

Regulation On Fishermen Refuges

Official Journal No. 22846 - Dated December 13th, 1996

PART ONE

Objective, Scope, Justification and Definitions

Objective and Scope

Article 1- This Regulation has been prepared to specify the principles for; selecting the locations of fishermen refuges; leasing and management principles and procedures; procedures and measures that should be implemented by operators; fees to be paid by vessels and payment procedures; procedures on repair and maintenance in refuges; and principles for erecting superstructure.

Legal Justification

Article 2- This Regulation has been prepared in accordance to Article 37 of the Law on Establishment and Functions of the Ministries, No 3046; and Fishery Law, No 1380.

Definitions

Article 3- The Ministry: The Ministry of Agriculture and Rural Affairs

Provincial and Town Directorate: Provincial and Town Directorate of the Ministry of Agriculture and Rural Affairs

Vessel: Powered and unpowered floating vehicles, regardless of their tonnage and type, used for fishing, production, breeding, research, transportation and processing of fishery products on seas and on inland waters

Fishermen Refuge: Locations which have been established to provide services to fishermen and secured by walls against waves; which have adequate pools and adequate space in adequate depth for vessel manoeuvring; which have loading and unloading quays; which have water supply, electricity, net drying areas, sales and management facilities, pre-cooling facilities; and careening points; and which may be named as fishermen port, fishermen refuge or careening point, depending to their size and services provided.

Fishermen: Individuals and legal persons who would perform fishery activities on seas and on inland waters for commercial purposes, their partners and their employees.

Refuge Operator: Individuals and legal persons who would lease and operate the refuges.

PART TWO

Specifications of the Fishermen Refuges

SECTION ONE

Classification of Refuges

Classification

Article 4- Fishermen refuges are classified as follows in terms of the services provided, vessel capacity, and their size.

a) Fishermen Harbour: Coastal facility which has been established to provide services to vessels of any length, and secured by walls against waves, and have adequate pools, and adequate space for providing services to local fishermen; and have loading and unloading quays, water supply, electricity, net drying areas, sales and management facilities, vessel refuelling pumps, pre-cooling facilities, and careening points.

b) Shelter: Coastal facility which has been established to provide shelter to vessels of any length for a certain period of time during bad weather, and secured by walls against waves and have adequate space in adequate depth for vessel manoeuvring, and has no significant infrastructure and superstructure

c) Careening Point: Coastal facility that is located within the fishermen refuge or on wave-free bays, lakes and rivers, and which enables vessels to be hauled up to the shore for maintenance and servicing, and has sloppy area of sand or concrete for performing maintenance services.

SECTION TWO

Specifications of the Refuges

Specifications and Conditions

Article 5- The minimum technical requirements of fishermen refuges are given below.

a) The area where the fishermen refuges shall be erected should not be exposed to strong waves; there should not be any sewage system or waste water system or sludge towards the area; should be minimum of 1 km away from fishery production areas; should have access to nearest inhabited area via roads; and should have adequate land space in relation to the size of the sheltering area of the refuge.

b) In addition to above minimum requirements, water depth should be minimum 3 m throughout the area; should have main and secondary walls to keep waves at the minimum level; should have lighthouses for safe entry to the refuge; should have quays for safe docking; should have adequate number of posts for suitable illumination; should have hardware and systems for water supply, and electricity connection to vessels; and should have net drying areas.

c) In addition to the specifications indicated in above (a) and (b), there should be a management building for fishermen to meet their essential requirements; warehouse that can be used as pre-cooling station during product transfer; a fish market that enables wholesale of minimum 10% of the fished products; locations for net maintenance and covered warehouse; vessel refuelling pumps; first aid facility and fire extinguishing system.

PART THREE

Area Selection for Fishermen Refuges

Area Selection

Article 6- The surveys, projects and feasibility reports for fishermen refuges will be examined by a committee comprising of representatives from the Ministry, the Ministry of Transportation and the Ministry of Public Works and Resettlement, and will be submitted to State Planning Organisation by the Ministry of Transportation. The costs of the erection of those refuges will be met by the appropriations of annual investment programs of agricultural sector.

