

## ***Chapter 1. Legislative and Institutional Framework of the Housing Sector***

### **A. LEGISLATION**

*Law No. 94-I of 16 April 1997 on Housing Relations* is the main regulatory instrument in the field of housing in Kazakhstan. It regulates matters related to the:

- conditions for the creation and termination of property rights to housing and the exercise of the right to use the homes;
- requirements regarding housing conditions;
- preservation and maintenance of the housing stock;
- establishment and termination of condominiums as a form of immovable property ownership;
- establishment of condominium management methods, as well as those related to the establishment and activities of cooperatives of homeowners (apartments owners) and housing cooperatives (established for the construction of cooperative housing);
- powers of state housing agencies, including control over the observance of citizens' housing rights and use; and
- regulatory aspects of housing, with the participation of “employees of special government agencies” (includes the provision of housing subsidies to some categories of government officials, such as those in military service and similar).

The *Civil Code* (1994)<sup>17</sup> sets out the basis for property rights, including:

- the right to an apartment in a housing co-operative whose members fully pay their share contribution (Article 235);
- the right to a newly created immovable asset (Article 236); and
- the right to own an unauthorized residential construction (house) (Article 244).

The Civil Code also provides the rules regarding the termination of property rights to immovable property, resulting from a decision of a government body to reserve the land upon which a house or any other property of the owner is located (Article 255), and other issues relevant to the housing sector.

The *Land Code* (2003)<sup>18</sup> regulates matters pertaining to land. It defines:

- property rights, land management rights and other land rights;
- land categories; and
- the procedure for land development, state land cadastre maintenance and land monitoring.

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<sup>17</sup> Enforced by Decree of the Supreme Council of the Republic of Kazakhstan No. 269-XII of 27 December 1994.

<sup>18</sup> Code of the Republic of Kazakhstan No. 442 of 20 June 2003.

The Land Code stipulates that land in Kazakhstan is a public domain. Private ownership is possible based on the terms, conditions and limits established by Article 3 of the Land Code. Private ownership of land granted to citizens and non-State entities includes land parcels for the construction of individual housing, and for the construction of residential buildings and their complexes, including land intended for the maintenance of buildings (Article 23). The Land Code determines the procedures for the provision of land parcel for construction, including for individual housing construction and construction within urban areas.

*Law No. 242 of 16 July 2001 “On Architectural, Urban planning and Construction Activity”* has jurisdiction over matters arising between state bodies, individuals and legal entities in the process of the implementation of architectural, town-planning and construction activities in the Republic of Kazakhstan. It is directed at creating a proper human environment, and the sustainable development of inhabited localities and inter-settlement territories. The Law sets out safety requirements for, and outlines the process of control and supervision of, architectural, urban planning and construction activities; and establishes a government system of architectural, urban planning and construction normative documents.

*Law No. 541-IV of 13 January 2012 “On Energy Saving and Energy Efficiency”* governs the area of energy saving and energy efficiency. It defines the legal, economic and organizational frameworks of energy-saving and energy-efficiency activities for individuals and legal entities, as well as the competence of state bodies in this field. The Law stipulates that buildings under design or construction, as well as reconstruction or refurbishment, should comply with the energy-saving and energy-efficiency requirements of the legislation, including:

- listings containing the description of the specific value of loss of energy resources in buildings and construction;
- requirements regarding architectural and space planning, and technological, constructional and engineering solutions for buildings;
- requirements regarding engineering systems and technological equipment used in buildings; and
- requirements regarding technologies and materials that enable the exclusion of irrational (unreasonable) losses of energy resources used in construction (reconstruction, refurbishment) of buildings (Article 11).

In line with the objective to develop construction objects, the Law requires a constructed object that is put into operation to state its energy-efficiency class in the technical certificate of the constructed (reconstructed, repaired) object. The energy-efficiency class of existing buildings is determined by an energy audit. Article 17 of the Law envisages the possibility of providing government support to the owners of residential houses (residential buildings) and individual homes (apartments) to pay for the activities promoting energy saving and improving energy efficiency in housing to ensure the housing conditions are in line with requirements of the Law on Housing Relations.

