



On professional unions

Non-official translation

The Law of the Republic of Kazakhstan dated 27 June, 2014 No. 211-V

Unofficial translation

This Law regulates public relations arising as a result of realization of the constitutional right on freedom of associations, creation, activity, re-organization and liquidation of the professional trade unions.

Chapter 1. GENERAL PROVISIONS

Article 1. Basic definitions are used in this Law

The following basic definitions shall be used in this Law:

- 1) a territorial association of trade unions – an association of the trade union on level of district, oblast, city of republican significance and capital;
- 2) a social partnership – a system of relations between employees (representatives of employees), employers (representatives of employers), state bodies is directed on provision of coordination of their interests on questions of regulation of labor and social and economic relations;
- 3) a primary trade union organization – a structural subdivision of the union is located directly in the organization and consisting of union members are being the employees of current organization;
- 4) a local trade union – a voluntary association of employees of one or more organizations are connected by labor, production and professional interests;
- 5) a member of trade union – an individual is voluntarily indicated willingness and entered into the structure of the union, which recognizes and respects its charter, pays trade union membership fees;
- 6) a trade union (trade union) – public association with a fixed membership, voluntarily created on the basis of common labor, production and professional interests of the citizens of the Republic of Kazakhstan for the representation and protection of labor and social and economic rights and interests of its members;
- 7) a trade union body – a body of administration is created in accordance with the charter of the trade union;
- 8) a member organization – trade unions and their associations are included in the structure of the trade union, their associations at the relevant level of social partnership in the manner is determined by this Law, recognizes and respects their charters;
- 9) a republican association of trade unions – an association of branch trade unions, territorial associations of trade unions at the level of oblast, city of republican significance and capital;
- 10) a branch trade union – an association of employees in one branch of activity (species or subspecies of economic activity) and related with it branches, local trade unions are linked by common labor, production and professional interests.

Article 2. Legislation of the Republic of Kazakhstan on the trade unions

1. The legislation of the Republic of Kazakhstan on the trade union shall base on the Constitution of the Republic of Kazakhstan and consist of this Law and the other regulatory legal acts of the Republic of Kazakhstan.

2. If international treaty, ratified by the Republic of Kazakhstan establishes other rules, than those contained in this Law, the rules of international treaty shall be applied.

Article 3. Specialties of appliance of this Law for particular categories of persons.

1. Provision of this Law shall be applied to the citizens of the Republic of Kazakhstan are being in travel orders beyond the Republic of Kazakhstan as well as to the foreigners and stateless persons are residing and working in the Republic of Kazakhstan.

2. Payment of trade union membership fees by foreigners and stateless persons shall be performed on equal conditions with the citizens of the Republic of Kazakhstan.

Article 4. Freedom of creation of trade unions

1. The trade unions shall be created on basis of legal equality of their members. The number of trade unions are created within one branch, the organization shall not be limited.

2. All trade unions shall be provided by equal right possibilities.

3. Obstruction of the creation of the trade unions, opposition of its activity, as well as illegal interference in its affairs shall be prohibited.

Article 5. Principles of creation and activity of the trade unions

1. The trade unions shall be created on production and branch principle.

2. Trade unions independently elaborate and approve charters, structure, determine priority directions of activity, form trade union bodies, organize activities, hold meetings, conferences, congresses and the other measures are not prohibited by the legislative acts of the Republic of Kazakhstan.

3. Trade unions are independent in their activities from the state bodies of all levels, political parties, employers and their associations, are not controlled and are not accountable to them.

4. Trade unions may create associations of the trade unions in manner is determined by this Law.

Article 6. International links of the trade unions

Trade unions shall have the right to cooperate with foreign trade unions and other organizations are working in the scope of protection of the rights and freedoms of the working population, as well as to negotiate agreements on cooperation in accordance with the charter purpose and objectives.

Article 7. Prohibition of discrimination of citizens on the basis of membership of the trade union

1. Membership of the trade union shall not entail any restriction of labor, social and economic, political and personal rights and freedoms are guaranteed by the laws of the Republic of Kazakhstan.