On selecting the location, regional potential and production of the fishery products, number of vessels, distance to other refuges, feasible technical specifications, and adequacy of the handling area will be taken into consideration, and Environmental Impact Assessment Report will be required.

In feasibility studies, the contribution of the fishermen refuges to the production, processing, marketing and economy will be reviewed, assessed and indicated.

Amendments cannot be made at the investment plans and programs without acquiring positive considerations of above mentioned agencies.

Reconstruction Plan

Article 7- According to Coastal Law, No 3621, fishermen refuges can be erected after the ratification of the reconstruction plans by the Ministry of Public Works and Resettlement, which will be prepared in accordance to Reconstruction Law, No 3194, accompanied by the justification of the Governor and positive considerations of the Ministry, State Planning Organisation, the Ministry of Transportation, and corresponding agencies and institutions.

PART FOUR

Leasing the Refuges

Leasing Principles and Procedures

Article 8- The fishermen refuges will be leased out by the Ministry of Finance, for a period not less than ten years and not more than twenty five years, through bargaining procedures, preferably to Fishery Co-operatives or Co-operative Unions that are established in and whose members are inhabitants of that location, and who are engaged exclusively with fishery activities for minimum of six months, and who would apply for leasing within the 30-day notification period, after having positive considerations of the Ministry and the Ministry of Transportation.

In case there would be more than one Fishery Co-operative who would apply for leasing within that province, the refuge will be leased out to those co-operatives, through bargaining procedures, if they wish to lease under collective and successive responsibility; otherwise, leasing will be accomplished through competitive bidding procedure, and an additional 30% supplementary bond will be required, in addition to bid bond.

If Fishery Co-operatives and Unions would not apply for leasing within the notification period or if applicants would not meet required conditions, refuge will be leased out by the Ministry of Finance through competitive bidding procedures in accordance to Bidding Law No 2886.

The boundaries, size and layout plan of the leased refuge will be attached to the contract.

Leased refuges and superstructures cannot be transferred to third parties, re-rented, and partnerships cannot be created for their operations. Refuges cannot be used for any other purposes other than the ones indicated in the leasing specifications, and modifications or supplementary constructions cannot be made without obtaining permission from the Ministry.

The first year's estimated rentals, classifications and cost estimates of the fishermen refuges will be calculated by the provincial directorates in accordance to the criteria in ANNEX-1, and will be advised to the Provincial Organisation of the Ministry of Finance. This amount will be reviewed by the committee which will be set up in accordance to Law No 2886, and annual rental will be fixed by not lower than the amount proposed by the provincial directorate. A representative from the Provincial Directorate will attend the committee meetings without any voting right.

Rentals for subsequent years will be determined by the Ministry of Finance, by not lower than the increase rate specified in the Circular on State Tenders. This amount will be notified to the tenant latest within 15 days prior to the commencement of the lease period.

The refuge will be managed by the Provincial Directorate during the period between the termination of the leasing term and the commencement of the new leasing term. During this period, existing current fees

will be applied. The amount left after deduction of the costs will be deposited to concerned unit of the Ministry of Finance by the Provincial Directorate.

New leasing process will begin four months prior to termination of the previous leasing term and will be accomplished within two months following the termination, excluding exceptional circumstances.

All tenant rights will cease with termination of the leasing term, and former tenant will not be granted any privilege for the new term. Following the termination of the leasing term or dissolution of the leasing contract, the refuge and the facilities will be handed over to the Treasury by the tenant without any claim what so ever.

The tenant cannot claim any refund for any supplementary constructions and maintenance costs made on the refuge.

