

Law of the People's Republic of China on Island Protection

Decree of the President of the People's Republic of China

(No. 22)

The Law of the People's Republic of China on Island Protection, which was adopted at the 12th session of the Standing Committee of the Eleventh National People's Congress of the People's Republic of China on December 26, 2009, is hereby promulgated and shall come into force on March 1, 2010.

Hu Jintao, President of the People's Republic of China

December 26, 2009

Law of the People's Republic of China on Island Protection

(Adopted at the 12th session of the Standing Committee of the Eleventh National People's Congress on December 26, 2009)

Table of Contents

Chapter I General Provisions

Chapter II Island Protection Planning

Chapter III Island Protection

Section 1 General Rules

Section 2 Protection of Ecosystems of Inhabited Islands

Section 3 Protection of Uninhabited Islands

Section 4 Protection of Special Purpose Islands

Chapter IV Supervisory Inspection

Chapter V Legal Liabilities

Chapter VI Supplementary Provisions

Chapter I General Provisions

Article 1 This Law is formulated in order to protect the ecosystems of islands and their surrounding waters, rationally develop and exploit the natural resources of islands, protect the oceanic rights and interests of the state, and promote sustainable economic and social development.

Article 2 This Law shall apply to the protection, development, utilization and relevant administration of islands belonging to the People's Republic of China.

The term "islands" as mentioned in this Law refers to the naturally formed land areas which are surrounded by seawater and above the surface of water at high tide, including inhabited islands and uninhabited islands.

The term "island protection" as mentioned in this Law refers to the protection of the ecosystems of islands and their surrounding waters, protection of natural resources of uninhabited islands and protection of special purpose islands.

Article 3 The state shall apply the principle of "scientific planning, giving priority to protection, rational development and sustainable utilization" to islands.

The State Council and the coastal local people's governments at all levels shall include the protection and rational development and utilization of islands in the national economic and social development plan, and take effective measures to strengthen the protection and administration of islands and prevent the ecosystems of islands and their surrounding waters from being damaged.

Article 4 Uninhabited islands belong to the state, and the State Council shall exercise the ownership of uninhabited islands on behalf of the state.

Article 5 The oceanic administrative department of the State Council and other relevant departments of the State Council shall, according to the division of functions as prescribed by law and the State Council, be responsible for the ecological protection of inhabited islands throughout the country and their surrounding waters. The oceanic administrative departments and other relevant departments of coastal local people's governments at and above the county level shall, according to their respective

functions, be responsible for the ecological protection of inhabited islands and their surrounding waters within their respective administrative areas.

The oceanic administrative department of the State Council shall be responsible for administering the protection, development and utilization of uninhabited islands throughout the country. The oceanic administrative departments of coastal local people's governments at and above the county level shall be responsible for the relevant work on the administration of the protection, development and utilization of uninhabited islands within their respective administrative areas.

Article 6 The names of islands shall be determined and released by the national geographical names authority and the oceanic administrative department of the State Council according to the relevant provisions of the State Council.

The coastal local people's governments at and above the county level shall, according to the relevant provisions of the state, set up signs of island names on the islands where such signs need to be set up. It shall be prohibited to damage or move the signs of island names without authorization.

Article 7 The State Council and the coastal local people's governments at all levels shall strengthen the publicity and education on island protection, strengthen the citizens' awareness of island protection, and reward entities and individuals which have made remarkable achievements in island protection and the relevant scientific research.

All entities and individuals shall have the obligation of complying with the law on island protection and the right of reporting violations of law on island protection and acts undermining the island ecosystem to the oceanic administrative departments or other relevant departments.

Chapter II Island Protection Planning

Article 8 The state shall apply the island protection planning system. The island protection plans shall be the basis for carrying out the protection and utilization of islands.

The island protection plans shall be formulated under the principle of helping to protect and improve the ecosystems of islands and their surrounding waters and promote the sustainable economic and social development of islands.

The opinions of the relevant experts and the general public shall be solicited before an island protection plan is submitted for examination and approval, and the plan shall be announced to the public in a timely manner upon approval, unless it involves any state secret.

Article 9 The oceanic administrative department of the State Council shall, jointly with the relevant departments of the people's government and the military authority at the same level, organize the formulation of the national island protection plan according to the national economic and social development plan and the national marine functional zoning, and report it to the State Council for examination and approval.

The national island protection plan shall, according to the location, natural resources, environment and other natural attributes of an island and the status of protection and utilization of an island, establish the principles for the categorized protection of islands, the utilizable uninhabited islands, the key islands needing restoration, etc.

The national island protection plan shall be linked with the national urban system plan and the national overall plan on land use.

