

Law of the People's Republic of China on the Administration of the Use of Sea Areas

(Adopted at the 24th Meeting of the Standing Committee of the Ninth National People's Congress on October 27, 2001 and promulgated by Order No. 61 of the President of the People's Republic of China on October 27, 2001)

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Chapter I General Provisions

Article 1 This Law is enacted for the purpose of strengthening the administration of the use of sea areas, safeguarding State ownership of the sea areas and the legitimate rights and interests of the sea area users, promoting rational development and sustainable utilization of the sea areas.

Article 2 For the purpose of this Law, the sea areas refer to the sea surface, water volume, seabed and subsoil of the inland waters and territorial seas of the People's Republic of China.

The inland waters in this Law refer to the sea areas extending from the landward side of the territorial seas of the People's Republic of China to the coastline.

This Law shall be applicable to any exclusive activities relating to the continuous use of a specific sea area over three months within the inland waters or territorial seas of the People's Republic of China.

Article 3 The sea areas are owned by the State, and the State Council exercises the right of ownership in the sea areas on behalf of the State. No entity or individual may seize, buy or sell the sea areas or illegally transfer them in other ways.

Any entity or individual that intends to use the sea areas is required to obtain the right to their use in accordance with law.

Article 4 The State applies the system for marine function zoning. The sea areas shall be used in conformity with the marine function zoning.

The State exercises strict control over the activities relating to the use of the sea areas that may alter their natural attributes, such as filling sea areas and reclaiming land from them.

Article 5 The State establishes an information system for the administration of the use of sea areas in order to oversee and monitor the use of the sea areas.

Article 6 The State establishes a registration system for the right to the use of sea areas. Such right shall, once registered in accordance with law, be protected by law.

The State establishes a statistics system for the use of the sea areas and periodically issues the statistics of such.

Article 7 The department in charge of marine administration under the State Council shall be responsible for supervision over the use of the sea areas nationwide. The departments in charge

of marine administration under the local people's governments at or above the county level shall, as authorized, be responsible for supervision over the use of the sea areas adjacent to their administrative regions respectively.

The department in charge of marine administration shall, in accordance with the Fisheries Law of the People's Republic of China, conduct supervision over marine fishery.

The maritime administration authority shall exercise supervision over maritime traffic safety in accordance with the Maritime Traffic Safety Law of the People's Republic of China.

Article 8 All entities and individuals are obligated to abide by the laws and regulations on the administration of the use of the sea areas and have the right to report violations of such laws and regulations and bring complaints about them.

Article 9 People's governments shall reward the entities and individuals that have achieved outstanding successes in protecting and rationally utilizing the sea areas and in scientific research in this field.

Chapter II Marine Function Zoning

Article 10 The department in charge of marine administration under the State Council shall, in conjunction with the departments concerned and the people's governments of coastal provinces, autonomous regions, and municipalities directly under the Central Government work out marine function zoning plans.

The departments in charge of marine administration under the coastal local people's governments at or above the county level shall, in conjunction with the departments concerned of the people's governments at the same level, work out the local marine function zoning plans on the basis of such plans worked out at the next higher level.

Article 11 Marine function zoning plans shall be worked out on the following principles:

- (1) scientifically defining the functions of the sea areas in light of such natural attributes as their geographical location, natural resources and natural environment;
- (2) making overall arrangements for the use of sea areas among various related sectors according to the needs of economic and social development;
- (3) protecting and improving the ecological environment, ensuring the sustainable utilization of the sea areas and promoting the development of the marine economy;
- (4) ensuring the maritime traffic safety; and
- (5) safeguarding the security of national defense and guaranteeing the needs in the military use of the sea areas.

Article 12 Marine function zoning plans shall be subject to examination and approval by different levels.

The national marine function zoning plan shall be submitted to the State Council for approval.

The marine function zoning plan of a coastal province, autonomous region or municipality directly under the Central Government shall, after examination and consent by the people's government of the said province, autonomous region or municipality, be submitted to the State Council for approval.

