Republic of Kazakhstan.

2. An originator shall submit a collection order to the transmitter's bank enclosing originals of court orders or their copies confirming justification of this collection on the basis of norms stipulated by the legislative acts of the Republic of Kazakhstan, except for cases submission of collection orders of tax and customs authorities. Requirements relating to the necessity to enclose originals of the documents or their copies shall be established by the National Bank of the Republic of Kazakhstan.

The tax authorities' collection orders to recover indebtedness relating to the compulsory pension payments shall be submitted to the banks enclosing lists of depositors of accumulative pension funds in favor of whom the indebtedness is recovered.

3. The collection order shall contain a purpose of payment and a reference to the legislative act stipulating a right to withdraw money without a transmitter's consent.

In the case of insufficient money on the transmitter's banking account, the tax authorities' collection order to recover taxes payable shall be

executed as money is received on such account.

4. Rights and obligations of the parties to payment shall arise from the time the originator submits the collection order to the transmitter's bank. Upon receipt of such instruction, the transmitter's bank should accept it or give a written reasoned refusal of such acceptance. In case of acceptance of the collection order by the transmitter's bank, a right of claim shall arise with the sender of the collection order with respect to its execution.

5. *(Excluded)*

6. Responsibility for justification of the withdrawal of money without the transmitter's consent shall be born by a recoverer.

Footnote. Article 14 was modified - by the Laws of the Republic of Kazakhstan dated December 28, 1998 r. N 336; March 29, 2000 r. N 42; July 9, 2003 N 482; December 13, 2004 r. N 11 (effective from January 1, 2005).

Article 15. Documents Used in Submitting a Collection Order

A collection order to withdraw money without the transmitter's consent shall be submitted on the basis of writs of execution or orders issued according to the decisions, sentences, rulings and findings of the courts or a court order to collect money.

Footnote. Article 15 - in the edition of the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 16. Acceptance of the Instruction

1. Acceptance of the instruction in the form of the order shall mean a receiving bank's consent to execute a sender's (client's) instruction.

Acceptance of the instruction in the form of the demand shall mean a consent of a transmitter and (or) a receiving bank to execute an originator's demand.

2. Acceptance of the instruction can be denoted by an inscription or a mark on the payment document which expressly indicate execution of this acceptance or by payment of a designated amount by the receiving bank to the sender or a third person, as ordered by him.

Acceptance of the instruction can also be denoted in the form of a signature and a stamp impression (if any).

3. If acceptance of the instruction is made by way of an inscription or a mark on the payment document, or by way of a signature and a stamp impression (if any), then these inscriptions and marks should contain a date and time when they have been executed.

4. The instruction can be accepted without an appropriate inscription, if under the terms of the agreement or legislation of the Republic of Kazakhstan an acceptance should be denoted by actions or otherwise.

5. Acceptance of the instruction or a refusal of its acceptance should be made not later than three business days after the date of receipt of the instruction, except for cases stipulated by Article 38 of this Law and the Tax Code of the Republic of Kazakhstan. <*>

Footnote. Article 16 as amended - by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 17. Rights and Obligations Arisen Upon Acceptance of the Instruction

1. Prior acceptance of the order by the receiving bank, its sender shall be liable to secure an amount of money necessary to execute the order after its acceptance by the receiving bank. In transferring money on the basis of the clearing results, the sender shall be liable to ensure an amount of money necessary to execute his order, only in the case if he has a negative balance.

2. Upon acceptance of the instruction the following rights and obligations shall arise:

1) upon acceptance of the order by the receiving bank, it shall become

liable to the sender as to the execution of the accepted order;

2) upon acceptance of the order by the beneficiary's bank, it shall become liable to receive a designated amount in favor of the beneficiary;

3) upon acceptance of the demand by the transmitter, the beneficiary shall have a right of claim under the accepted demand, and the transmitter shall become liable to fulfill it in favor of the beneficiary;

4) upon acceptance of the demand by the receiving bank, the sender shall have a right of claim under the accepted demand, and the receiving bank shall become liable to fulfill it.

3. The beneficiary's bank shall have a right to set-off in favor of a third person or in its own favor an amount of money stated in the accepted instruction against an amount of liability of the beneficiary to the third person or this bank which became due by the time of the receipt of the instruction by the beneficiary's bank, based on the order of priority of withdrawal money from the bank stipulated by the legislative acts of the Republic of Kazakhstan.

