

# PUBLIC WATERS MANAGEMENT ACT

Act No. 848, Dec. 19, 1961

Amended by Act No. 1632, May 2, 1964

Act No. 1746, Feb. 23, 1966

Act No. 4216, Jan. 13, 1990

Act No. 5338, Apr. 10, 1997

Act No. 2886, Dec. 31, 1975

Act No. 5111, Dec. 29, 1995

Act No. 5453, Dec. 13, 1997

## Article 1 (Purpose)

The purpose of this Act is to provide matters necessary for the conservation, utilization, and management of the public waters in order to contribute to the public welfare by preventing or lessening pollution or advancing utilization thereof. [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

## Article 2 (Definitions)

1. The term "public waters" in this Act means the state-owned oceans, rivers, lakes, and other surfaces or streams of the water and shores used for the public: Provided, That those applied or applied mutatis mutandis to the Acts concerning rivers are exempted. <Amended by Act No. 5338, Apr. 10, 1997>
2. The term "shores" as prescribed in paragraph 1 means the space from the high-water mark to the area registered on the public land registered. <Amended by Act No. 5338, Apr. 10, 1997>

[This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

## Article 3 (Government Management Office)

The public waters falling under any one of the following subparagraphs shall be managed by the Minister of Maritime Affairs and Fisheries (hereinafter referred to as "central management office") and other public waters shall be managed by the Seoul Special Metropolitan City Mayor, Metropolitan City Mayor or Do governor (hereinafter referred to as "local management office"):

1. The public waters within the special area designated by the provisions of Article 6 . 2 of the Act on Comprehensive Plans for Construction in National Territory;
2. The public waters within the national industrial complex designated by the provisions of Article 6 of the Industrial Sites and Development Act; and
3. The public waters within the port or harbor area designated by the Presidential Decree.

[This Article Wholly Amended by Act No. 5338, Apr. 10, 1997]

## Article 4 (Permit on Occupation or Use)

1. Any person who intends to do any one of the following actions shall obtain the relevant permit from the Management Office as prescribed by the Presidential Decree: Provided, That this provision shall not apply to the case where the permission is already obtained under the Public Waters Reclamation Act: <Amended by Act No. 5338, Apr. 10, 1997>
  - A. In a case where a ship anchor, a dock, a dolphin fender, a temporary cargo area, a trestle, a bridge, a shore protection, a breakwater, a protection embankment, conduit band, a sluice, a pier, a lock gate, mooring facilities or other facilities are intended to be newly constructed, remodeled, altered, or gotten rid of;
  - B. In a case where the land immediately neighboring the public waters is intended to be excavated below the water level of the waters;
  - C. In a case where the public waters are intended to be cleaned off or excavated underneath;
  - D. In a case where water is intended to be taken from or infused into the public owned waters;

- E. In a case where clay, gravels, silts or sands are intended to be taken from the waters or plants are intended to be cultivated on or taken from the public owned waters;
  - F. In a case where the quality of the water of the public waters is to be remarkably damaged or other actions apprehended to be pernicious to the national health are intended to be done;
  - G. be thrown into the public waters or other actions which can influence the depth of the public waters are intended to be done;
  - H. In a case where occupation is intended of a shore protection, a breakwater or other facilities, as designated by the Presidential Decree, which belong to the State or a local government; and
  - I. In a case where occupation of the public waters is intended in cases other than those as prescribed by the previous subparagraphs.
2. If the central management office intends to give the permit(s) as prescribed by the provisions of paragraph 1, he shall consult with the head of the relevant central administrative agency under the Presidential Decree. <Amended by Act No. 2886, Dec. 31, 1975; Act No. 5338, Apr. 10, 1997>

[This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

**Article 5 Deleted. <by Act No. 1746, Feb. 23, 1966>**

**Article 6 (Public Notice, etc.)**

- 1. Having given the permit(s) under the provisions of Article 4 . 1, the government management office shall give a public notice of it.
- 2. The person who has received the permit(s) as provided in Article 4 . 1 shall put up a poster enlisting the contents of the permit(s) at an easily noticeable place.

