

## Kazakhstan

Exchange rate: USD 1.00  
equals 123 tenge (KZT)

### Regulatory Framework

2003: Regulation on accounting standards; requires financial institutions including pension funds to use international accounting standards.

2002: Law concerning pension security in the Republic of Kazakhstan (amendment); abolishes the special role of the open pension fund established by the state, stipulates that covered persons who do not choose a fund are not automatically affiliated to the state fund anymore and introduces the right of pension funds to manage assets in-house.

1997: Law concerning pension security in the Republic of Kazakhstan; governs the establishment and operation of pension funds and regulates coverage, contributions and asset management.

### Types of Schemes

All covered persons must become a member of the mandatory private pension scheme through joining a pension fund.

The mandatory private pension scheme is defined contribution and contributions are accumulated in individual accounts.

Members and employers may make voluntary contributions. In the case of employers of employees in certain occupations with harmful work conditions, the employer may make tax-favoured voluntary contributions (known as professional contributions) up to 10% of salary.

Members may choose to join any pension fund without influence of their employer.

**Open pension funds:** Eligible persons may become members of an open pension fund that must accept all

applications for membership from covered persons.

**Closed pension funds:** Employers, singly or as a group, may establish closed pension funds the membership of which is restricted to the employees of the founding employer(s). Closed pension funds must accept all applications for membership from employees of the employer(s) that established the fund.

Employees eligible for membership of a closed pension fund may choose to join any open pension fund instead of the closed fund.

### Institutional Framework

**Open pension funds:** Open pension funds must be established as joint-stock companies by individuals residing in Kazakhstan or legal entities with headquarters in Kazakhstan.

Open pension funds must have a minimum capital of KZT 250 million if they contract the asset management to an asset manager and KZT 500 million if they manage their assets in-house.

Shareholders of open pension funds may be:

- Individuals residing in Kazakhstan;
- Legal entities with headquarters in Kazakhstan;
- The government of Kazakhstan;
- Foreign legal entities if they have a certain rating grade of an internationally recognised rating agency.

No individual or legal entity may directly or indirectly own and/or manage more than 10% of the voting shares of a fund during its foundation and operation except if permission has been granted by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN).

If the shareholders of a pension fund include foreign entities then at least one-third of governing board members of the fund must be citizens of Kazakhstan.

Amendments to the Law concerning pension security introduced in 2002 have abolished the special role of the open pension fund established by the state. This

fund still exists as a normal open pension fund and its privatization is envisaged for the future.

**Closed pension funds:** Closed pension funds must be established as joint-stock companies by employers, singly or as a group.

Closed pension funds must have a minimum capital of KZT 100 million if they contract the asset management to an asset manager and KZT 300 million if they manage assets in-house.

There are no legal requirements concerning member representation in the administration of closed pension funds.

**All funds:** Pension funds must obtain a license from the AFN. The following documents and information must be attached to the license application:

- Copy of the certificate of registration as a legal entity;
- Evidence of the required minimum capital;
- Business plan and organizational structure of the fund;
- Fund rules;
- Documents confirming the appointment of managerial staff approved by the AFN (see below).

In addition, each pension fund must disclose:

- Details of its founders;
- Procedures for defining the investment policy of the fund;
- Any other information requested by the AFN.

Pension funds must not carry out:

- Industrial activity;
- Sale and purchase of property, except sale and purchase and delivery in rent of property acquired for own needs, and trade of financial instruments as prescribed;
- Insurance activity;
- Transfer of pension assets under mortgage;
- Issuance of securities except shares.

The appointment of the following persons that are considered to constitute the managerial staff of a pension fund must be approved by the AFN:

- The head and members of the governing board;

- The chief accountant;
- The board of directors.

The persons belonging to the managerial staff of a pension fund must:

- Have passed a qualification test with the AFN;
- Have higher education;
- Not have any conviction that has not been cancelled;
- Not have been managers of a legal entity that has been declared bankrupt or subject to forced liquidation under their management.

Pension funds manage the benefit administration if the retiree opts for a pension from the fund (see section Retirement benefits). If an annuity is purchased, the benefit is paid by an insurance company.

The State Centre for Benefit Payments collects contributions and transfers them to the respective pension funds.

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## Coverage

### Covered population

**All funds:** All private- and public-sector employees and self-employed persons must become members of the mandatory private pension scheme.

### Enforcement of affiliation

**All funds:** Regulations concerning the affiliation of covered persons who do not comply with the requirement to choose a pension fund for membership are currently being drafted.

Open pension funds must accept all applications for membership from covered persons.

Closed pension funds must accept all applications for membership from eligible employees (see section Types of schemes).

Advertisement and selling of services by pension funds is controlled by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN). The complete text of advertisements must be

submitted to, and approved by, the AFN before publication.