The marine function zoning plan of a coastal city or county shall, after examination and consent by the people's government of the said city or county, be submitted for approval to the people's government of the province, autonomous region or municipality directly under the Central Government where the city or county is located, and reported to the department in charge of marine administration under the State Council for the record.

Article 13 With regard to alteration of a marine function zoning, a proposal for alteration shall be put forward by the department that works out the plan for the zoning, in conjunction with the departments concerned at the same level, for approval by the original approving department. In the absence of such approval, no functions of the sea areas defined by the marine function zoning may be altered.

Where marine function zoning that needs to be altered for public interests, security of national defense or construction of large-scale energy, traffic or other infrastructures shall be subject to approval by the State Council, and the alteration shall be made according to the documents of approval issued by the State Council.

Article 14 A marine function zoning plan shall, upon approval, be made known to the public except for the parts relating to State secrets.

Article 15 Plans for aquaculture, the salt industry, communications, tourism and other industries that involve the use of sea areas shall be made in conformity with the marine function zoning .

The overall plan for the utilization of coastal land, urban planning and port planning that involve the use of sea areas shall be dovetailed with the marine function zoning.

Chapter III Application for, Examination and Approval of the Use of Sea Area

Article 16 Any entity and individual may, for the use of sea areas, apply to the department in charge of marine administration under the people's government at or above the county level.

To apply for the use of sea areas, the applicant shall submit the following written materials:

- (1) an application for the use of sea areas;
- (2) feasibility assessment of the use of the sea areas;
- (3) relevant credit certifying papers; and

(4) other written materials specified by laws and regulations.

Article 17 The department in charge of marine administration under the people's government at or above the county level shall, on the basis of the marine function zoning, examine applications for the use of sea areas, and shall, in accordance with the provisions of this Law and the regulations of the people's government of the province, autonomous region, or municipality directly under the Central Government, submit the applications for approval to the people's government invested with the approval authority.

When examining applications for the use of sea areas, the department in charge of marine administration shall solicit opinions from the departments concerned at the same level.

Article 18 Use of sea areas for the following projects shall be subject to examination and approval by the State Council:

- (1) a project that involves filling of more than 50 ha. of a sea area;
- (2) a project that involves enclosure of more than 100 ha. of a sea area;
- (3) a project that involves the use of more than 700 ha. of a sea area without altering the natural attributes of the area;
- (4) major national construction projects; and
- (5) other projects specified by the State Council.

The authority for examination and approval of the use of sea areas for projects other than the ones specified in the preceding paragraph shall, with the authorization of the State Council, be defined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Chapter IV Right to the Use of Sea Areas

Article 19 Where the use of a sea area is approved by the State Council after the application for its use is approved in accordance with law, it shall be registered with the department in charge of marine administration under the State Council, which shall issue to the applicant the certificate of the right to the use of sea areas; where the use of a sea area is approved by a local people's government, it shall be registered with the said government, which shall issue to the applicant the certificate of the right to the use of sea areas. The applicant shall, beginning from the date he receives the certificate, obtain the right to the use of the sea area.

Article 20 Apart from the manners in which to obtain the right to the use of sea areas in accordance with the provisions of Article 19 of this Law, such right may also be obtained through bidding or auction. The plan for bidding or auction shall be formulated by the department in charge of marine administration and submitted to the people's government invested with the examination and approval authority for approval before it is implemented. When formulating the plan for bidding or auction, the department in charge of marine administration shall solicit opinions from the departments concerned at the same level.

Once the bidding or auction is completed, the certificate of the right to the use of sea areas shall be issued to the winning bidder or the vendee. The winning bidder or the vendee shall, beginning from the date he receives the certificate, obtain the right to the use of the sea area.

Article 21 Issuance of the certificate of the right to the use of sea areas shall be made known to the public.