2. Discrimination upon hiring of labor, promotion at labor, and termination of the employment treaty on the initiative of the employer on reason of membership of employee of the trade union, the entry or exit from it shall be prohibited.

3. Impact on persons by threat or other illegal actions to force them to refrain from entering in the trade union, to get out of one union and enter in another or independently to dissolve the trade union shall be prohibited.

Chapter 2. CREATION, RE-ORGANIZATION AND LIQUIDATION OF TRADE UNIONS

Article 8. Creation of the trade unions

1. The trade unions shall be created on the initiative of group of citizens of the Republic of Kazakhstan no less than ten humans are linked by community of their professional interests, are convening the constituent congress (conference, meeting), on which the charter shall be approved trade union bodies shall be formed.

2. Conditions and order of the acquisition and loss of membership shall be determined by the charter of the trade union.

3. The legal capacity of the trade union as the legal entity arises from the moment of state registration.

Article 9. Charter of the trade union

1. The charter of the trade unions shall provide:

- 1) name, location, object and purpose of the activity of the trade union;
- 2) membership, conditions and order of the entry of individuals, membership organizations in the trade union (its associations), exit from it, loss of membership;
- 3) the organizational structure of the trade union;
- 4) the order of formation, competence and terms of powers of the trade union bodies;
- 5) the order, terms of reporting of the trade union bodies and control over their activity;
- 6) rights and obligations of the trade union as well as obligation of performance of made decisions, by the bodies of social partnership and trade unions, membership organization of which it is being;
- 7) sources of the formation of property of the trade union, rights of the trade union administration of property;
- 8) the order of payment of trade union membership fees and their distribution;
- 9) an order of informing of its members on the receipt and expenditure of money;
- 10) the order of making amendments and additions to the charter of the trade union;
- 11) the order for making decision on re-organization and liquidation of the trade union, the fate of the property in case of liquidation of the union.

2. Charter may provide restrictions on membership in other trade unions, as well as other provisions are not contrary to the legislation of the Republic of Kazakhstan.

Article 10. State registration, re-organization and liquidation of the trade union

1. State registration of the trade union shall be performed in accordance with the legislation of the Republic of Kazakhstan on state registration of legal entities and record registration of branches and representatives.

Documents are required for the state registration of the trade union shall be represented in the registration body not later than two months from the date of the performance of the constituent congress (conference, meeting) of the trade union.

2. Before the expiry of six months from the date of registration the republican, territorial associations of trade unions, branch and local trade unions shall represent in the body is registered them, copies of documents are confirming the compliance with the requirements are provided by paragraph 3 of Article 11, paragraph 3 of Article 12, paragraphs 2 and 3 of Article 13 and paragraph 4 of Article 14 of this Law.

3. Non-observance of the requirements are provided by paragraph 2 of this Article shall entail the abolition of the state registration of the trade union in manner is established by the legislation of the Republic of Kazakhstan.

4. The decision of the registration body may be appealed in court manner.

5. Re-organization and liquidation of the trade union shall be performed in accordance with the legislation of the Republic of Kazakhstan

Chapter 3. STATUS OF THE TRADE UNIONS AND THEIR ASSOCIATIONS

Article 11. Republican association of the trade unions

1. Republican association of trade unions shall be an authorized representative of employees, membership organizations in social partnership on the republican level.

2. Republican association of trade unions shall be created by the branch trade unions in other organizational and legal form of a non-profit organization.

3. Republican association of trade unions shall have membership organizations on the territory of more than half of the oblasts, cities of republican significance and the capital.

4. Republican association of trade unions shall promote the provision of legal guarantees of trade union activities on the republican level, the coordination of actions of member organizations in questions of representation and protection of social, labor rights and interests of members of the trade union.