## Financing / Investment

### Sources of funds

#### Member contributions

**All funds:** Employees contribute 10% of salary.

Certain state employees (e.g. military employees and employees of law-enforcement bodies) are not required to contribute.

The self-employed contribute 10% of income but at least 10% of the minimum salary.

The maximum salary/income considered for contributions is 75 times the minimum salary.

The minimum monthly salary is KZT 9,200 in 2006.

#### Employer contributions

**All funds:** Employers do not contribute.

The state contributes 20% of salary for certain state employees who are not required to contribute (e.g. military employees and employees of law-enforcement bodies).

#### Other sources of funds

**All funds:** The state covers the cost of the guaranteed minimum pension.

### Methods of Financing

**All funds:** Funded in individual accounts.

### Asset Management

**All funds:** Pension funds may either manage the assets in-house or appoint a pension asset management company licensed by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN).

Pension asset management companies must be established as joint-stock companies.

The definition of, and requirements for, managerial staff of pension funds (see section Institutional framework) also apply to the managerial staff of asset management companies.

Of total assets invested:

- A minimum of 15% must be in securities issued by the government of Kazakhstan;
- A maximum of 50% may be in securities listed under Category A of the Kazakhstan Stock Exchange and in securities issued by special purpose entities (i.e. bonds issued by subsidiaries of Kazakhstan banks established abroad);
- A maximum of 40% may be in foreign securities rated at least A- by internationally recognised rating agencies;
- A maximum of 40% may be in securities issued by international financial organizations;
- A maximum of 20% may be in bank deposits;
- A maximum of 15% may be in bonds issued by the Development Bank of Kazakhstan;
- A maximum of 5% may be in bonds issued by municipalities;
- A maximum of 5% may be in mortgage-backed bonds.

Pension funds must credit at least a minimum rate of return equal to the inflation rate to the members' individual accounts (i.e. the pension funds must guarantee the real value of the members' accumulated capital).

Fund assets must be kept by a custodian.

### Benefit provisions

#### Preservation, portability, transferability

**All funds:** Covered persons are free to choose to join any open pension fund.

Employees eligible for membership of a closed pension fund may choose to join any open pension fund instead of the closed fund.

Members may switch funds at any time, but they are not allowed to switch more than twice during 1 year.

If employees are members of a closed pension fund

and cease employment with the employer, they must leave the closed fund and join another closed fund (if eligible) or an open fund.

## **Retirement Benefits**

### **Benefit qualifying conditions**

**All funds:** Retirement age is 63 for men and 58 for women.

Early retirement is allowed from age 55 for both men and women provided that the accumulated capital is sufficient to finance a benefit not lower than the minimum pension.

The state guarantees a minimum pension (known as old-age social allowance) for all retirees whose benefit is lower than the minimum pension.

### **Withdrawal of funds before retirement**

**All funds:** Only permitted to members leaving Kazakhstan permanently.

### **Benefit structure / formula**

**All funds:** Defined contribution.

If the accumulated capital is at least KZT 100,000, members may choose between:

- Having their accumulated capital converted into a life long pension calculated based on legally defined conversion charts and payable by the pension fund; and
- Transferring their accumulated capital to an insurance company in order to purchase a life annuity. This option is not available for members whose capital is not sufficient to purchase a life annuity of an amount at least equal to the minimum pension.

If the accumulated capital is less than KZT 100,000, the retiree may receive it as a lump sum.

Certain groups of members (e.g. military employees or women who gave birth to more than 5 children) must purchase an annuity from an insurance company.

The minimum monthly pension is KZT 6,700 in 2006. The state pays the difference between the retiree's benefit and the minimum pension.

## **Benefit adjustment**

**All funds:** Benefits must be adjusted in line with the adjustment of the minimum pension that is defined in the state budget law every year.

## **Survivors**

### **Benefit qualifying conditions**

**All funds:** The deceased member's accumulated capital is inherited according to legal rules.

### **Benefit structure**

**All funds:** A lump sum of 15 times the monthly calculation index is paid out of the accumulated capital to the persons who financed the deceased member's burial.

The monthly calculation index is KZT 1,030 in 2006.

The remainder is inherited by legal heirs.

## **Disability**

### **Benefit qualifying conditions**

**All funds:** Disability benefits are paid to members assessed as fully disabled.

### **Benefit structure**

**All funds:** Fully disabled members receive their accumulated capital as a lump sum.

## **Protection of Rights**

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### **Protection of Assets**

**All funds:** Pension funds are established as joint-stock companies and must keep the assets accumulated in individual accounts separate from their own assets and the assets of their founders.

Fund assets must be kept by a custodian.

### **Financial and Technical Requirements / Reporting**

**All funds:** Pension funds must account for, and report separately on, assets accumulated in the members' individual accounts and their own assets.