PART FIVE

Operating the Refuges

Principals of Operation

Article 9- Refuge tenant is responsible from complying with the provisions of the leasing specifications which has been prepared for that specific refuge, and furthermore from it's security, cleansing and maintenance services, and ensuring coordination among the beneficiaries of the refuge. The tenant shall, for this reason:

- a) Prepare a docking plan in terms of length, width, height and types of the vessels, as well as their purposes. This plan shall indicate the docking numbers of the vessels on the quay;
- b) Arrange vessels' entrance to the refuges, docking, and exiting from the refuges. Operator shall also keep records of vessels and their owners who temporarily or permanently benefit from the refuge;
- c) Warn individuals and vessels that violate the safety, reliance and order within the refuge, and if necessary enforce them out from the refuge, thus accomplish legal procedures;
- d) Collect the fees in accordance to the tariff ratified by the Ministry;
- e) Provide entrance and exit checks and ensure security;
- f) Take and enforce measures for preventing environmental pollution. Provide mobile containers in size sufficient to meet the refuge capacity, collect solid waste, waste oil, bilge water and household waste water; ensure their disposal without creating environmental destruction, or provide their transportation to corresponding locations for disposal;
- g) Take and enforce measures to collect and to prevent dispersion of solid and liquid waste which could spill into sea due to accidents that may occur within the refuge;
- h) Allow, against a charge, other vessels such as sand vessels, transport vessels, yachts, to benefit from the refuge provided that the refuge capacity is adequate;
- i) Prevent unauthorised use of the administration facility and superstructures, and take measures to prevent unauthorised entrance to those facilities;
- j) Provide employment certificate to those who are employed in the refuge and in the superstructures and provide special job clothes to employees;
- k) Determine regular working hours with respect to the benefits of the fishermen, and put into force after having ratification from Provincial Directorates. Ensure operation with duty staff during vacations and beyond working hours;
- l) Employ sufficient number of technical and administrative personnel to accomplish above-mentioned duties;
- m) Forbid the vessels which may have prohibited products, tools and equipment on board, to comply with the prohibitions, restrictions and obligations imposed by the Fishery Law, Regulation and Circular, and notify such cases to the Provincial Directorate;
- n) Keep records of the fishery products in terms of type and quantity;

- o) Not use the refuge or not allow to be used for sand extraction, other than dragging the entrance of the refuge, and not allow loading and unloading of various heavy vehicles;
- p) Provide fire warning and extinguishing systems and equipment within the refuge.

Obligations of the Beneficiaries

Article 10- The obligations of the vessels and the individuals are given below.

- a) Vessels and individuals entering the refuge, and owners and staff of the service units of the refuge are bound to obey the provisions of this Regulation, and the decisions of the officials who are responsible for implementing these provisions.
- b) Captains and owners of the vessels are responsible for taking necessary measures to prevent loss, robbery or damage of the property in their vessels. When deemed necessary, special measures may be required from the refuge operator.
- c) All vessels benefiting the refuge should have plate or mark indicating the numbers of their fishery license and vessel license. Fishery vessels which do not have fishery license and plate will only be allowed to use the refuge in accordance to paragraph (h) of Article 9, and within the frame of the conditions indicated in Article 11.

PART SIX Charges and Investments

SECTION ONE Charges

Charges

Article 11- The refuge operator, after finalising the leasing agreement, shall classify the vessels benefiting from the refuge in terms of size, engine power, fishing tools and equipment and fishing type. Refuge fee that would be applicable for one year as of the leasing date will be determined jointly by the Provincial Directorate and operator in accordance to the principles specified in ANNEX-2, and this fee will be applied after being ratified by the Ministry. Fee for subsequent years will be determined in accordance to the procedures for annual rental increase of the refuge. The list of the applied charges will be posted on a visible location in the management building. In case of any dispute between the operator and the Provincial Directorate on charges, the Ministry will be notified. Ministry's decision on the case is final.

Charge Collection

Article 12- Refuge fee will be paid to the operator on daily or weekly basis, depending the period of the vessel stay in the refuge. 50% of the charge will be collected in advance from the vessels owned by individuals and agencies that are not members of any fishery co-operative or union, if duration of their stay would exceed one week.

Charge will not be applied to control and research vessels of the Ministry, coast guards, and coastal hygiene vessels, which are owned by public institutions and agencies.

SECTION TWO

Investment, Damage and Maintenance

Supplementary Investments

Article 13- In refuges where infrastructure and superstructure have not been completed, or in refuges without any superstructure; modifications specified in the leasing contract or modifications requested by the operator and ratified by the Ministry, the Ministry of Transportation and the Ministry of Finance will be assessed by the Ministry of Public Works and Resettlement in accordance to the principles indicated in Article 7, and the Fishery Law No 3621 and the Regulation.