*Law No. 310 of 26 July 2007 “On State Registration of Rights to Immovable Property”* determines the purposes, tasks and legal basis of state registration of rights to immovable property. This Law defines:

- a list of immovable property rights, which are subject to state registration in the legal cadastre (Unified State Register of registered rights to immovable property) (Article 4);
- the encumbrance of immovable property rights (Article 5);
- the state registration of an object of condominium (Article 39);

- the rights to apartments and other premises included in the object of condominium (Article 40); and
- the necessary condition for the state registration of rights to immovable property, which is the State technical inspection of buildings, along with the assignment of cadastral numbers, and the preparation of technical certificates (Article 18).

## **B. INSTITUTIONAL FRAMEWORK OF THE HOUSING SECTOR**

The Government develops the main areas of the state housing policies and ensures their implementation. It establishes the rules of housing assistance provision and the procedures of public housing stock privatization; and develops the procedures of registration of citizens who need housing, with a view to obtaining housing from the public housing stock or from regional and district authorities (akimats) who rent private housing and provide it to citizens in need of housing.

At the national government level, until May 2017, responsibility for the management of the housing sector was with the *Ministry of National Economy of the Republic of Kazakhstan* (the MoNE), and specifically with its Committee on Construction, Housing and Communal Services (the CCHCS). Then these powers were transferred to the Ministry for Investments and Development of the Republic of Kazakhstan.

The Ministry for Investments and Development is the state executive body which manages the formation and implementation of state policy in the field of architecture, town planning, construction, housing relations, water supply, water disposal, municipal services and management of municipal waste (except for solid domestic waste)<sup>19</sup>, state regulation in the field of water supply and sanitation, heat supply (except for heat, and boiler conducting which provides heat in district heating zones) in settlements, as well as in the field of energy conservation and efficiency. As the authorized body in the field of housing relations, the Ministry coordinates and guides the local executive bodies in the sphere of housing relations. Within its competence, it:

- develops and approves normative legal acts, and normative and technical documentation;
- determines a unified procedure for the implementation of state accounting of the housing stock, approves the technical requirements for housing, and monitors the condition of the housing stock;
- develops and approves a methodology for the distribution of dwellings from the public housing stock or dwellings leased by the local executive body from private housing stock, and the methodology for calculating the amount of payment for the use of housing from the public housing stock; and
- develops rules for, and monitors, the provision of housing assistance.

With regard to the management of condominiums, the Ministry approves the rules for maintaining the common property of condominiums, and develops and approves the methodology for calculating the cost estimates for the maintenance of the common property of condominiums, and the standard provision on housing inspection.

*The MoNE* is the state executive body which manages the areas of strategic planning, tax and budget policy, as well as regional development, local government development, development and support of private entrepreneurship, self-regulation, competition protection and monopolistic activities in the relevant commodity markets, regulation and control in the spheres of natural

<sup>19</sup> Until 2017 this was done by the Ministry of National Economy of the Republic of Kazakhstan.

monopolies, except in the field of telecommunications and universal postal services, state statistical activities and consumer protection, including in the field of activities of natural monopoly entities.

*The Committee for Construction and Housing and Communal Services* of the Ministry for Investments and Development is an agency which, within its competence controls and realizes functions in the field of architectural, town planning and construction activities, housing relations and communal services, and management of municipal waste (with the exception of solid waste). The Committee carries out state regulation of water supply and drainage, and heat (other than thermal power plants and boiler plants carrying thermal energy to district heating zones) within the boundaries of settlements.

*The Committee for Regulation of Natural Monopolies, Protection of Competition and Consumer Rights of the MoNE* is a state body that monitors and regulates the activities of natural monopoly entities, including the approval of tariffs for utilities, and the approval, in cooperation with the relevant state body, of investment programmes (projects) regarding natural monopolies that are taken into account when approving tariffs for regulated ceilings.

*The Ministry of Labor and Social Protection of Population* is the authorized state body for the implementation of state policy in the fields of labour and social security, social protection, provision of social assistance (subsidies for payment of housing and communal services) to certain categories of citizens, including housing assistance to low-income families, and computer services. It:

- approves the procedure for calculating the aggregate income of a person (family) applying for targeted social assistance, and approves (jointly with the authorized body in the field of state statistics) the procedure for calculating the minimum amount of the subsistence;
- establishes the procedures for the calculation of the subsistence level (in cooperation with a competent authority in the field of government statistics);
- determines the poverty threshold;
- develops a social protection action plan;
- makes statistical observations in the sphere of social protection of the population; and
- develops and approves regulations on information systems maintenance, and organizes access to these information systems and databases in the sphere of social security of citizens.

