

## KAZAKHSTAN

On 24 June 2002 the Republic of Kazakhstan adopted a law on franchising (Law No. 330 of 24 June 2002 concerning the Integrated Business Licence (Franchise)). It is not a disclosure law, it deals with the franchise agreement and with the duties of all those identified as involved in franchise relationships.

The Law has 24 articles. A general header states that it regulates relations that are connected with the exercise of the integrated business licence or franchise, that it defines the contents of the contract and is directed to the development and promotion of franchise activities in the Republic of Kazakhstan on the part of the State. Article 1 contains definitions of the terms that are used in the law. Article 2 indicates the legal basis upon which the legislation on franchising is based, namely the Constitution, and states that any international treaty which conflicts with the provisions of the Law shall prevail.

The subjects of franchise relationships are both physical persons and legal entities. The legislation regulating investments shall apply to both of these categories, as shall the legislation regarding the State promotion of small entrepreneurship where matters not dealt with in the Law are concerned (Article 3).

The Law provides for a number of principles that shall apply to the promotion of franchise relationships by the State, including the co-ordinated interaction of State bodies when they promote franchise relationships (Article 4). Article 5 lists the measures that the State bodies may take to promote franchising. These include the elaboration and implementation of programmes for the development and promotion of franchise relationships, the elaboration and improvement of regulatory legal acts dealing with the development and promotion of franchise relationships, and the providing of consulting services for the carrying out of franchise activities.

The Law provides for compensation to be provided for damage suffered by the subjects of franchise relationships as a result of the issuing by State bodies of acts that are inconsistent with the legislation of the Republic, and as a result of illegal actions or omissions on the part of the officials of those bodies (Article 6). Article 8(1), on the other hand, specifically states that the subjects of franchise relationships shall have the right to become acquainted with the legal acts, court decisions and other acts pertaining to the exercise of the franchise.

Article 9 deals with the registration of intellectual property, and Article 10 with the franchise agreement. The Article specifies what the contract shall and may provide for. Article 12 divides the participants in a franchise relationship into the parties to the contract and third parties such as banks and licence brokers, the latter of which are defined in Article 13. Article 14 lists the rights of the franchisor and Article 15 the franchisor's obligations,

whereas Article 16 lists the rights of the franchisee and Article 17 the franchisee's obligations.

Article 18 provides for information relating to the intellectual property rights of the franchisor to be transmitted to the potential franchisee and for the confidential treatment of such information. Article 19 refers to the protection of other information which is transferred under the agreement, and specifies in paragraph (4) that State bodies and their officials shall have no right to demand access to the confidential commercial information that is transferred under the agreement, except as regards data that is necessary for the fulfilling of the supervising, controlling, registration or other functions attributed to those bodies by legislation.

Article 20 specifies the different types of franchising covered by the concept "integrated business licence". These include, *inter alia*, development agreements (referred to as "the multiple integrated business licence (franchise)") and what are called "trade integrated business licences", under which the franchisor "shall transfer to the franchisee the right to sell (market) goods (work, services) under its trade mark or other mean of individualisation with the use of the marketing technology which is provided by the franchisor or established in co-ordination with it". Article 21 deals with accounting and financial reports, Article 22 with the supervision of the observance of the legislation concerning the franchise, Article 23 with responsibility for its infringement and Article 24 with the settlement of disputes between the subjects of the franchise relationship.

The Russian text of the Law is available on the web site of ЮрИнфо (YurInfo) at <http://base.zakon.kz/>. An English translation of the Law may be requested from Mr Igor Loskutov at YurInfo: tel.: (3272) 509067, 509042, fax: (3272) 509068, e-mail: [iloskutov@zakon.kz](mailto:iloskutov@zakon.kz) or [lo@zakon.kz](mailto:lo@zakon.kz).