

**LAW**  
**OF THE REPUBLIC OF KAZAKHSTAN**  
**ON**  
**MICROLENDING ORGANIZATIONS**

This Law regulates relations connected to performing the activities on extending micro loans, and establishes the specifics of legal status, foundation, operations, re-organization and liquidation of commercial and non-commercial microlending organization.

## **CHAPTER I: GENERAL PROVISIONS**

### **Article 1. Basic Concepts used in this Law.**

The following basic concepts are used in this Law:

- 1) **Borrower** is an individual or legal entity that is the subject of small-scale business under the laws of the Republic of Kazakhstan.
- 2) **Credit File** means all documents and information created by a microlending organization for each borrower and submitted under the signed agreement on microcredit.
- 3) **Microcredit** means the funds extended by a microlending organization to a borrower in the amount and under the procedure specified by this Law;
- 4) **Microlending Organization** means a legal entity engaged in the activity on making microcredits under the procedure specified by this Law
- 5) **Target Microcredit** means a microcredit extended provided that a borrower will use it for specific purposes under the signed agreement on microcredit.

### **Article 2. Legislation of the Republic of Kazakhstan on Microlending Organizations**

1. The legislation of the Republic of Kazakhstan on microlending organizations is based on the Constitution of the Republic of Kazakhstan, and consists of the Civil Code of the RoK, this Law, and other regulations of the Republic of Kazakhstan.
2. The laws of the RoK that regulate the activities of household partnerships, non-commercial organizations including public funds should apply to microlending organizations with regard to the issues not regulated by this Law.
4. If international treaties validated by the RoK establish any rules, other than those provided for by this Law, the rules of international treaty shall prevail.

## **CHAPTER II: MICROLENDING**

### **Article 3. Microlending**

1. A microlending organization provides microcredits in the amount less than one thousand monthly computation indicator set by the Law of the Republic of Kazakhstan on the Republican Budget for the respective fiscal year, per a borrower, but not more than twenty five percent of the microlending organization's capital per a borrower.
2. The procedure and terms and conditions for microlending subject to the requirements of this Law are established by the Procedures of Microlending approved by the supreme authority of a microlending organization, and the agreement on microlending.

A microlending organization may carry out its activities only provided that the procedures of microlending are in place.

3. Interest rate for the use of microcredit should be indicated in annual terms, irrespective of maturity of a microcredit.

### **Article 4. Mandatory Terms and Conditions of Agreement on Microlending and Its Use**

1. An agreement on microlending should be entered into in writing, one of the copy of which should be kept by a microlending organization attached to a borrower's credit file.
2. An agreement in microlending should contain:
  - 1) data on a microleding organization and a borrower, including the full name of a microlenidng organization and last name, first names and father's name or borrower's full name;
  - 2) purpose of a microcredit (when extending a microcredit);
  - 3) total amount of a microcredit being extended;
  - 4) maturity of a microcredit;
  - 5) method of repayment of a microcredit (lump sum or installments);
  - 6) security to ensure performance of borrower's obligations under an agreement on microlending (if any);
  - 7) interest rates, including annual interest rate on a microcredit;
  - 8) parties' responsibilities;
  - 9) other terms and conditions under the laws of the Republic of Kazakhstan;

3. When extending a microcredit, a microlending organization should be entitled to exercise control over its targeted use, and a borrower should be obliged to provide conditions for a microlending organization to exercise such control.

In the event of borrower's failure to fulfill his/her obligations on a targeted use of a microcredit, as well as responsibility provided for by Part 1 of this Clause, a microlending organization should be entitled to renounce an agreement on microlending with regard to the remaining portion of a microcredit and require a borrower to repay a microcredit and interests accrued ahead of schedule.

#### **Article 5. Ensuring Performance of Borrower's Obligations under Agreement on Microlending**

Performance of borrower's obligations under an agreement on microlending should be ensured by the methods specified by the legislation of the Republic of Kazakhstan or an agreement on microlending.

#### **Article 6. Rights and Responsibilities of a Microlending Organization**

1. A microlending organization should have the right to:
  - 1) extend microcredits with or without security including taking property as a collateral against the extended microcredit, under the procedure and on terms and conditions specified by the RoK's laws;
  - 2) require a borrower to submit any information necessary to fulfill obligations under an agreement on microlending;
  - 3) exercise other rights pursuant to the laws of the RoK and a microlending agreement.
  - 4)
2. A microlending organization must:
  - 1) in the event the location of a permanently acting body or the name of a microlending organization is changed, the microlending organization should inform borrowers of this change maximum within thirty calendar days by publishing the announcement in two regional newspapers in Kazakh and Russian or in any other way determined by the microlending organization;
  - 2) place the copy of approved general procedures of microlending in place accessible for observation and familiarization;
  - 3) inform a borrower on the costs related to getting a loan and its servicing, prior to its receipt;
  - 4) inform a borrower on his/her rights and responsibilities related to getting a microcredit;
  - 5) comply with other requirements of the RK's legislation.