*Legislative branches of the regional and district authorities (maslikhats)* have the responsibility for approving regional/district development plans, respective economic and social development programmes, local budgets and their execution reviews, social assistance rules (including housing assistance), and establishing and identifying a list of individual categories of citizens in need. Further, they approve rules concerning: preparation for the heating season; handling and the protection of green space; and landscaping for cities and settlements developed on the basis of standards approved by an authorized architecture, urban planning and construction agency.

The powers of the maslikhats of regions, cities of significance, and the capital also include:

- submission of approval for schemes regarding district planning of a region;
- approval of master plans for the development of regional centres, cities of significance and the capital city;
- adoption of district plans of administrative areas and cities of and district significance;

- The powers of local maslikhats (of smaller cities and villages) include approving master plans for the development of cities, towns and villages.

*Executive branches (akimats)* of regions, cities of republican significance, the capital, districts, and cities of regional significance have responsibility for providing land parcels for private ownership and for land use, including for housing. They keep a record of citizens in need of housing, and transfer ownership of housing from the municipal housing stock to the citizens of the country under the conditions envisaged by law and according to the procedures determined by the Government. The local executive bodies ensure government control of housing stock management; organize housing inspections to control the activities of condominium management authorities related to the maintenance and proper use of the housing stock; and provide housing assistance to low-income citizens from budgetary funds.

In addition to the ministries and national, regional and local authorities, a number of state enterprises are involved in the management of the housing sector in Kazakhstan.

The JSC “Kazakhstan Centre for Modernization and Development of Housing and Communal Services” was established by a decision of the Government in 2009, with 100 per cent State participation in its authorized capital. The sole shareholder of this JSC is the Committee on Housing and Communal Services. Its main activity is to contribute to the dynamic development of housing and communal services by improving the institutional framework of the industry. It is part of the government innovative development institutions of Kazakhstan. The main activities of the Centre are as follows:

- to increase the investment attractiveness of housing and communal services in order to modernize and develop them;
- to conduct analytical and scientific research, and introduce innovative technologies in the sphere of housing and communal services;
- to identify an optimal model of modernization and development of housing and communal services;
- to implement measures ensuring vocational training in housing and communal services; and
- to introduce modern methods of management of housing and communal services.

The non-profit JSC State Corporation “Government for Citizens”<sup>20</sup> (*Government for Citizens*) has 100 per cent government participation in its authorized capital, and provides public services to citizens and legal entities, including public e-services, in accordance with legislation. It applies the single-window principle in accepting and processing applications for services. *Government for Citizens* was established by merging and transforming the following:

1. Republican State Enterprise (RSE) “Citizen Service Centre” of the Liaison Committee on Informatization and Information of the Ministry for Investments and Development;
2. RSE “Real Estate Centre” of the Ministry of Justice;
3. RSE “Scientific and Production Centre of Land Cadastre” of the Construction, Housing and Communal Services and Land Management Committee of the MoNE; and
4. Republican State-Owned Public Enterprise “State Centre for Pension Payments” of the Ministry of Healthcare and Social Development.

<sup>20</sup> Established in line with Decree of the Government of the Republic of Kazakhstan No. 39 of 29 January 2016 (which took effect on 1 March 2016). The rights of ownership and use of the state-owned share package of Government for Citizens belong to the Ministry of Information and Communication.

Government for Citizens makes technical inspections of buildings, constructions and/or their components, maintains the public land cadastre, and registers pledges of movable property that is not subject to mandatory public registration.

*JSC “Baiterek National Management Holding”* (Baiterek Holding) was established in 2013 in accordance with the Decree of the President of the Republic of Kazakhstan No. 571 of 22 May 2013 “On Some Measures to Optimize the Management System of Development Institutions, Financial Organizations, and Development of the National Economy”.<sup>21</sup> The Government is its sole shareholder. The main objective of Baiterek Holding is to manage the participation shares (owned and in trust) of national development institutions, national companies and other legal entities. Its structure includes 11 organizations, including financial institutions and national companies engaged in projects related to immovable property, housing and construction savings, and in the implementation of the government programme “Regional Development Programme 2020” – the JSC “Housing Construction Savings Bank of Kazakhstan”, JSC “Mortgage Organization “Kazakhstan Mortgage Company”, JSC “Baiterek Development”, and JSC “Housing Construction Guarantee Fund”. Baiterek Holding is an operator that finances housing construction for citizens who are on the housing waiting lists of LEAs and depositors in the Housing Construction Savings Bank.