Article 18. Grounds for the Receiving Bank's Non-Acceptance of the Instructions

1. Non-acceptance of the instructions by the receiving bank shall be made:

1) if a sender does not provide an amount of money necessary to make a remittance;

2) if a payment document contains signs of forgery;

3) if a sender does not meet the requirements set by the legislation and (or) terms of the agreement relating to the procedure for drawing up and submission of the instruction to remit money;

4) if other requirements set by the legislation and (or) terms of the agreement are not met.

2. In the case of submission of collection orders without enclosure of one of the documents stipulated in Article 15 of this Law, the receiving bank should refuse from accepting such collection orders.

Article 19. Execution of the Instruction

1. Execution of the instruction by the receiving bank shall be carried out on the basis of its acceptance of such instruction.

Execution of the instruction shall be fulfillment by the receiving bank of its obligations to the sender relating to remittance or payment of money in accordance with the instruction received.

The following actions shall be deemed as execution of the instruction:

1) transfer by the receiving bank to the next receiving bank of the instruction to remit money in favor of a beneficiary, provided that the receiving bank is not the beneficiary's bank;

2) completion of the remittance, if the receiving bank is the beneficiary's bank;

3) issue of cash to the sender submitted the instruction to pay cash, if the receiving bank is the transmitter's bank.

2. Execution of the instruction shall be carried out by the receiving bank subject to conditions of such instruction, unless otherwise is provided by the legislative acts, and not later than a trading day of the receiving bank following the day of acceptance of the instruction received, unless other term of its execution is stipulated by the conditions of such instruction.

If conditions of the execution of the instruction to remit money are inexecutable for the receiving bank or their observance may cause a delay in remittance or additional costs, the receiving bank during one trading day shall be liable to notify the sender of this. Execution of the instructions shall be carried out based on the day and time of their receipt.

Footnote. Article 19 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 20. Peculiarities of Execution of the Judicial Act and Enquiry of the Officer of the Court

1. A judicial act of the court of the Republic of Kazakhstan to collect money from a physical person shall be submitted to the appropriate subdivisions of the National Bank of the Republic of Kazakhstan at the place of judicial examination, except for a case stated in item 6 of this Article.

2. An enquiry of the officer of the court on applying for information concerning existence and numbers of banking accounts of a legal entity and current accounts of a physical person carrying out entrepreneurial activity without establishment of a legal entity, authorized by a public prosecutor shall be submitted to the appropriate subdivisions of the National Bank of the Republic of Kazakhstan at the place of execution of a court order, except for a case stated in item 6 of this Article.

3. Upon receipt of the judicial act or the enquiry of the officer of the court, the National Bank of the Republic of Kazakhstan shall within three business days deliver their copies to all banks for execution.

4. The banks shall be liable not later than a trading day following the day of receipt of these documents to send to the court (the officer of the court) information concerning existence of banking accounts of the persons from whom money is collected, or concerning their non-existence. Information concerning existence of banking accounts should include all necessary details of banking accounts and amount of balances thereof.

5. The court (the officer of the court), upon receipt of this information from the bank, shall designate a bank (banks) which will be entrusted with responsibility to execute the judicial act to collect money, and shall send to such bank (banks) an instruction with enclosure of the respective court order.

6. If the officer of the court has information concerning existence of money on the banking account of the person from whom money should be collected, then an instruction of the officer of the court with enclosure of the respective court order shall be submitted for execution directly to the respective bank escaping a subdivision of the National Bank of the Republic of Kazakhstan .

Footnote. Article 20 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42. New edition - by the Law of the Republic of Kazakhstan dated May 5, 2003 N 409.

Chapter 2. Payments

Article 21. Payments

1. Payments shall be effected on the basis of, and in accordance with, conditions of civil law transactions, norms of legislation of the Republic of Kazakhstan and court decisions.

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

3. Payments in accordance with norms of legislation of the Republic of Kazakhstan and court decisions shall provide their performance on a compulsory basis.

4. Payments shall be effected with the use of cash or without their use (non-cash payments).

4-1. Payments between legal entities for the transaction the amount of which exceeds 4000 monthly index factor shall be effected only on a non-cash basis.

Footnote. Article 21 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42; by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 22. Payment with the Use of Cash

1. Payments in cash shall be effected by transfer of cash in the form of banknotes and (or) coins which are a legal instrument of payment.

2. Payment in cash shall be a physical transfer of banknotes and (or) coins by a person who performs payment (a payer) to a person(s) to whom the payer has liabilities arising by force of circumstances described in item 1 of Article 21 of this Law.