5. The main functions of the republican association of the trade unions:

1) to represent, protect the rights and interests of its membership organizations;

2) elaborate and identify basic directions, strategy of activity of its membership organizations;

3) to promote the development of the system of social partnership on all levels of social partnership;

4) act as a party of social partnership upon negotiation of the general agreement with the republican associations of employers and the Government of the Republic of Kazakhstan, to participate in conversations on the preparation of the project of agreement and its negotiation ;

5) participate in the work of the republican tripartite commission on social partnership;

6) cooperate and assist to the membership organizations in establishing contacts with foreign and international trade unions associations and other organizations are working in the scope of protection of the rights and freedoms of workers;

7) carry out of other functions are directed on the realization of the charter purposes.

6. Republican association of trade unions shall have a right to recommend and approve the model charter of trade unions for its membership organizations.

Article 12. Territorial association of the trade unions

1. Territorial association of trade unions shall be the authorized representative of employees, membership organizations in social partnership at the regional level.

2. The territorial association of trade unions shall be created by the trade unions and their associations.

3. The territorial association of trade unions on the level of oblast, city of republican significance and capital shall enter in the structure of the national association of trade unions as the member organization.

Territorial association of trade unions at the level of district, city shall enter in structure of the relevant territorial association of the trade unions at the level of oblast, city of republican significance and capital as a membership organization.

4. The main functions of the territorial associations of trade unions:

- 1) to represent, protect the rights and interests of its membership organizations;
- 2) promote the development of the system of the social partnership on the regional level;
- 3) act as a party of the social partnership upon negotiation of a regional agreement with the regional associations of employers and local executive bodies of the Republic of Kazakhstan , to participate in conversations on the preparation of the project of agreement and its negotiation;
- 4) participate in work of the regional tripartite commission on the social partnership;
- 5) carry out the other functions are directed on realization of the charter purposes.

Article 13. Branch trade union

1. Branch trade union shall be the authorized representative of employees, membership organizations in the social partnership at the branch level.

2. Branch trade union shall include at least half of the total number of employees of the branch and related with it branches or organizations of branch and related with it branches or have structural subdivision, membership organizations on the territory of more than half of the oblasts, cities of republican significance and capital.

Employees of small business entity shall have a right to create branch trade union in the presence of structural subdivisions, membership organizations on the territory of more than half of the oblasts, cities of republican significance and capital.

3. The branch union shall enter in the structure of the republican association of trade unions as a membership organization.

4. The main functions of the branch trade union:

- 1) to represent, protect labor and social rights and interests of its members, membership organizations;
- 2) promote the development of social partnership at the branch level;
- 3) act as a party of social partnership at the conclusion of branch agreements with the authorized representatives of branch organizations and central state bodies of the Republic of Kazakhstan, to participate in conversations on the preparation of the project of agreement and its negotiation;
- 4) participate in the work of branch tripartite commission on social partnership;
- 5) carry out the other functions are directed on the realization of the charter purpose.

5. Branches and representatives of the branch of the trade union shall be the representatives of the employees on conduct of negotiations on the regional level on behalf and within of the powers of the trade unions.

Article 14. Local trade union

1. Local trade union shall be willfully created by employees of one or more organizations are linked by general labor, production and professional interests.

2. Local union voluntarily shall be willfully created by employees of small business entities, may unite employees of organizations of several species (subspecies) of economic activity.

3. The local union shall be the authorized representative of employees in social partnership at the level of the organization (organizations).

4. The local trade union shall enter in the structure of the branch trade union as a membership organization.

Article 15. Primary trade union organization

1. The primary trade union organization shall be created in organization, consist at least of three people and shall be the structural subdivision of the local or branch trade union without formation of legal entity and authorized representative of employees in the social partnership at the level of the organization.

2. Order of creation, cancellation of activity, rights and obligations of the primary trade union organization shall be determined by the provision on the primary trade union organization in accordance with the charter of local or branch trade union and the legislation of the Republic of Kazakhstan.