For issuance of the certificate of the right to the use of sea areas, no fees other than the ones for the use of sea areas may be collected in accordance with law.

Measures for issuance and administration of the certificate of the right to the use of sea areas shall be formulated by the State Council.

Article 22 Where, prior to implementation of this Law, sea areas are already used for aquaculture under the operation and administration of rural collective economic organizations or villagers committees, if it conforms to marine function zoning, the right to the use of such sea areas may, upon examination and approval by the local people's government at the county level, be granted to the rural collective economic organizations or villagers committees. Members of the collective economic organizations may contract to use such areas for aquaculture.

Article 23 The right of the owners of the right to the use of sea areas to utilize the areas and to get profits in accordance with law shall be protected by law; no entity or individual may infringe upon their right.

Owners of the right to the use of sea areas are obligated to protect and rationally utilize the sea areas in accordance with law. They may not impede the non-exclusive use of sea areas that does not interfere with their use of the sea areas in accordance with law.

Article 24 During the period when they use the sea areas, no owners of the right to the use of sea areas may, without approval according to law, engage in marine basic mapping.

When owners of the right to the use of sea areas find that a major change has occurred in the natural resources and conditions of the areas they are using, they shall, without delay, report the matter to the departments in charge of marine administration.

Article 25 The maximum period for the right to the use of sea areas shall, on the basis of the purposes of their use, be determined as follows:

- (1) 15 years for aquaculture;
- (2) 20 years for ship dismantling;
- (3) 25 years for tourism and recreation;

(4) 30 years for the salt and mining industries;

(5) 40 years for public welfare undertakings; and

(6) 50 years for construction of ports, shipyards and other projects.

Article 26 Where at the expiration of the period for the right to the use of the sea areas, the owner of the right needs to continue to use the area, he shall, no later than two months prior to the expiration date, apply for extension to the people's government that originally gives approval. Except where it is necessary to revoke the right for the benefit of public interests or State security, the people's government that originally gives approval to the use of the sea area shall approve the application for extension. The owner of the right who obtains approval for extension shall, in accordance with law, pay fees for the use of the sea area for the extended period.

Article 27 Where the owner of the right to the use of a sea area is altered owing to merger into or separation from another enterprise or because of running joint ventures or cooperative businesses with others, the matter shall be subject to approval by the people's government that originally gives approval to the use of the sea area.

The right to the use of sea areas may be transferred in accordance with law. Specific measures in this regard shall be formulated by the State Council.

The right to the use of sea areas may be inherited in accordance with law.

Article 28 No owners of the right to the use of sea areas may, without authorization, change the approved purposes of use of the sea areas. Where it is really necessary to change the purposes, the matter shall, under the prerequisite that the change accords with the marine function zoning, be submitted for approval to the people's government that originally gives the approval to the use of the sea areas.

Article 29 Where at the expiration of the period for the right to the use of sea areas, the owner fails to apply for its extension or the application for extension is not granted, such right shall be terminated.

After the termination of the right to the use of sea areas, the former owner of the right shall dismantle the facilities and structures that may cause pollution to the marine environment or impede the use of the areas for other projects.

Article 30 To meet the need of public interests or State security, the people's government that originally gives approval to the use of certain sea areas may, in accordance with law, revoke the right to the use of those areas.

Where in accordance with the provisions of the preceding paragraph, the right to the use of sea areas is revoked before the expiration of the period for their use, the owner of the right shall be compensated appropriately.

Article 31 Where a dispute arises over the right to the use of a sea area and the parties fail to settle it through consultation, it shall be mediated by the department in charge of marine administration under the people's government at or above the county level. The parties may also directly take legal proceedings in a People's Court.

Prior to the settlement of the dispute, none of the parties may change the status quo in respect of the use of the sea areas.

Article 32 The land brought into existence after completion of a sea-filling project shall be owned by the State.