[This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

**Article 7 (Collection of Occupation Rent, etc.)**

- 1. The management office may collect the rent or fee for the occupation or use from the person who has received the permit(s) under the provisions of Article 4 . 1: Provided, That in case of the permit(s) relevant to the occupation or use falling under any one of the following subparagraphs, the rent or fee for the occupation or use may be reduced or exempted: <Amended by Act No. 5338, Apr. 10, 1997>
  - A. Occupation or use for the non-profit business operation for the purpose of the public use or public interest; and
  - B. Occupation or use for the purpose of picking and quarrying and dredging earth and stones attendant on the reclamation work where an operator of industrial complex development project under the Industrial Sites and Development Act reclaims the public waters for the industrial complex development projects.
- 2. The rent for the occupation or the fee for the use as provided in paragraph 1 shall be either the revenue of the national treasury or that of the concerned local government if it is by the permit given by the central management office, or by the local management office, respectively. <Amended by Act No. 2886, Dec. 31, 1975; Act No. 5338, Apr. 10, 1997>
- 3. In a case where the occupation rent or the use fee as provided in paragraph 1 is not paid by the due date, it may be collected by the examples of disposition on national tax in arrears.
- 4. The provisions of paragraph 1 shall apply mutatis mutandis to the case where the public waters have been occupied or used without the permit.

[This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

**Article 8 (Transferral, etc. of Rights and Responsibilities)**

- 1. The rights and responsibilities coming from the permit(s) under the provisions of Article 4 . 1 may be transferred or succeeded to as prescribed by the Presidential Decree.
- 2. When the rights and responsibilities are transferred or succeeded to as provided in paragraph 1, the transferee or the successor shall be regarded, for the application of this

Act, as the person to whom the permit is given under this Act. <Amended by Act No. 5338, Apr. 10, 1997> [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 9 (Prohibited Behavior)**

Nobody is permitted to do any one of the following actions with regard to the public waters without a justifiable reason or reasons:

1. The action of throwing into the public waters any noxious substance or the corpse of an animal;
2. The action of opening or closing the water-gate or other facilities of the public waters; and
3. The action of inflicting a damage or the action apprehended to be possible to inflict a damage on the water-gate or other facilities of the public waters.

[This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 10 (Removal of Obstacles)**

The management office, when admits the capsized or sunken ships or other objects are apprehended to be in the way of the efficient operation of the public waters, may order the occupant of the public waters under consideration to get rid of the capsized or sunken ships or other objects. [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 11 (Restoration, etc. of Original State)**

1. The person who received the permit(s) under the provisions of Article 4 . 1 of, in a case where either the period of the permit is over or the occupation or use is renounced, shall restore the public waters to its original state by means of removing the constructions, equipments, facilities, clay, gravels, or other objects installed on or around the public owned waters: Provided, That in a case where the restoration of the original state cannot or need not be done, it may not be done with the approval, for not doing so, of the management office.
2. When the restoration of the original state is deemed to be impossible or not necessary to be done in such a case as provided in paragraph 1 or in such a case as the public waters are occupied and used without the government permit, the constructions, equipments, facilities, clay, gravels, or other objects on or around the public waters concerned can be turned free of charge into the property of the State or a local government. <Amended by Act No. 5338, Apr. 10, 1997> [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 12 (Limitation or Prohibition of Use)**

1. The management office may put a limitation on or prohibit the use of the public waters when it is deemed to be necessary for the preservation of or the prevention of potential damages against the public owned waters.
2. Having taken the disposition as provided in paragraph 1, the management office shall put up a poster which has enlisted the contents of and the reason(s) for the disposition and, at the same time, give a public notice of the disposition. This provision shall also apply to the case where an alteration of the contents of the disposition or the cancellation of the disposition is intended to be done. <Amended by Act No. 5338, Apr. 10, 1997> [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 13 (Dispositions Taken for Public Interest)**

In one of the following cases, the management office may take such disposition as cancelling the permit, ordering temporary suspension of the permit, or ordering remodelling of relevant constructions, etc.: <Amended by Act No. 1746, Feb. 23, 1966>

1. In a case where such a disposition is necessary due to a change in the situation of the public waters;

2. In a case where such a disposition is necessary in order to remove or lessen the danger(s) against the public interest; and
3. In a case where such a disposition is necessary for the kind of businesses for which the land can be expropriated or used.

#### **Article 14 (Compensation for Loss)**

1. In a case where the disposition(s) as provided in the provisions of Article 13 incurs any loss for any person, the management office shall compensate for the loss. <Amended by Act No. 5338, Apr. 10, 1997>
2. In order to compensate for the loss as provided in paragraph 1, the management office must consult with the person suffering the loss.
3. In a case where the consultation as provided in paragraph 2 does not lead to an agreement, the management office may, as prescribed by the Presidential Decree, ask for the adjudication of the Land Tribunal as provided in the provisions of Article 28 of the Land Expropriation Act. <Amended by Act No. 5338, Apr. 10, 1997>
4. In a case where the adjudication is passed out by the Land Tribunal, the adjudication shall be regarded the same thing as the agreement reached through the consultation as provided in the provisions of paragraph 2.
5. In such a case as provided in subparagraph 3 of Article 13, the management office may have the business owner compensate for part or all of the loss. The provisions of paragraphs 2 through 4 shall apply mutatis mutandis to this case. <Amended by Act No. 5338, Apr. 10, 1997> [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 15 (Dispositions Taken over Violator of Acts and Subordinate Statutes)**