Pension funds must submit monthly, quarterly and yearly financial reports to the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN). The yearly financial reports must be audited by an independent auditor whose report must be submitted together with the reports.

Financial reports must consist of:

- The balance sheet;
- A report on the cash flow;
- A report on the flow of equity;
- Income statement;
- A report on net assets and changes thereof;
- An investment report.

Pension funds that do not achieve the prescribed minimum rate of return (see section Asset management) must make up any shortfall from their own assets. The founders of closed pension funds are also liable for shortfalls.

If an asset management company manages the assets, the company must make up the remaining deficit from its own capital. If any of these companies are able to cover the shortfall, the government covers any remaining deficit in the case of closed pension funds.

### Whistleblowing

**All funds:** Custodians must not execute any order that violates legal requirements and must immediately inform the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN) of such an event.

### Standards for service providers

**All funds:** Custodians must be commercial banks licensed by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN) and be independent of the pension fund for which they perform custodial services.

Auditors must be licensed by the Ministry of Finance and be independent of the pension fund for which they perform auditing services.

### Fees

**All funds:** The state defines upper limits on the fees that pension funds may charge. Annual fees must not exceed:

- 0.5% of contributions received; and
- 15% of investment income.

### Winding up / Merger and acquisition

**All funds:** Pension funds may be wound up on a voluntary basis after a decision by the general meeting of shareholders and obtaining approval by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN), or by a court decision upon application by the AFN (see section Regulatory and supervisory authorities).

If a pension fund is wound up, a liquidation commission must be established of which one member must be a representative of the AFN. Members and retirees receiving pension benefits from the fund must choose another pension fund to which their accumulated capital must be transferred.

The creditors of pension funds that are wound up are satisfied only after the accumulated capital of members and retirees has been transferred to other pension funds of their choice.

Any transformation (e.g. merger, acquisition, division) must be based on a decision of the general meeting of shareholders and approved by the AFN. The approval must not be granted if the transformation would:

- Violate the interests of members or retirees;
- Create market concentration violating antimonopoly legislation.

A new license must be obtained after a pension fund transformation.

### Bankruptcy: Insolvency Insurance / Compensation Fund

**All funds:** Pension funds must insure the accumulated assets with an insurance company. Whether member's assets are to be fully or partially insured depends on member's choice.

In case of insolvency of an insurance company that provides annuities, annuitants have priority in the distribution of the assets of the insurance company. A government guarantee operates to cover any shortfalls.

### **Disclosure of information / Individual action**

**All funds:** Pension funds must provide members with information on their contributions and accumulated capital at least once a year.

Pension funds must publish annually certain legally prescribed financial information in the mass media.

### **Other measures**

**All funds:** None.

### **Tax Treatment**

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#### **Taxation of member contributions**

**All funds:** Tax-exempt.

#### **Taxation of employer contributions**

**All funds:** Employers do not contribute.

#### **Taxation of investment income**

**All funds:** Tax-exempt.

#### **Taxation of benefits**

**All funds:** Taxed.

### **Regulatory and Supervisory Authorities**

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**Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN):** Licenses and supervises pension funds, asset management companies and custodians.

If the AFN detects a violation of legal requirements by a pension fund it may:

- Issue a written instruction directing the pension fund to cease the violation;
- Present the issue to the general meeting of shareholders and propose the dismissal of the pension fund's managerial staff to the shareholders;
- Impose penalties;
- Suspend and, if necessary, withdraw the license of the fund.

The AFN may suspend the license of a pension fund in case of:

- Systematic (i.e. 3 or more times during 12 consecutive months) nonfulfilment or improper fulfilment of the pension fund's obligations arising from the contracts with its members;
- Systematic (i.e. 3 or more times during 12 consecutive months) violation of rules issued by the AFN;
- Violation of legal requirements or nonfulfilment of written instructions of the AFN;
- Nonsubmission, or submission of manipulated, financial reports.

The suspension of the license must be published in the mass media and results in the prohibition to accept new members.

If a pension fund does not rectify the reasons for the suspension of the license within 6 months, the AFN may withdraw the license and apply to a court for the pension fund to be wound up.

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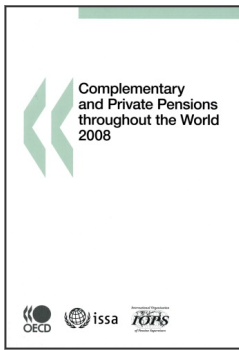


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**From:**  
**Complementary and Private Pensions throughout  
the World 2008**

**Access the complete publication at:**  
<https://doi.org/10.1787/9789264048829-en>

**Please cite this chapter as:**

OECD/International Social Security Association/International Organisation of Pension Supervisors (2008), "ASIA & PACIFIC - Mandatory (Information valid at 01-07-2006): Kazakhstan", in *Complementary and Private Pensions throughout the World 2008*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264048829-61-en>

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