## **Article 7. Rights and Responsibilities of a Borrower**

1. A borrower should have the rights:
  - 1) get familiar with the general microlending procedures of a microlending organization;
  - 2) dispose of microcredit in compliance with the terms of a microlending agreement unless otherwise is stipulated by a microlending agreement;
  - 3) exercise other rights provided for by the laws of the RK;
2. A borrower must:
  - 1) repay the microcredit within the time period and under the procedure set forth by the microlending agreement;
  - 2) provide documents and information requested by a microlending organization stipulated by this Law;
  - 3) meet other requirements provided for by the RK's laws.

## **Article 8. Termination of Obligations under a Microlending Agreement**

Obligations under a microlending agreement should be terminated on the grounds provided for by the RoK' laws.

## **CHAPTER III. FOUNDATION AND ACTIVITIES OF MICROLENDING ORGANIZATIONS**

### **Article 9. Legal Status of a Microlending Organization**

1. A commercial microlending organization may be established in a legal form of an economic partnership.
2. A non-commercial microlending organization may be established in a legal form of a public fund. A non-commercial microlending organization should be established exclusively to accomplish the tasks aimed at stimulating the activities performed by legal entities and individuals engaged in small business and provide them with financial support under this Law.
3. A microlending organization should be prohibited from issuing securities.

### **Article 10. Formation of Authorized Capital of Microlending Organization**

1. Founders (participants) of a microlending organization must pay in full the minimum amount of authorized capital of a newly established microlending organization exclusively in cash in the domestic currency of the Republic of Kazakhstan by the time of its state registration.

2. Minimum authorized capital and contributions of all participants of a newly established microlending organization shall be at least one thousand monthly computation indicator set by the law of the Republic of Kazakhstan on the Republican Budget for the respective fiscal year.
3. The rules of this Article should not apply to non-commercial microlending organizations.

### **Article 11. Microlending Organization's Name**

1. The long title of a microlending organization must contain the words “microlending organization” or its derivatives.
2. The short title of a microlending organization must have the abbreviation MKO.
3. A legal entity not registered as a microlending organization shall not be entitled to use in its long title the words “microlending organization”, or any derivatives that could indicate that it performs activity on extending microcredits, or the abbreviation MKO.

### **Article 12. Microlending Procedures**

Microlending procedures must contain the following information:

- 1) terms on which microcredits are provided;
- 2) interest rate limits on loans to be extended;
- 3) procedure on interest payment on microcredits extended;
- 4) requirements with regard to collateral taken by a microlending organization (if available).

Microlending procedures may contain other conditions for extending a microcredit and the information not contradicting to the requirements of the RoK’s laws.

### **Article 13. Internal Control Function**

1. An internal control function should be established to exercise control over the financial and economic activities of a microlending organization.
2. The operational procedure for internal control function of a microlending organization shall be determined by the internal regulations of the microlending organization.

### **Article 14. Additional Types of Activities of Microlending Organizations**

1. Microlending organizations shall carry out the following types of activities, besides microlending:

- 1) attracting loans (except for attracting funds in a form of loans from population as entrepreneurial activity) and grants from residents and non-residents of the RoK;
- 2) investing temporary available assets in government securities, corporate securities, deposits with the 2<sup>nd</sup>-tier banks and other sources, which do not contradict to the laws of the RK;
- 3) performing transactions with pledged property obtained as a security for a microcredit under the procedure provided for by the RoK's laws;
- 4) participating in authorized capital of other legal entities;
- 5) disposing of its own property;
- 6) providing advisory services on the matters related to microlending;
- 7) leasing own property;
- 8) engaging in leasing;
- 9) gratis training.

#### **Article 15. Procedure of Maintaining Records Related to Extended Microcredit**

1. Each microcredit extended shall be recorded by a microlending organization in a registration log of borrowers.
2. To get a microcredit, a borrower should submit the documents specified by Clause 3 of this Article.
3. A microlending organization should maintain a loan file for each extended loan, which is formed from the date when a microlending agreement was signed.