The *JSC “Housing Construction Savings Bank of Kazakhstan”* is the only bank in Kazakhstan that implements the system of housing construction savings. The system is intended to improve the housing conditions of people by attracting depositors’ money to housing construction deposits and providing depositors with housing loans.

The *JSC “MO” Kazakhstan Mortgage Company”* (JSC “MO” KMC) was established pursuant to the Concept of Long-term Housing Construction Finance and Development of Mortgage Lending in the Republic of Kazakhstan approved by the Government of the Republic of Kazakhstan, № 1290 dated 21 August 2000.

The activities of the JSC “MO” KMC are guided by the main areas of the government policies aimed at increasing housing provision. Pursuant to the Nurly Zher government programme and Development Strategy, the JSC “MO” KMC was appointed as a financial agent/operator for the implementation of activities aimed at improving affordability of mortgage lending through a subsidy tool for partial reimbursement of interest rates on housing mortgage loans provided by second-tier banks, and funding of STBs and financial organizations carrying out some types of banking operations through the acquisition of claiming rights on mortgage loans and mortgage-backed securities of financial organizations. Moreover, the main activities of the JSC “MO” KMC include the provision of rental housing within the framework of previously adopted government programmes.

The *JSC “Baiterek Development”* (Baiterek Development) is an investment company with Baiterek Holding as the sole shareholder. Baiterek Development implements investment projects in the non-primary sector of the economy. It carries out the return of funds allocated for anti-crisis measures, completes the financing of problematic objects of construction in shared construction projects and finances construction housing through the buybacks of the local executive authorities’ (LEA) bonds. Baiterek Development takes part in the implementation of the Nurly Zher State Programme for 2015–2019, which ensures housing infrastructure development, and the Regional Development Programme 2020, which ensures the construction of rental and loan housing.

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<sup>21</sup> Measures to implement this Decree are in Regulation of the Government of the Republic of Kazakhstan No. 516 of 25 May 2013.

The *Housing Construction Guarantee Fund* was created at the end of 2016 by the JSC “*Kazakhstan Mortgage Loans Guarantee Fund*”, which was established in 2003 to increase the availability of mortgage loans to citizens. The established system of mortgage loan guarantees made loans available to citizens, especially to young families who could not afford the high initial payment, as well as to those with low but steady incomes. In 2013, the provision of guarantees for mortgage loans was suspended and, currently, only previously issued guarantees are serviced. Starting from 2016, the main activity of the Fund is to guarantee the completion of a residential housing construction should the construction company fail to fulfil its obligations to the shareholders.

*State “Housing Inspection” institutions* are non-commercial legal entities established by the LEAs of a city of significance, the capital, a district, or a city of regional significance if there are condominium objects in their respective administrative areas. Housing inspection authorities exercise the functions of state control in the sphere of housing management<sup>22</sup> – they control the technical condition of the common property in condominium objects, and its timely maintenance and repair, implement measures for the preparation of residential houses (residential buildings) for seasonal operation, and control the availability of communal heat, electricity, gas and water meters. The housing inspection authority has the power to determine a list, periods and priority of certain types of refurbishment of the common property of a condominium object, and to approve cost estimates for certain types of refurbishment of the common property of a condominium object submitted by the condominium management authority, if such refurbishment is partly financed from the housing assistance provided from the local budget. The housing inspection authority takes part in the preparation of normative and methodical documents for the quality control of the maintenance of residential houses (residential buildings) and adjacent areas, and the provision of public services. It also provides advice to citizens and organizations on the management and maintenance of residential houses (residential buildings) and adjacent areas.

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<sup>22</sup> The standard provisions of housing inspection authorities were approved by the Order of the Minister of National Economy of the Republic of Kazakhstan No. 241 of 20 March 2015.