3. Payment in cash can be performed to a person to whom a pecuniary obligation is fulfilled directly or through an intermediary.

Article 23. Non-Cash Payments

1. Non-cash payments shall be effected by way of:

1) issue of the payment document containing a pecuniary obligation or an instruction to pay money;

2) submission of the payment document containing a pecuniary obligation or an instruction to pay money;

3) transfer of the payment document or an e-mail containing an instruction to pay money.

2. Non-cash payments can be performed with the use of a client's banking account or without it under the procedure specified by the laws of the Republic of Kazakhstan.

Footnote. Article 23 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 24. Completion of Payment

1. If a payment is made with the use of cash, then completion of payment shall occur at the time of the receipt of money by a person in favor of whom the payment is made, or an authorized person and (or) a designated person in favor of whom the payment is made.

2. If a payment without use of cash is made by remittance, then completion of payment shall occur at the time of the completion of remittance.

If a payment without use of cash is made by issue of the payment document, then completion of payment shall occur at the time of the receipt of money by a person in favor of whom the payment is made.

3. The conditions of a civil law transaction, an employment contract can provide for the other moment of the completion of payment.

Article 25. Authorized and Unauthorized Payments

1. A payment shall be authorized if it is made by a person who had authority to perform this payment and is not in conflict with the laws of the Republic of Kazakhstan. If a payment is made by remittance, the payment will also be authorized on condition that an instruction has been accepted by the receiving bank subject to the established procedure for protective actions against unauthorized payments.

2. An unauthorized payment shall be a payment effected without compliance with the requirements established by item 1 of this Article. Unauthorized payments shall also be payments with the use of forged payment documents or forged instruments of payment (cash).

Article 26. Protection

1. Unauthorized non-cash payments protection shall be adherence to the related rules set by the legislation of the Republic of Kazakhstan and (or) an agreement between a sender of the instruction and its receiver and consisting of examination of data relating to initiation (authorization) of the instructions or orders, their revocation by the sender and detection of possible errors.

2. A signature of the authorized person(s), stamps, algorithms, codes (digital, alphabetic, with application of symbols and combined), identifier words or identification numbers, encryption, methods of revocation or other protective devices which are not in conflict with the legislation of the Republic of Kazakhstan shall be used as elements of the protective actions.

Article 27. Refund Upon Unauthorized Non-Cash Payments

1. In establishing a fact of unauthorized non-cash payment, a person who received money shall be liable to refund this payment.

2. A procedure, dates and terms of the refund upon unauthorized non-cash payments shall be established in an agreement between a sender and a receiving bank and (or) the legislation of the Republic of Kazakhstan.

Chapter 3. Remittances

Article 28. Ground for Remittance

1. Remittances shall be made on the ground of a sender's instruction to remit money in favor of a beneficiary submitted to the receiving bank.

2. In cases provided in the legislative acts or a relevant agreement, instructions in the form of demands shall be submitted by the third persons which are not clients of the receiving bank.

Article 29. Basic Methods of Remittance

1. A remittance shall be made on the basis of the clearing results or by way of individual execution of each sender's instruction.

2. A remittance on the basis of the clearing results shall occur after completion of the process of offsetting of counter-claims of the parties to clearing. As well, a remittance on the basis of the clearing results shall not necessarily cause withdrawal of money of a party to clearing from its servicing bank. The party to clearing which has a negative balance shall make a payment to settle it.

3. A remittance by way of individual execution of each sender's instruction shall be made irrespective of his rights and obligations arising under any other instructions.

Article 30. Methods of Submission of Instructions to Remit Money

1. Submission of instructions to remit money for their execution shall be carried out by the following methods:

1) by submission of the original payment document in a hard copy;
2) by transfer of the instruction by electronic method, without a hard copy, using adequate electronic communication channels and telecommunications.

3) by other methods set in the normative legal acts of the National Bank of the Republic of Kazakhstan.

2. Submission of instructions by electronic method shall be admitted only if the requirements set by the legislation of the Republic of Kazakhstan are met. If there are no such requirements, uniform rules and (or) customs of business turnover applicable in banking practice shall be used.

3. It is prohibited to submit by electronic method instructions which are required by the laws of the Republic of Kazakhstan to be drawn up and transferred in a hard copy only.

4. Methods, a procedure and terms of the submission of instructions to remit money by a sender to a receiving bank shall be described in the agreement between them, if the sender is a client of the receiving bank. If the sender is not a client of the receiving bank, submission of instructions shall be carried out in accordance with the provisions of this Law and normative legal acts of the National Bank of the Republic of Kazakhstan adopted in accordance with this Law.