A loan file should contain the following:

- 1) an application signed by a microcredit recipient which contains information of the purpose of microcredit (should a targeted microcredit be provided), the property that may be presented as a security for the repayment of a microcredit with its indicated book value, or stating that there is no collateral);
- 2) copies of founding documents of a borrower (for legal entities) appropriately certified;
- 3) a copy of borrower's ID (for natural persons);
- 4) documents that confirm the authority of a borrower's representative to sign a microlending agreement;

- 5) a microlending agreement;
  - 6) payroll statement from the place of work of a borrower or a statement from an authorized governmental agency stating that the person doesn't have permanent or temporary job (for natural persons);
  - 7) in the event if an extended microcredit is secured with pledge of property, collateral agreement should be submitted.
4. In the cases stipulated by the legislation of the Republic of Kazakhstan, pledge of property that is subject to state registration should be registered with the authority carrying out state registration of such property.
  5. As for a microcredit secured with guarantee or surety, the following documents should be attached to the loan file:
    - 1) agreement of guarantee or surety;
    - 2) documents confirming the authority of a person to sign a guarantee agreement on behalf of a guarantor or a surety agreement on behalf of a surety.
  6. Documents that prove the fact of full or partial repayment of debt on a microcredit should be attached to the loan file and should reflect the source of repayment of a microcredit (money transferred by a borrower or gained from the sale of pledged property).

#### **Article 16. Secrecy of microlending**

1. Secrecy of microlending should include the information of borrowers, the amount of microcredits, of other terms of the microcredit agreement related to a borrower, and of operations of a microlending organization (except for the rules on microlending).  
  
The information on microcredits entered into by a microlending organization under liquidation should not refer to as secrecy of microlending.
2. Microlending organizations should guarantee the secrecy of microlending.
3. The secrecy of microlending may only be disclosed to a borrower, any third party on the basis of a borrower's written consent, as well as to the persons indicated in Clauses 4 and 5 of this Article.
4. The information on borrowers, amount of microcredits, other terms and conditions of microlending related to the borrower, on transactions performed by a microlending organization, shall be provided to:
  - 1) agencies of inquest and preliminary investigation: relative to criminal cases under their proceedings: on the basis of a written inquiry sealed and approved by the Public Prosecutor;
  - 2) courts: relative to the cases under their proceedings – on the basis of court ruling, resolution, decision, and sentence of the court;



- 3) public prosecutor: on the basis of a resolution to conduct a review, within his scope, of a material that he is considering.
  - 4) tax authorities: on the matters related to taxation of the person in question, based on the written order;
  - 5) representatives of a borrower: on the basis of a power of attorney certified by a notary;
5. Information on a borrower, amount of microcredit, of other terms and conditions of a microlending agreement related to the borrower, in the event of borrower's death, except for the persons specified in Clause 4 of this Article, should also be provided to:
- 1) persons indicated in the borrower's will;
  - 2) offices of notary: with regard to the cases of inheritance under their proceedings, on the basis of the notary's written inquiry sealed by him. Copy of the death certificate should be attached to such written inquiry;
  - 3) foreign consular establishments: with regard to the cases of inheritance under their proceeding.

#### **Article 17. Accounting and Reporting**

Accounting and reporting of a microlending organization should be carried out in compliance with the rules of this Law and the laws of the RoK on accounting standards and financial reporting.

#### **Article 18. Documents Safekeeping**

Documents related to the activities of a microlending organization should be safe-kept under the legislation of the Republic of Kazakhstan.

#### **Article 19. Prohibition of Microlending Activities and False Advertisement**

1. Any legal entities, other than banks and organizations that perform certain types of banking operations, that have no legal status of a microlending organization shall not be entitled to perform entrepreneurial microlending activities.
2. Microlending organizations should be prohibited from publishing advertisements of their activities that do not correspond to the facts as of the date of their publication.

#### **Article 5. Reorganization and Liquidation of Microlending Organizations**

Reorganization and liquidation of microlending organizations shall be carried out under the procedure specified by the regulations of the Republic of Kazakhstan.

## **CHAPTER 4:FINAL PROVISIONS**

### **Article 21. Public Supervision Over Activities of Microlending Organizations**

1. Public supervision over the activities of microlending organizations shall be carried out under the procedure specified by the legislation of the Republic of Kazakhstan.

### **Article 22. Responsibility for Violation of the Legislation of the Republic of Kazakhstan on Microlending Organizations**

Any persons who violated the legislation of the Republic of Kazakhstan on microlending organizations shall be held liable under the laws of the Republic of Kazakhstan.

**N. Nazarbaev**  
**The President of the Republic of Kazakhstan**

**Astana, March 6, 2003**