The owner of the right to the use of a sea area shall, within three months from the date the sea-filling project is completed and by presenting the certificate of the right to the use of sea areas, apply to the department in charge of land administration under the people's government at

or above the county level for land registration. The said people's government shall register it and issue to the owner in return the certificate of the right to the use of land so as to confirm such right.

Chapter V Fees for the Use of Sea Areas

Article 33 The State applies a system of compensation for the use of sea areas.

For the use of sea areas, all entities and individuals shall pay fees in accordance with the regulations of the State Council. The fees collected shall be turned over to the Treasury in accordance with the regulations of the State Council.

Specific implementation ways and measures for collecting fees from the fishermen who use the sea areas for aquaculture shall be formulated separately by the State Council.

Article 34 In light of the different nature and circumstances in which the sea areas are used, the fees may, in accordance with regulations, be paid in a lump sum or on an annual basis.

Article 35 Where the sea areas are used for the following purposes, the fees for their use shall be exempted:

- (1) for military purposes;
- (2) reserved docks for official ships;
- (3) non-profit transportation infrastructures such as navigation channel and anchorage; and
- (4) non-profit, public welfare undertakings such as teaching, scientific research, disaster prevention and mitigation, and search, rescue and salvage at sea;

Article 36 In accordance with the regulations of the department of finance and the department in charge of marine administration under the State Council, the fees for the use of the sea areas for

the following purposes may be reduced or exempted upon examination and approval by the department of finance and the department in charge of marine administration under the people's government that has the approval authority:

- (1) public utilities;
- (2) major national construction projects; and
- (3) aquaculture.

Chapter VI Supervision and Inspection

Article 37 The department in charge of marine administration under the people's government at or above the county level shall strengthen supervision over and inspection of the use of sea areas.

The department of finance under the people's government at or above the county level shall strengthen supervision over and inspection of the collection of the fees for the use of sea areas.

Article 38 The department in charge of marine administration shall build a stronger contingent by raising the political and professional level of the supervisors and inspectors in the administration of the use of sea areas. The said supervisors and inspectors shall enforce laws impartially, be devoted to their duties, honest and upright, provide services with civility and subject themselves to supervision in accordance with law.

No department in charge of marine administration or its staff members may participate or engage in production and operation activities related to the use of sea areas.

Article 39 When performing its duties of supervision and inspection, the department in charge of marine administration under the people's government at or above the county level shall have the right to take the following measures:

- (1) requesting the entities or individuals under inspection to provide the documents and information relating to the use of sea areas;
- (2) requesting the entities or individuals under inspection to give explanations on the issues relating to the use of sea areas;
- (3) entering the sea areas occupied by the entities or individuals under inspection for on-the-spot survey;
- (4) instructing the party concerned to discontinue the illegal act that is being conducted.

Article 40 When performing their duties of supervision and inspection, supervisors and inspectors shall show their effective papers for law enforcement.

The entities and individuals concerned shall cooperate with the department in charge of marine administration when the latter conducts supervision and inspection, and none of them may prevent supervisors and inspectors from performing their duties in accordance with law, or impede their doing so.

Article 41 When enforcing laws at sea, the departments concerned that exercise the power of marine supervision and administration in accordance with the provisions of laws shall closely cooperate with and support each other in and jointly safeguard the State ownership of the sea areas and the legitimate rights and interests of the owners of the right to the use of sea areas.

Chapter VII Legal Liabilities

Article 42 Entities or individuals that, without approval or with approval obtained through deception, illegally occupy sea areas shall be instructed to return the illegally occupied sea areas and restore them to their original state, their illegal gains shall be confiscated, and they shall also be fined not less than 5 times but not more than 15 times the fees payable for the sea areas during the period of their illegal occupation. Entities or individuals that, without approval or with

approval obtained through deception, enclose or fill sea areas shall, in addition, be fined not less than 10 times but not more than 20 times the fees payable for the sea areas during the period of their illegal occupation.