Footnote. Article 30 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 31. Time for Receipt of Instructions Upon Remittance

1. Receipt of instructions and orders to revoke or suspend their execution shall be carried out by the receiving bank only during the established trading day.

2. If an instruction or an order to revoke or suspend their execution is received after the end of the trading day, such instruction or the order shall be deemed received by the receiving bank at the beginning of the next trading day.

Article 32. Exchange of Notices Between Senders and the Receiving Bank Upon Remittance

1. Upon remittance, a sender and a receiving bank shall make exchange of notices containing:

- 1) information concerning acceptance or non-acceptance of the instruction;
- 2) information concerning execution of the instruction;
- 3) information concerning erroneous instructions;
- 4) information concerning revocation or suspension of execution of the instruction;
- 5) other information on the remittance.

2. Forms and methods of the exchange of the aforesaid notices shall be established by the agreement between the sender and the receiving bank, unless otherwise determined by the National Bank of the Republic of Kazakhstan.

Article 33. Erroneous Instructions to Remit Money

An instruction to remit money sent by a sender shall be erroneous if it:

- 1) contains requisites which are not in conformity with the requisites of the instruction received from the previous sender;
- 2) transferred repeatedly.

Article 34. Refund Upon Remittance

1. Refund upon incomplete remittance shall be carried out in the following cases:

- 1) if a fact of unauthorized payment made by remittance is established;
- 2) if remittance is made on the basis of a forged payment document;
- 3) in the case of execution of the erroneous instruction.

1-1. Refund upon completed remittance shall be carried out if the erroneous instruction has been executed.

2. Upon refund, each sender involving in the remittance (including an intermediary bank) shall have the right to compensation of expenses related to such remittance and actually incurred as a result of refund. <*>

Footnote. Article 34 as amended - by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 35. Revocation of the Instruction and Suspension of Execution of the Instruction Upon Remittance

1. Unaccepted instruction can be revoked prior to expiration of the term of acceptance.

2. Suspension of the instruction or revocation of the accepted instruction shall be only possible prior to its execution by the receiving bank.

3. Revocation of the accepted and unaccepted instruction and suspension

of the instruction shall be made by its originator by sending a relevant order to the receiving bank. Other senders shall have the right to send such orders only if they have a similar order from the previous sender or a third person authorized to do this by law or under the agreement. The term of execution of such order and methods of its delivery shall be established by the agreement and (or) normative legal acts of the National Bank of the Republic of Kazakhstan.

4. If such orders are sent by e-mail, it would be required to adhere to the procedure for protective actions established by the agreement between the sender of such orders and their receiver.

5. Execution of the accepted instruction should be suspended if the receiving bank, in accordance with legislative acts of the Republic of Kazakhstan, received a decision of an authorized governmental agency or an official to seize money placed on the banking account or suspend expenditure transactions on the banking account of the transmitter or the receiving bank, and a decision of an authorized governmental agency or an official to withdraw money from the transmitter which under the legislative acts of the Republic of Kazakhstan is subject to execution before than the accepted instruction.

The receiving bank shall not be liable for damages related to the suspension of the instruction for the above mentioned reasons.

Footnote. Article 35 was modified - by the Law of the Republic of Kazakhstan dated March 29, 2000 N 42.

Article 36. Completion of the Remittance

The remittance shall be deemed completed from the time:
of making an accounting entry on the beneficiary's banking account upon receipt of money in his favor;
of actual payment of cash to the beneficiary by the beneficiary's bank, if the beneficiary does not have a banking account;
of setting-off, as provided by item 3 of Article 17 of this Law;
of making an accounting entry on the other account proving receipt of money in favor of the client.

Chapter 4. Concluding Provisions

Article 37. Responsibility for Violation of the Rules for Making Payment and (or) Remittances

1. In the case of non-fulfillment or improper fulfillment by the parties to payments and (or) remittances of their obligations connected with payment and (or) remittance of money, they shall bear responsibility for the grounds, under the procedure and in the amount stipulated in the agreement between the parties to these relations and (or) the legislative acts of the Republic of Kazakhstan.

2. If the remittance is not completed, a bank (including an intermediary bank) which did not execute, or improperly executed, an instruction received from the previous sender, shall be liable to him. Herewith, the transmitter's duties to the beneficiary with respect to payment under the civil law transaction shall not be finished, even if this transmitter fulfilled his obligations to remit money, unless otherwise provided by the terms of the civil law transaction between the transmitter and the beneficiary. The transmitter shall not be responsible to the beneficiary for payment under the civil law transaction if remittance was not completed through the fault of the beneficiary's bank.