With regard to the person falling under any one of the following subparagraphs, the management office may cancel the permit, order temporary suspension of the permit, order the restoration of the original state, order the prevention of the loss or damage, order the installation of certain facilities, or take other dispositions:

1. The person who violated against this Act or against the orders or dispositions under this Act;
2. The person who obtained the permit as provided in this Act by an illegitimate means; and
3. The person who has appropriated and used, used or exploited the public waters without the appropriate permit obtained. [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

#### **Article 15-2 (Hearing)**

In a case where the management office intends to cancel the permit for occupation and use as provided in Article 4 pursuant to the provisions of Article 15, it shall hold a hearing. [This Article Newly Inserted by Act No. 5453, Dec. 13, 1997]

#### **Article 16 (Inspection, etc.)**

1. When it is deemed to be necessary for proper control of the public waters, the management office may have the relevant public officials come in and out of the business site or office of the appropriator and user of, or, the user of the public waters, or any other necessary places, and then, inspect the relevant documents, etc. or ask the person(s) concerned questions necessary for the investigation.
2. When it is deemed to be necessary, the management office may have the relevant public officials come to the land of a third party, and then measure or investigate the land.
3. As for the case as provided in paragraphs 1 and 2, the relevant public official shall carry a certificate indicating his authority with him and shall show it to the relevant person(s). <Amended by Act No. 5338, Apr. 10, 1997>
4. Necessary matters relating to certificate of authority as provided in paragraph 3 shall be determined by the Ordinance of the Ministry of Maritime Affairs and Fisheries. <Amended by Act No. 5338, Apr. 10, 1997> [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

### **Article 17 (Delegation of Authority)**

Part of authority belonging to the management office under this Act may be delegated to the Commissioner of Local Maritime Affairs and Fisheries Office or the local management office under the conditions as prescribed by the Presidential Decree. <Amended by Act No. 5338, Apr. 10, 1997> [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

### **Article 18 (Penal Provisions)**

The person falling under any one of the following subparagraphs shall be punished by a fine not exceeding one hundred thousand won:

1. The person who violates the provisions of Article 4 . 1 or 9; and
2. The person who obtains the permit as prescribed by this Act in an illegitimate manner. [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

### **Article 19 (Idem)**

The person falling under any one of the following subparagraphs shall be punished by a fine not exceeding fifty thousand won:

1. The person who violates the order by the management office under the provisions of Article 10, 13, or 15;
2. The person who violates the provisions of Article 11 . 1; and
3. The person who violates the provisions of Article 12 . 1. [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

### **Article 20 (Idem)**

The person falling under any one of the following subparagraphs shall be punished by a fine or minor fine not exceeding five thousand won:

1. The person who fails to put up the poster as prescribed by Article 6 . 2; and
2. The person who interferes, refuses or avoids the entry or the inspection as provided in Article 16 . 1. [This Article Wholly Amended by Act No. 1746, Feb. 23, 1966]

### **Article 21 (Enforcement Decree)**

The matters necessary for the enforcement of this Act shall be determined by the Presidential Decree.

### **ADDENDA**

1. This Act shall enter into force on the date of its promulgation.
2. The Chosun Public Waters Acquisition Rules shall be rescinded.
3. When the permit was obtained, under the former acts and subordinate statutes, at the time of enforcement of this Act, for the matter for which the provisions of this Act requires the acquisition of a permit, it shall be regarded as the one obtained under this Act.

### **ADDENDUM <Act No. 1632, May 2, 1964>**

This Act shall enter into force on the date of its promulgation.

**ADDENDA <Act No. 1746, Feb. 23, 1966>**

1. (Enforcement Date) This Act shall enter into force on the date of its promulgation.
2. (Transitional Measures) When the permit was obtained, under the former Acts and subordinate statutes, at the time of enforcement of this Act, for the matter for which the permit should have been obtained under the provisions of Article 4 . 1 of this Act, it shall be regarded as the one obtained under this Act.

**ADDENDA<Act No. 2886, Dec. 31, 1975>**

1. (Enforcement Date) This Act shall enter into force 30days after the date of its promulgation.
2. Omitted.

**ADDENDA<Act No. 4216, Jan. 13, 1990>**

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

**Articles 2 through 5 Omitted.**

**ADDENDA<Act No. 5111, Dec. 29, 1995>**

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 7 Omitted.**

**ADDENDUM<Act No. 5338, Apr. 10, 1997>**

This Act shall enter into force on the date of its promulgation.

**ADDENDA <Act No. 5453, Dec. 13, 1997>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

**Article 2 Omitted.**