

23 January 2014

To all our clients and friends

INFORMATION MEMORANDUM regarding amendments to RK Licensing Legislation

Kazakhstan introduced certain amendments into legislation on licensing of construction activities¹ in the end of 2013, setting out a new version of the state service standards on execution of licensing documents in the construction sphere.

The amendments mainly affected the procedure for issue of licenses for designing, construction-and-assembly and survey activities, activities on organization of construction of residential buildings on account of attraction of interest-holders' money (hereinafter, the "License" or jointly the "Licenses"), and qualification requirements to persons who want to obtain the said Licenses (hereinafter collectively referred to as the "Service Recipient").

At the same time, the amendments were introduced into a number of normative legal acts regulating specific construction areas (for example, construction of residential buildings on account of interest-holders' funds, etc.) and procedural matters relating to execution of the construction permitting documentation (for example, procedure for the issue of information certificate on determining immovable property item address, duplicate Licenses, etc.)².

In this Information Memorandum we have presented summary analysis of the above amendments.

1. Amendment of the Licenses Obtainment Procedure

The Decree approved State Service Standards for the issue of revised Licenses (hereinafter, the "Standards"), particularly, the key amendments introduced by the Decree are as follows:

1. Change of agencies issuing Licenses. Currently such agencies are the Committee for Construction, Housing and Utilities of the RK Ministry of Regional Development and

¹ Decree No. 1254 of the RK Government "On Introduction of Amendments into Certain Resolutions of the Government of the Republic of Kazakhstan" dated 22 November 2013 (hereinafter, the "Decree"). The Decree is to be put into force upon expiration of twenty one calendar days of the date of its first official publication. The Decree was published in Kazakhstanskaya Pravda newspaper on 19 December 2013.

² The amendments were introduced into the following Decrees of the RK Government: 1) No. 1036 "On Approval of the State Service Standards and Introduction of Amendment into the Decree No. 745 of the RK Government of 20 July 2010" dated 7 October 2010; 2) No. 1128 "On Approval of the State Service Standards "Issue of Information Certificate on Determining Immovable Property Item Address in the RK Territory," "Issue of Architectural-and-Planning Assignment," "Issue of a License, Re-Issue, Issue of a Duplicate of the License for Survey Activities," "Issue of a License, Re-Issue, Issue of a Duplicate of the License for Activities on Organization of Construction of Residential Buildings on Account of Attraction of Interest-Holders' Money" dated 31 August 2012; 3) No. 1530 "On Certain Issues of Licensing of Activities on Organization of Construction of Residential Buildings on Account of Attraction of Interest-Holders' Money and Introduction of Amendments into Certain Resolutions of the RK Government" dated 4 December 2012; 4) No. 89 "On Certain Issues of Licensing of Activities in the Sphere of Architecture, Urban Development and Construction" dated 5 February 2013.



Departments for the State Architectural-and-Constructional Control and Licensing of Oblasts, Astana and Almaty (hereinafter, the "Service Provider"). Furthermore, the Republic State Enterprise on the basis of economic control rights "Public Service Center" of the Committee for Control over Automatization of the State Services and Coordination of Activities of Public Service Centers of the RK Ministry of Transport and Communications (hereinafter, the "Center") was approved as an agency, which accepts the documents for obtainment of Licenses.

2. Establishment of a separate period for issuing a duplicate License – two business days. In this case the period for issue and re-issue of Licenses remains the same – fifteen business days (this period does not include the days when the documents are accepted and issued).
3. Change of the form of the documents submitted by the Service Recipient, confirming compliance with qualification requirements. Now the form consists of one document without necessity to attach numerous tables required previously.
4. Establishment of a new provision stating that in the event a foreign person applies for the License, it is necessary to submit a copy of license or relevant permitting document of a foreign state with appropriate certification for foreign persons.
5. The Decree stipulates that a part of the documents is obtained by the Center employee himself/herself from appropriate state information systems, namely, information on:
 - documents proving identity;
 - state registration of a legal entity;
 - state registration of individual entrepreneur;
 - License.
6. Provisions on the principles of work and work results, which previously established principles of activities of the authorized agencies in the course of provision of services on the issuance of Licenses, as well as the authorized agencies' quality and work efficiency indices, were deleted from the Standards.
7. The new versions of the Standards directly specify the timeframes for consideration of the Service Recipient's complaints, particularly, the Decree states that the *"Service Recipient's complaint received by the Service Provider and Center shall be subject to consideration within five business days of the date of its registration. The Service Recipient shall be informed in writing of the complaint consideration results by post within five business days of its registration."*
8. The Decree introduces other amendments for the purposes of improvement of quality of the documents legal technique and uniformity of decrees of the Government relating to issue and re-issue of Licenses.

2. Amendment of Qualification Requirements

The Decree amended qualification requirements and the list of documents confirming compliance therewith, for carrying out of activities in the sphere of architecture, urban development and construction. The key amendments are as follows:

1. Instead of previously requested copies of documents (for example, copies of contracts, documents confirming specialists' work experience, copies of educational documents, etc.) it is necessary to submit a form containing information on the presence of a particular qualification requirement as the document confirming fulfillment of qualification requirements.

2. The Decree introduced fairly significant amendment with respect to the minimum number of specialists required for obtainment of the License, because previously there was no such provision and many disputes arose in practice with respect to how many specialists would be required to obtain a particular License.
3. The Decree establishes qualification requirements for foreign Service Recipients to work experience and supporting documents (for example, copy of a license or relevant official permitting document of a foreign state with appropriate certification in accordance with the RK Law "On Notary Practice").

Should you have any additional questions in connection with this Information Memorandum, we would be happy to provide you with more detailed information.

Best regards,

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