Chapter 4. RIGHT AND OBLIGATION OF TRADE UNIONS

Article 16. Rights of the trade unions

1. The trade unions shall have a right to:

1) represent and protect the rights and interests of their members, as well as be the representatives of employees in their mutual relationships with state bodies within their powers, employers, associations of subjects of private enterprise (associations, unions), the other public organizations;

2) sue to the court to protect the rights and interests of their members, to act on their behalf in performance of mediation, in court, labor arbitration or arbitration court, in the state bodies, to render them the other legal assistance;

3) address the state bodies on the canceling of all or part or change of the regulatory legal acts are applied by them are prejudicing the rights and legal interests of trade union members;

4) appeal the acts of the state bodies to the court are prejudicing the rights and legal interests of trade union members;

5) participate in prejudicial settlement of labor disputes;

6) participate in the settlement of individual and collective labor disputes in accordance with the labor legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on mediation;

7) carry out public control over observance of the rights and legal interests of its members in accordance with this Law;

8) hold conversation and negotiate agreements and collective treaties;

9) form cash fund;

10) in structure of committee (commission) on safety and protection of labor to organize joint activities with the employer on provision of the requirements of protection of labor, the prevention of industrial injuries and professional disease, as well as on performance of checks of conditions and protection of labor in the workplaces;

11) participate in elaboration of regulatory legal acts are concerning labor and social

rights and interests of citizens;

12) in accordance with the agreements and collective treaties with observance of the rules of safety and labor protection to visit as their representatives the workplaces of members of the trade union for consideration and appliance of measures on provision of normal working conditions;

13) organize and perform strikes, peaceful meetings, rallies, marches, pickets and demonstrations manner is established by the in the legislation of the Republic of Kazakhstan;

14) make proposal to the state bodies to bring to justice persons are infracting the legislation of the Republic of Kazakhstan on trade unions are not performing obligations are provided by the agreements and collective treaties;

15) engage in publishing activities, to cover its work in print and other mass media, as well as in organizations;

16) have, use and dispose of property is belonging to the trade union on the right of property;

17) carry out of production and business activities in the interests of its members in accordance with the charter purposes.

2. Kazakhstan legislation, collective agreements may establish other rights of trade union.

Article 17. Obligations of trade unions

The trade unions shall:

1) observe the legislation of the Republic of Kazakhstan, provisions of charter, decisions of the trade unions bodies;

2) perform obligation on collective treaty, branch, regional, general agreements;

3) within the authority to take measures on prevention of social and labor conflicts;

4) provide observance of the order of organization and performance of strikes, peaceful meetings, rallies, marches, pickets and demonstrations are established by the legislation of the Republic of Kazakhstan by the members of the trade union;

5) give briefings to members of the trade unions on improving of their legal literacy, as well as the basics of labor legislation of the Republic of Kazakhstan, the development of the ability to hold conversations and reach consensus in labor disputes;

6) promote the observance of the work rules and labor discipline, as well as the rules of safety and labor protection by the employees;

7) inform the members of the trade union on the receipt and expenditure of money on the conditions and in manner are determined by the charter.

Article 18. Protection of labor, social and economic rights and interests of members of the trade union

1. Trade unions shall be independent of the employer and through the trade union bodies shall represent their members in relations with the employer, protect their labor and social rights and interests by:

1) rendering of legal and advice assistance, as well as upon the negotiation of labor treaty with the employer by the member of the trade union;

2) reasoned opinion on the validity of the termination of the labor treaty, coordination of working conditions of its members in accordance with the collective treaty, the Labor Code of the Republic of Kazakhstan;

3) appeal to the court with appealing to protect the rights and interests are protected by the Laws of the Republic of Kazakhstan of its members;

4) negotiation of the collective treaty with the employer on behalf of its members, and its employees are authorized on a treaty basis;

5) participation in the structure of the conciliation commission on consideration of the individual labor disputes, the conciliation commission and labor arbitration upon the consideration of the collective labor disputes.

2. In purpose of protection of the labor, social and economic rights and interests of their members, the trade unions may use all the other methods are not contradict the legislation of the Republic of Kazakhstan.