3. If violation of the rules for remittances in connected with illegal use of another's money by the party to payment and (or) remittance, and with violation of terms of acceptance or execution of the instruction, such party should pay a forfeit provided for by the legislation of the Republic of Kazakhstan to a person whose money is illegally used.

4. A receiving bank shall not bear responsibility if, in making payment, it did not adhere to the procedure for protective actions, but money was

received by the beneficiary:

- 1) stated in the order or the request to remit money;
- 2) within the time-limit acceptable for the beneficiary;
- 3) in the amount stated in the order to remit money;
- 4) and no damage (loss) was inflicted to neither the transmitter nor the beneficiary.

Article 38. Instructions Which are Subject to Execution Within an Indefinite Period

1. If a transmitter does not have or have insufficient amount of money required to execute an instruction, unless otherwise provided by the legislative acts, a receiving bank shall be liable to accept and store within one year the received instructions until an amount sufficient to their execution is received on the banking account of the transmitter or the receiving bank, only in cases stipulated by:

- 1) the agreement between the transmitter and the receiving bank;
- 2) the legislative acts and (or) normative legal acts of the National Bank of the Republic of Kazakhstan.

1-1. If the beneficiary fails to make actions for the provision of necessary documents and information specified by the currency legislation for the Republic of Kazakhstan, the receiving bank shall be liable to accept and store during 180 calendar days instructions received from the sender.

If the beneficiary fails to make actions stated in the first part of this item, within 180 calendar days the receiving bank shall be liable to return back such instruction to the sender without execution.

2. The receiving bank shall execute instructions stated in item 1 of this Article in the calendar order of priority as they are delivered to the receiving bank based on the priority of execution provided in the legislative acts of the Republic of Kazakhstan. The calendar order of priority shall provide for a date and time of the receipt of instruction by the receiving bank.

3. In executing instruction stated in items 1 and 1-1 of this Article, a date and time of acceptance shall be a date and time of execution of such instruction by the receiving bank.

4. If upon the expiry of the term established in item 1 of this Article the sender's instruction is not executed because the transmitter has an insufficient amount of money, the receiving bank shall be liable to return back such instruction to its sender without execution.

This provision shall not be applicable to the collection orders of the tax and customs authorities relating to enforcement of taxes and other compulsory payments to the budget, recovery of compulsory pension contributions to the accumulative pension funds which were not paid within the dates set by the laws of the Republic of Kazakhstan, penalty and fine accrued for non-payment or untimely payment of taxes and other compulsory payments to the budget, compulsory pension contributions.

Footnote Article 38 was modified - by the Law of the Republic of Kazakhstan dated December 28, 1998 N 336; March 29, 2000 N 42; March 13, 2003 N 394; May 8, 2003 N 411; by the Law of the Republic of Kazakhstan dated July 9, 2003 N 482.

Article 39. Ban on Payment or Remittance

Making a payment, issue of an instruction to remit money, execution of an instruction, payment of money to the beneficiary or receipt of money by the beneficiary can be prohibited by the governmental agencies or officials authorized to do so in accordance with the legislation acts of the Republic of Kazakhstan and only on the grounds stipulated by the legislation acts of the Republic of Kazakhstan.

Article 40. International Treaties

If an international treaty ratified by the Republic of Kazakhstan establishes the rules, other than those provided by this Law, the rules of the international treaty.

Article 41. Implementation Measures

As of the date of introduction into effect of this Law, to recognize invalid item 6 of the Resolution of the Supreme Soviet of the Republic of Kazakhstan dated January 30, 1993 *On the Report of the Chairman of the Board of the National Bank of the Republic of Kazakhstan on the Issue Relating to Strengthening of Payment and Credit Discipline in the Republic, Temporary Provisions On Economic Sanctions Imposed for the Violation of the Order of Non-Cash Settlements in the Republic of Kazakhstan and On Sanctions Applied to Commercial Banks for the Violation of Prudential Standards of the National Bank of the Republic of Kazakhstan* approved by the given Resolution (Bulletin of the Supreme Soviet of the Republic of Kazakhstan, 1993, N 4, p.68; Bulletin of the Parliament of the Republic of Kazakhstan, 1996, N 8-9, p.239).

President of the Republic of Kazakhstan