

Administrative law of the RK

violation of traffic rules



violation of public order



confiscation



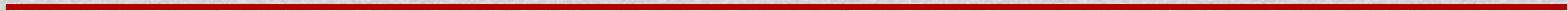
illegal entry of foreigners



violation of the rules of labor



illegal construction



Administrative law is the branch of Kazakhstan legal system that is the totality of legal norms intended for regulation of public relations emerged in the process of implementation of state managerial activities.

Administrative responsibility is the type of juridical responsibility that is expressed in the application of administrative penalties towards an offender (physical person or legal entity) for an administrative offence by an authorized organ (official) in the order established by administrative legislation.

Administrative offence is the wrongful, guilty (intentional or negligent) action or omission of a physical person or wrongful action or omission of a legal entity for which the administrative responsibility is provided by the Code of Administrative offences.

Administrative penalty is the monetary punishment imposed for an administrative offence in cases and limits provided in the articles of the special part of administrative code in amount corresponding to the monthly calculated index established in accordance with legislative act that is actual on the moment of imposing an administrative penalty.

Types of administrative penalties:

- 1) warning;
 - 2) an administrative fine;
 - 3) compensatory seized items which appeared instrument or subject of an administrative offence;
 - 4) confiscation of the object, which appeared a tool or object of an administrative offence, as well as property obtained as a result of an administrative offence;
 - 5) deprivation of a special right;
 - 6) deprivation of license, special permit, qualification certificate (certificate) or a suspension of her (his) actions on a particular activity or perform certain actions, including exclusion from the register;
 - 7) the prohibition of activities of an individual entrepreneur;
 - 8) the forced demolition of illegally constructed or erected buildings;
 - 9) administrative detention;
 - 10) administrative deportation from the Republic of Kazakhstan, an alien or a stateless person.
-

Article 55 General rules for imposition of penalty for an administrative offence

- Administrative penalty must be fair
- Appropriate to the nature of the offence, the circumstances of its commission, the offender.
- When imposing penalty on an individual, the nature of the administrative offence, the identity of the offender, including his behavior before and after the crime, property, circumstances mitigating and aggravating
- In imposing an administrative penalty on a legal entity the nature of the administrative offence, property, mitigating and aggravating circumstances shall be taken into account
- For an administrative offence may be imposed by one basic or primary and secondary (additional) administrative penalty.

Article 56. Circumstances mitigating the liability for an administrative offence

- repentance of guilty
 - prevention by the person he harmful effects of the offence, voluntary compensation and removal of harm caused;
 - committing an administrative offence under the influence of strong emotion or at the confluence of difficult personal or family circumstances;
 - administrative offence by a minor;
 - administrative offence by a pregnant woman or a woman with a child under the age of three years;
 - administrative offence as a result of physical or psychological coercion
 - committing an administrative offence in violation of the conditions of validity of self-defense, the detention of a person who committed an unlawful assault, execution order or instruction;
 - committing an administrative offence for the first time by negligence.
-

Article 57. Aggravating circumstances for administrative offence

- continuation of the wrongful conduct
- re-commit during one year of homogeneous administrative offence
- the involvement of minors in administrative offence;
- involvement in the commission of an administrative offence persons known to be suffering from a severe mental disorder
- committing an administrative offence by reason of national, racial or religious hatred or enmity
- committing an administrative offence against a person or his relatives in connection with the performance of that person's official, professional or social duty;
- administrative offence against a woman known to be in a state of pregnancy, and also against a minor, or other defenseless or helpless person
- committing an administrative offence by a group;
- administrative offence in a natural disaster or other emergency;
- committing an administrative offence of drink, drugs or for abuse of intoxication.