Article 19. Participation of the trade unions in the social partnership on republican, branch, regional levels and on the level of organization and monitoring of performance of made decisions

1. The trade unions shall participate in the social partnership by:

1) work in a tripartite republican, branch, regional commissions on social partnership and regulation of social and labor relations;

2) elaboration of projects of agreements and collective agreements and their negotiation;

3) consultations (conversations) with employers, their associations (associations, unions), the state bodies on questions of the regulation of labor relations and other directly related with them relations, provision of guarantees of the rights of employees in the scope of labor and improvement of labor legislation of the Republic of Kazakhstan.

2. The decisions, the provisions of collective agreements are accepted by the trade unions shall comply with decisions and provisions of general, branch and regional agreement are adopted by the bodies of the social partnership.

3. Monitoring of the performance of decisions are made by the trade unions shall carry out the trade unions of high level:

1) the decisions are made by the local trade unions - branch trade unions, membership organization of which they shall be;

2) the decisions are made by the territorial associations of the trade unions, branch trade unions - republican associations of the trade unions, membership organization of which they shall be.

Article 20. Carrying out of public control for observance of rights of members of the trade union

1. Trade unions shall carry out the public control for the observance of the rights and legal interests of its members, as well as employees are authorized to represent their interests on the treaty basis.

Public control for observance of labor legislation of the Republic of Kazakhstan shall be carried out in accordance with the Labor Code of the Republic of Kazakhstan.

Opposition and obstruction of the performed public control of the employer shall be prohibited.

2. The trade unions shall participate in the certification of production objects on conditions of labor on a permanent basis.

3. The authorized representative of the trade union shall be included in the structure of the commission on investigation of industrial accidents.

4. In purpose of carrying out of the internal control on safety and protection of labor unions on an equal footing part of the Committee (Commission) on health and safety.

Article 21. Nomination of the union's demands, the organization and strikes, peaceful assembly, rallies, pickets and demonstrations

1. Trade unions have the right to make demands compliance with the procedure and under the conditions defined by the Labor Code of the Republic of Kazakhstan.

2. Trade unions may decide to hold a strike, if by means of conciliation failed to achieve a resolution of collective labor disputes, as well as in cases of deviation from the employer conciliation procedures or failure to comply with the agreement reached during the resolution of the dispute.

It is prohibited to urge workers to continue participating in the strike, is not lawful.

3. Trade unions organize and conduct strikes, peaceful meetings, rallies, marches, pickets and demonstrations in accordance with the laws of the Republic of Kazakhstan.

Article 22. Carrying out of activity in the scope of mass media

The organization and activities of the media trade unions in accordance with the Law of the Republic of Kazakhstan "On mass media".

Article 23. Money funds of the trade unions

Unions may form their own and borrowed funds purses socio-economic purpose intended to finance activities aimed at implementing the statutory goals and objectives of trade unions.

Article 24. Participation in formation of the social policy of the state

Trade unions are developing plans and programs for the social protection of its members, including programs to combat unemployment and to ensure employment, protection of redundant workers, measures to establish a living wage and its observance, indexation of income, higher minimum wages, pensions, stipends and allowances, making them as proposals to the relevant authorities.

Article 25. Warrants of activity of the trade unions

1. It is prohibited any action whose purpose is to directly or indirectly subordinate unions any bodies and organizations or restrict their rights, as well as preventing provided by this Law and the charter of the trade unions.

2. The public authorities, employers (associations, unions) are required to provide information to trade union body on matters relating to the protection of the rights of trade union members, with the exception of information protected under the laws of the Republic of Kazakhstan.

3. In the cases provided for therein, or the collective agreement, the employer deducts the money to the union organization of cultural and sports and recreation activities.

4. For persons released from work due for elected office, for the period of work in elective office saved jobs (positions).

Article 26. Guarantees of the persons elected to trade union bodies and not exempt from basic work

1. Members of the elected trade union bodies, not exempt from work, cannot be subjected to disciplinary action without the reasoned opinion of the trade union body, which they are members. Not exempt from work supervisor (Chairman) trade union body cannot be disciplined

without a reasoned opinion superior trade union body.