After the proposal being ratified by the Ministry of Public Works and Resettlement, modifications will be made by the refuge operator under supervision of the General Directorate of Railways, Ports, and Airports of the Ministry of Transportation without claiming any refund, right, or rental deduction.

After termination or annulment of the leasing contract, modified and newly constructed facilities will be transferred to the Treasury without any fault or malfunction. Transfer procedures will be accomplished by a committee comprising of the representatives of the Provincial Directorate and local organisations of the Ministry of Transportation, Ministry of Public Works and Resettlement and Ministry of Finance.

Damage Occurrence

Article 14- Any damage and loss occurrence on the refuge and on facilities or on the vessels benefiting from the refuge will be examined, on request by the refuge operator, by a committee comprising of a representative from each of the nearest Port Administration, local organisation of the Ministry of Transportation, Provincial Directorate, and Fishery Products Co-operative or Union, and the cost will be claimed from the liable party. If such collection would not be applicable then the case will be handed over to jurisdiction.

If the damage and loss are on the refuge and on the facilities, the collected amount will be deposited to a bank account on behalf of the refuge operator to be used for eradicating the damage and the loss. Use of this amount will be made under supervision of the Provincial Directorate. If the damage and loss are on third parties, the amount will be paid to those third parties after deductions being made for any loss for the refuge, if any.

Furthermore, according to Article 5 of the Law on Port Constructions No 6237, the refuge operator shall, each year, deposit 10% of the annual gross revenue to the Treasury, to be used for meeting repair and maintenance costs of any possible damage due to acts of God, and for future supplementary constructions to extend the refuge. No provisions could be included in the leasing contract to increase, decrease or annulment of this amount.

Repair and Maintenance

Article 15- Repair and Maintenance works for the refuge and for the facilities will be made by the refuge operator. Sand extracted during dragging the refuge cannot be used for commercial purposes. However, it may be used for refuge supplementary investments. Remaining sand will be on the disposal of the local organisation of the Ministry of Finance. Procedures and quantity of refuge dragging will be determined by the local organisation of the Ministry of Transportation, by taking considerations from the Ministry, and will be accomplished under their supervision.

PART SEVEN

Miscellaneous and Final Provisions

SECTION ONE

Miscellaneous Provisions

Refuges Erected by Individuals and Agencies

Article 16- Operation of fishermen refuges erected by individuals and agencies is not subject to provisions of these Regulations, provided that Article 5 on minimum requirements be observed and procedure indicated in Article 7 be complied.

Temporarily Transferred Fishermen Refuges

Article 17- Fishermen refuges that are transferred temporarily to Municipalities, Villages and Provincial Administrations under the frame of the Law on Port Constructions, No 6237 will be operated temporarily by the transferred institution under transfer protocol, until they are being leased out in accordance to Article 8 provided that this Regulation be implemented.

In case any requirement is received from fishery co-operatives or co-operative unions for leasing these refuges, refuge will be re-transferred to the Ministry, on request, by a committee established by the Ministry of Transportation. Until leasing procedures are accomplished the operation of the refuge will be made in accordance to paragraph eight of Article 8. In such case former operator cannot make any refund and rights claim, and the refuge will be handed over in sound conditions.

Permanently Transferred Fishermen Refuges

Article 18- If requirements are received from Fishery Co-operatives or Co-operative Unions for leasing fishermen refuges that have been transferred to public institutions and agencies, Provincial Administrations, Municipalities, Villages by a Government Decree, the said Decree will be revoked by the Ministry of Transportation after positive considerations of the Ministry of Finance, Ministry of Interior, and the Ministry, and after revocation, the refuge will be leased out by the Ministry of Finance in accordance to procedures indicated in Article 8.

Using Fishermen Refuges for Other Purposes

Article 19- Fishermen refuges cannot be transformed by any means to marinas, and be used for other purposes without acquiring positive considerations of the Ministry. However, parts of the refuge that are not used by fishermen can be leased out by the Ministry of Finance to be used for other purposes after having positive considerations of the Ministry, and under the principles specified by the Ministry.

Inspection

Article 20- The Ministry shall inspect the refuges and the superstructures, and monitor and supervise the operation and management, and audit all documents and records.