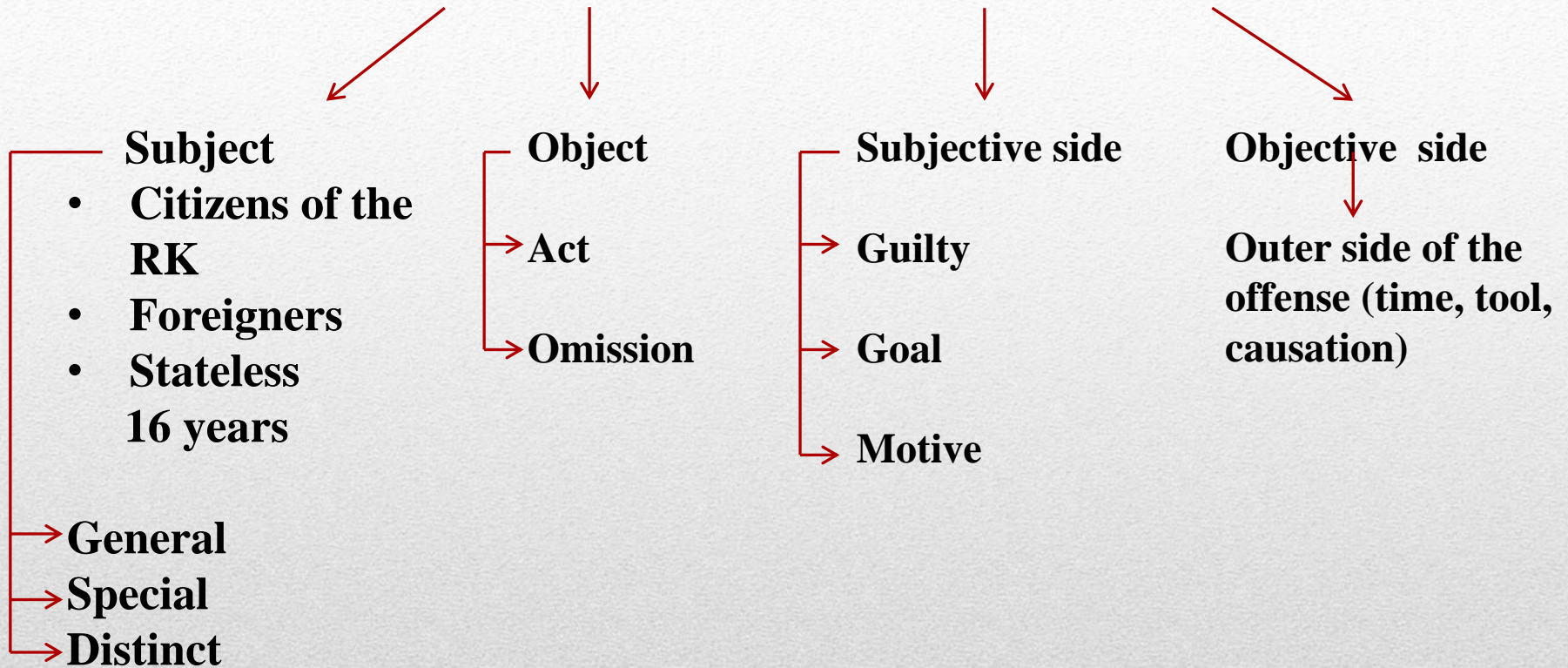
Article 58. Imposition of administrative penalties for committing several administrative offences

1. When one person commits two or more administrative offences administrative penalty is imposed for each offence separately.
2. If a person has committed a number of administrative offences, which are considered by the same judge, body (official), in case of imposing sanctions on the person of the same kind of the final amount of recovery may not exceed three times the maximum limit prescribed by this Code for the species foreclosure. The maximum term of administrative detention in such cases cannot exceed thirty days, and administrative detention imposed for violation of the state of emergency, - forty five days.

Article 59 Compensation for damage caused by an administrative offence

1. The judge, in a case concerning an administrative offence which caused property damage, when deciding whether to impose administrative penalties simultaneously exacts such damage, if there is no dispute about its size
2. Compensation for property damage in cases of administrative offences considered by other authorized bodies (officials), in the event of refusal by a guilty person from his voluntary compensation shall be made in civil proceedings.
3. Requirements for protection of business reputation or moral damage caused by an administrative offence shall be considered on the grounds provided by the Civil Code of the Republic of Kazakhstan.

Structure of administrative offense





- Citizen B. was walking on a street. Suddenly he saw Citizen O. selling vegetables. By asking a questions, he learned that seller has no permission for marketing on public place. Citizen B. gave information about this administrative offence to the government.
 - Question: What will be the punishment of an offender at this situation?
-



- Answer: According to Article 204 of the Code of Administrative Offences of RK if the seller spreads his marketing on a don't allowed places , he(she) should be warned and entail fine on individuals in the amount of five monthly calculation indices.
-



- A car going with the high speed on a road pranged a Citizen A at the pedestrian. Citizen A had injuries on his hand, and sent to the hospital. 7 months after this situation, the offence like this repeated by the offender.
 - Question: What will be the punishment of the offender?
-

- Answer: According to Article 615 of the Code of Administrative Offences of RK in the first part of this article, there is no evidence of the health of the victim of criminal activity caused harm or material damage entails a fine in the amount of ten monthly calculation indices.
-



1 .Marzhan lives on the second floor of the 9-strorey house. Ayaulim lives on the third floor. One day Ayaulim invites her friends to the house,to the party, which lasts until 3 at night.

Marzhan can not sleep because sounds coming out very loudly and she invites the district polices.

What should the district police do?

- The answer is: In accordance with Article 73 of the administrative offense, person, who disturbs the peace of people's home, a house, an apartment or other housing and other actions, if there is no evidence of criminal action should be arrested up to three days to make a reservation entails. The police should arrest her up to 3 days
-



Yerkin would be held this year for the second class. But his father don't allow him to go to school. He loves the studying. Is the father's action against the law?

- The answer is: Yes, in accordance with Article 127 of the administrative offense contrary to a minor, the parents or other legal representatives of the education and training of children –seven perform the duties entails a monthly calculation indices.
-