2. Dismissal by the employer members elected trade union bodies, not exempt from work, subject to the general order of termination of the employment contract, taking into account the reasoned opinion of the trade union body whose members are those persons, except in cases of liquidation of legal entity or termination of the activities of the employer. Not exempt from work supervisor (Chairman) trade union body cannot be dismissed by the employer without the reasoned opinion the superior trade union body, except in cases of liquidation of legal entity or termination of the activities of the employer.

3. The account of the reasoned opinion the trade union body in the publication of the act of the employer of disciplinary punishment and termination of employment of the persons referred to in paragraphs 1 and 2 of this Article shall be made in accordance with the Labor Code of the Republic of Kazakhstan.

4. Collective agreements can be provided other guarantees for elected members and other union bodies.

5. The members of the trade union bodies to perform public duties in the interests of its members at the time of trade union education, participate as delegates to the congress (conference), convened by the trade unions, as well as in the work of the plenums, the Bureau shall be exempt from work. Conditions of release and the payment procedure shall provide collective agreements.

Chapter 5. Trade unions bodies and trade union membership fees

Article 27. Powers of the trade unions bodies

1. Union members have the right to elect and be elected to trade union bodies in the manner specified by the charter of the union.

2. The powers of trade union bodies are determined by the charter of the union.

3. In accordance with the collective agreements and trade union bodies, employers decide to labor organizations, socio-economic and other issues.

Article 28. Material conditions for the activity trade union bodies

1. Material conditions of the trade union body are determined on the basis of the statute , collective agreement or agreement.

2. Union members have no rights to the leased property and their union dues.

Article 29. Trade union membership fees

1. The union is authorized to collect trade union dues at the place of work and study, without prejudice to the activities of the organization.

2. By agreement of the parties and at the written request of the employee, are members of trade unions and employers at least once a month, not later than the first decade of the next month, transfers to the account of the trade union trade union dues from employees' wages.

3. The trade union dues are the property of the union.

Chapter 6. Property of the trade unions, their economic and financial activity

Article 30. Property of the trade unions

1. Ownership of trade unions forming property created, acquired or transferred to them in accordance with the legislation of the Republic of Kazakhstan.
2. Sources of formation of union property are:
 - 1) trade union dues;
 - 2) voluntary contributions and donations;
 - 3) other not prohibited by the laws of the Republic of Kazakhstan received.
3. Trade unions possess, use and dispose of them by right of ownership in the interests of trade union members.
4. Trade unions are not liable for the obligations of the state, employers, and other entities, which in turn are not liable for the obligations of trade unions.
5. Financial activities of trade unions in accordance with their statutes.

Article 31 Production and Economic Activity of the trade unions

Trade unions have the right to carry out production and business activities to achieve the statutory objectives.

Chapter 7. FINAL AND TRANSITIONAL PROVISIONS

Article 32. Responsibility for violation of the legislation Republic of Kazakhstan on trade unions

Violation of the legislation of the Republic of Kazakhstan on trade unions shall be punishable under the Laws of the Republic of Kazakhstan.

Article 33 Transitional provisions

Trade unions shall, within one year from the date of enactment of this Act to amend the founding documents and the organizational structure in accordance with the requirements of this Law.

Article 34 Order of enforcement of this Law

1. This Law enters into force upon expiry of ten days after date of its first official publication.
2. The Law of the Republic of Kazakhstan dated 9 April, 1993 “On trade unions” shall be considered to have lost force (Bulletin of the Supreme Council of the Republic of Kazakhstan, 1993., No. 8, Article 200; 1995., No. 20, Article 121; Bulletin of the Parliament of the Republic of Kazakhstan, 2002, No. 15, Article 174; 2007., No. 9, Article 67; 2009., No. 8, Article 44; 2013., No. 15, Article 76).

*The President
of the Republic of Kazakhstan*

N. Nazarbayev