

List of Legal Acts and Regulations in Kazakhstan

1. The Law of the Republic of Kazakhstan *On touristic activity* No. 211 dated 13 June 2001 as amended on 30 April 2021 ("Tourism Law")

The basis for the tourism accommodation establishments to be classified lies in clause 15-1 of the Tourism Law, introduced to the law in 2008, which sets that tourism accommodations shall be classified to increase the tourism flow and the incomes from the tourism types, and for that the attestation for obtaining classification category shall be under the Classification rules to be issued by the authorized body in touristic activity, i.e. the Ministry of Culture and Sport of the Republic of Kazakhstan. Therefore, The Tourism Law establishes general grounds for the classification of the accommodation, and that classification process is governed by the Classification Rules (see clause 15). It also sets the mandate of the authorized body on touristic activity to approve the Classification Rules (see clause 11.(11)).

The clause 15-1 of the Tourism Law dedicated to establishing the basis for the classification system has never been changed since its introduction in 2008.

2. The *Rules for the Classification of Places of Accommodation for Tourists*, approved by the Order of the Minister of Tourism and Sport ^[2]No. 01-08/2003 dated 11 November 2008 ^[3] ("Classification Rules")

Simultaneously with the amendment of the Tourism Law, the Classification Rules have been elaborated. The Classification Rules provide requirements to tourism accommodation places of different categories, generally describe the classification process by the *confirmation of compliance body (confirmation body)*, and provide the form of the application and questionnaire for the applying businesses. The Classification Rules were developed based on the provisions of the Tourism Law and the Law on Technical Regulation (see clause 1 of the rules).

The content of the Classification Rules suggests that classification shall be made towards the accommodation for tourists, which by definition includes *hotels, motels, campsites, tourist camps, guest houses, rest houses, boarding houses, and other buildings and facilities used for the accommodation of tourists and their service*. Categories are set from 1 to 5 stars, specifically for hotels.

Classification Rules also establish that *certification on classification shall be issued/refused to be issued/revoked/annulled in accordance with the Technical Reglament - Procedures of confirmation of compliance*, approved by the Decree of the Government of the Republic of Kazakhstan No 90 dated 4 February 2008. However, the latter expired in the summer of 2021.

The Classification Rules, having established the criteria for hotels, nevertheless do not provide criteria for other types of accommodation establishments and lack to describe the whole process of getting assessment and certification.

3. The Rules of compliance assessment approved by the Order of the acting Minister of Trade and Integration of the Republic of Kazakhstan No. 433-HK, dated June 29, 2021 ("Rules of Assessment")¹

¹ The Rules of Assessment are available at the link: <https://adilet.zan.kz/rus/docs/V2100023364>

The Rules of Assessment (being the derivative sub-regulation issued under the Law on Technical Regulation), are currently used by the *confirmation bodies* upon their assessment of services (incl. accommodation places) and prescribe detailed process of certification incl. electronic application submission process to the confirmation body, decisions on acceptance of the application, contract conclusion between the applicant and the confirmation body, inspection control over the certified business, registration of the certificate in the register of technical regulation, procedure of issuance of electronic certificate, periodic assessment of the certified service, etc. (see section 2 of the Rules of Assessment – *Certification of the services and processes*).

The Rules establish that assessment shall be provided on compliance of the services (inc. on accommodation) with the requirements set in the *standards (documents of standardization)*, thus, the requirements of national standards are considered. Whereas there is no clear reference in the Rules to an application of the criteria stipulated in Classification Rules. Therefore, the confirmation bodies upon their certification process are guided by the standards (listed in the below item 5 of this section) rather than by the criteria under the Classification Rules.

Obtaining the classification category is provided voluntarily upon the initiative of the applying business and based on the contract concluded between the applying accommodation business and the confirmation body. The validity period of the certificate, as well as periodic re-assessment, shall be established by the confirmation body under the service certification scheme elaborated for specific applicants.

4. The Law of the Republic of Kazakhstan On technical regulation No. 603-II dated 9 November 2004, as amended on 16 April 2019 ("Law on Technical Regulation")

The Law, being the act of a higher level than the Rules of Assessment, basically defines a *confirmation of compliance body*, eligible to provide classification under the Classification Rules, as an independent entity having a staff of *experts-auditors on compliance confirmation* and *accredited* by the authorized state body of the RoK – which is the *Committee for Technical Regulation and Metrology of the Ministry of Industry and Trade of the Republic of Kazakhstan*.

The confirmation body shall be accredited (clause 13(1)) by the body on accreditation in the order established under the law. Only accredited confirmation bodies have a mandate to carry out mandatory and voluntary confirmation of compliance of objects of technical regulation within the scope of accreditation at the request of applicants with the issuance of certificates of conformity and (or) registration of declarations of conformity.

Moreover, there is no requirement that the auditors of the confirmation bodies shall have any specific touristic or hospitality education or experience.

5. The National Standards of the Republic of Kazakhstan, in the area of accommodation services, also establish requirements which the confirmation bodies are using upon certification (assessment) process and the criteria specified under the Classification Rules. The list of standards is specified on page 21 of the *ABEC Proposed Joint Accommodation Classification System of Kazakhstan and the Kyrgyz Republic ("ABEC Report")*.

The current set of standards,² which could be used by the confirmation body upon assessment and by the request of the applicant, include the following standards:

- i) Interstate Standard 28681.4-95 «Tourist & excursion service. Classification for hotels»;
- ii) National Standard 1141-2002 «Tourist and excursion service. Accommodation facilities. Classification and general technical requirements»;
- iii) National Standard 3.7-2015 «The procedure for confirming the conformity of tourist and excursion services and services for the provision of tourist accommodation»;
- iv) Interstate Standard 28681.3-95 «Tourist and excursion service. Requirements for ensuring the safety of tourists and excursionists»;
- v) National Standard 1195-2004 «Tourist and excursion service. Requirements for ensuring the safety of tourists and excursionists»;
- vi) Other standards related to occupational safety, fire safety, sanitary and epidemiological requirements, construction and lighting.

² All texts of the listed standards are available on the website: www.egfntd.kz