Article 43 Where entities that have no approval authority illegally approve the use of sea areas, or entities that have such authority but gives approval beyond their limits of authority or at variance with the marine function zoning, the approval documents are invalid and the sea areas illegally used shall be recovered. The persons directly in charge who illegally approve the use of the sea areas and the other persons directly responsible shall be given administrative sanctions in accordance with law.

Article 44 Where any entity or individual, in violation of the provisions of Article 23 of this Law, interferes with or obstructs the lawful use of sea areas by the owner of the right to use of such areas, the owner of the right may appeal to the department in charge of marine administration for removal of the interference or obstruction, he may also take legal proceedings in a People's Court in accordance with law. If losses are caused, the owner may ask for compensation according to law.

Article 45 Anyone who, in violation of the provisions of Article 26 of this Law, continues to use the sea area without going through the relevant formalities at the expiration of the period for the right to the use of the sea area shall be instructed to go through the formalities within a time limit and may also be fined not more than RMB 10,000 yuan. If he refuses to go through the formalities, he shall be deemed to be a person who illegally occupies a sea area and be punished as such.

Article 46 Anyone who, in violation of the provisions of Article 28 of this Law and without authorization, changes the purposes of use of the sea area shall be instructed to rectify within a time limit, his illegal gains shall be confiscated, and he shall also be fined not less than 5 times but not more than 15 times the fees payable for the sea area during the period in which the

purposes of use of the sea area is illegally changed. If he refuses to rectify, the people's government that issues the certificate of the right to the use of sea areas shall revoke the certificate and the right to the use of sea areas.

Article 47 Where the provisions of the second paragraph of Article 29 of this Law are violated, the right to the use of sea areas shall be terminated, and if the original owner of the right fails to dismantle the facilities and structures for the use of the sea areas in accordance with regulations, he shall be instructed to do so within a time limit. If he refuses to do so at the expiration of the time limit, he shall be fined not more than 50, 000 yuan and the department in charge of marine administration under the people's government at or above the county level shall entrust a relevant unit to do the dismantling, and the owner shall bear the expenses arising therefrom.

Article 48 Where the owner of the right to the use of sea areas who should pay the fees for such use on an annual basis fails to do so on schedule in violation of the provisions of this Law, he shall be instructed to pay the fees within a time limit; if he still refuses to pay the fees within the time limit, the people's government that issues the certificate of the right to the use of sea areas shall revoke the certificate and the right to the use of sea area.

Article 49 Any entity or individual that, in violation of the provisions of this Law, refuses to accept supervision and inspection by the department in charge of marine administration, to give a truthful report or provide relevant information shall be instructed to rectify and be given a disciplinary warning, and may also be fined not more than 20,000 yuan.

Article 50 The administrative sanctions provided for by this Law shall be determined by the department in charge of marine administration under the people's government at or above the county level within the limits of its power, except where there are already provisions in this Law that specify the penalizing authority.

Article 51 Where the department in charge of marine administration under the State Council or under the people's government at or above the county level issues the certificate of the right to the use of sea areas in violation of the provisions of this Law, or fails to conduct supervision after issuance of the certificate, or fails to investigate and deal with the illegal activities it discovers, the persons directly in charge and the other persons directly responsible shall be given administrative sanctions in accordance with law. The persons who engage in malpractice for personal gain, abuse their powers or neglect their duties, which constitutes a crime, shall be investigated for criminal liabilities in accordance with law.

Chapter VIII Supplementary Provisions

Article 52 For use of a special sea area within the inland waters or territorial seas of the People's Republic of China for less than three months, and for use of the sea areas for exclusive activities, which may have a major impact on the security of national defense, maritime traffic safety or other uses of the sea areas, formalities shall be completed for the issuance of a provisional certificate for the use of sea areas through application of the relevant provisions of this Law *mutatis mutandis*.

Article 53 The administrative measures for military use of the sea areas shall be formulated by the State Council and the Central Military Commission on the basis of this Law.

Article 54 This Law shall go into effect as of January 1, 2002.