Annulment of the Leasing Contract

Article 21- The tenant shall be warned by the Ministry in writing for any violation of the leasing contract and provisions of this Regulation with respect to it's management and operation, and tenant shall be asked to eradicate the misconduct latest within one month. During a subsequent monitoring if it will be found out that necessary steps were not taken then leasing contract will be annulled unilaterally by the Ministry of Finance, on request by the Ministry.

Revoked Legislation

Article 22- Regulation on Fishermen Refuges which has been published in the Official Journal of 14/8/1989-20252 has been revoked.

Provisional Articles

Provisional Article 1- Article 7 of this Regulation shall apply to newly erected fishermen refuges and shall not apply to refuges that have been erected prior to enforcement date of this Regulation.

Provisional Article 2- Regulation that has been published in the Official Journal of 14/8/1989-20252 shall apply to fishermen refuges which have been leased out prior to this Regulation, until lease period expires.

SECTION TWO Final Provisions

Enforcement

Article 23- This Regulation enters into force on the date of publication.

Implementation

Article 24- This Regulation shall be implemented by the Ministry of Agriculture and Rural Affairs.

ANNEX-1: PRINCIPLES OF DETERMINING THE RENTAL OF THE FISHERMEN REFUGE

A- Annual Income:

1. Local Fishermen Vessels Benefiting from the Refuge

Vessel Length	Number of Vessels	Duration (Day)	Estimated Fee (TL/Day)

Income from local vessels=Number of vessels x Duration (day) x Estimated Fee (TL/day)

2. Fishermen Vessels from Other Regions Benefiting from the Refuge

Vessel Length	Number of Vessels	Duration (Day)	Estimated Fee (TL/Day)

Income from vessel of other regions=Number of vessels x Duration (day) x Estimated Fee (TL/day)

3. Other Vessels Benefiting From the Refuge

Vessel	Number of Vessels	Duration (Day)	Estimated Fee (TL/Day)
Yacht			
Transport Vessel			
Sand Carrier			
Refuelled			
Others			

Income from other vessels=Number of vessels x Duration (day) x Estimated Fee (TL/day)

Total Annual Income (A)=1+2+3

B. Annual Costs:

I. Operational Costs

a) Personnel:

Qualification	Number of Personnel	Salary (TL)	Annual Value (Number x Salary x 12)

b) Rentals and Fuel Costs

	Monthly (TL)	Annual (TL) (Monthly x 12)
Rental		
Fuel		

c) Electricity and Fuel Costs

	Monthly (TL)	Annual (TL) (Monthly x 12)
Electricity		
Water		
Others		

d) Depreciation Costs

Investment based depreciation

e) Other Costs

Total of Annual Costs(I)= a+b+c+d+e

II- Investment Costs

Costs for investing on the refuge

C. PROFIT:**Annual Profit = Annual Income - Annual Costs****Corporate Tax (46%)****Net Profit = Annual Profit - Corporate Tax****Assessed Rental = Net Profit****ANNEX-2: FEE FOR BENEFITING FROM FISHERMEN REFUGE****I. Fishermen Vessels**

Fee (TL)	Vessel Length (m) (inclusive)					
	0-6	7-9	10-12	13-16	17-22	22>
Daily						
Weekly						
Monthly						

Annual						
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II. Other Vessels

Fee (TL)	Yacht, Cutter and Speed Boats (length, m)			Refueller, Sand Carrier, etc. (capacity, tons)		Pantoon, barge, crane, etc (per m ²)
	0-6	7-12	12>	50	50-100	
Daily						
Weekly						
Monthly						
Annual						

..... Co-operative
.../.../...

..... Provincial Directorate
.../.../...

RATIFIED
.../.../...

III. Benefiting from the Refuge for Other Purposes

Fee (TL)	Hauling to shore for Maintenance and Painting		Hauling to Shore for Winter Period (Length, m)	
	Fishermen Vessels	Other Vessels	0-6	6>
Daily				

IV: Other Technical Provisions**V. These charges are valid between and**

..... Co-operative
.../.../...

..... Provincial Directorate
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RATIFIED
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