Article 10 The oceanic administrative department of the people's government of a coastal province or autonomous region shall, jointly with the relevant departments of the people's government and the military authorities at the same level, organize the formulation of a provincial island protection plan according to the national island protection plan, the provincial urban system plan and the overall land use plan of the province or autonomous region, report it to the people's government of the province or autonomous region for examination and approval, and file it with the State Council.

The overall urban plan formulated by the people's government of a coastal municipality directly under the Central Government shall include a special plan on the protection of islands within its administrative area.

The provincial island protection plans and the special plans on the protection of islands of municipalities directly under the Central Government shall set out the specific measures for the categorized protection of islands.

Article 11 The people's government of a province or autonomous region may, according to the actualities, require the people's governments of the coastal cities, counties and towns within its administrative area to organize the formulation of special plans on the protection of islands, and include them in the overall urban or town plans; and may require the people's governments of coastal counties to organize the formulation of county island protection plans.

The special plans on the protection of islands of coastal cities and towns and the county island protection plans shall conform to the national island protection plan and the provincial island protection plan.

The opinions of the oceanic administrative department of the people's government at the next higher level shall be solicited for the formulation of a special plan on the protection of islands of a coastal city or town.

The county island protection plans shall be reported to the people's government of a province or autonomous region for examination and approval and filed with the oceanic administrative department of the State Council.

Article 12 The people's government at the level of a coastal county may organize the formulation of a plan on the protection and utilization of utilizable uninhabited islands as determined in the national island protection plan.

Article 13 Amendments to island protection plans shall be subject to approval according to the examination and approval procedures as prescribed in Articles 9, 10 and 11 of this Law.

Article 14 The state shall establish a sound island statistical investigation system. The oceanic administrative department of the State Council shall, jointly with the relevant departments, work out a comprehensive island statistical investigation plan, organize the implementation thereof upon approval according to law, and release an island statistical investigation communique.

Article 15 The state shall establish an island management information system, make investigation and assessment of the natural sources of islands, and conduct surveillance and monitoring of the status of protection, utilization, etc. of islands.

Chapter III Island Protection

Section 1 General Rules

Article 16 The State Council and the coastal local people's governments at all levels shall take measures to protect the natural resources, natural landscapes, and historical and cultural relics of islands.

It shall be prohibited to change the coastlines of islands in natural reserves. It shall be prohibited to excavate or destroy coral and coral reefs. It shall be prohibited to fell mangroves in the surrounding waters of islands.

Article 17 The state shall protect island vegetation, and promote the conservation of freshwater resources of islands; and support the construction of engineering facilities on inhabited islands for freshwater storage, desalination and introduction of freshwater from outside the islands.

Article 18 The state shall support the use of islands to carry out scientific research. The scientific research activities conducted on islands shall not cause damage to the ecosystems of islands and their surrounding waters.

Article 19 The state shall conduct registration of species on islands, and protect and manage the biological species on islands according to law.

Article 20 The state shall support the establishment of experimental bases for the exploration and exploitation of renewable energy, ecological development, etc. on islands.

Article 21 The state shall arrange a special fund for island protection, which shall be used for island protection, ecological restoration and scientific research.

Article 22 The state shall protect the military facilities established on islands, and it shall be prohibited to damage or endanger such military facilities.

The state shall protect the public facilities legally established on islands for navigation assistance or guidance, surveying, meteorological observation, marine monitoring, seismic monitoring, etc., and it shall be prohibited to damage, move without authorization or impede the normal use of such facilities.

Section 2 Protection of Ecosystems of Inhabited Islands

Article 23 The development and construction of inhabited islands shall comply with the relevant laws and regulations on urban and rural planning, environmental protection, land management, management of use of sea areas, protection of water resources and forests, and the ecosystems of islands and their surrounding waters shall be protected.

Article 24 For the development and construction of inhabited islands, investigation and assessment shall be made on the land resources, water resources and energy status of the islands, and environmental impact assessment shall be made according to law. The development and construction of islands shall not exceed the environmental capacity of the islands. New construction, reconstruction and expansion construction projects must meet the requirements on the indicators of discharge of major pollutants, land used for construction and total volume of water consumption of the islands.

In the development and construction of inhabited islands, priority shall be given to the use of wind energy, ocean energy, solar energy and other renewable energy as well as rainwater harvesting, seawater desalination, sewage recycling and other technologies.

Prohibited and restricted areas for development shall be delimited on the inhabited islands and in their surrounding waters, and measures shall be taken to protect the habitats of living things on islands and prevent the degradation of island vegetation and reduction of biodiversity.

Article 25 The engineering construction on inhabited islands shall follow the principle of “planning before construction and constructing ecological protection facilities ahead of or simultaneously with the construction project.”

Whoever causes any ecological damage during engineering construction shall be responsible for restoration; and if it/he is unable to make restoration, the people’s government at or above the county level shall order it/him to stop construction, and may appoint the relevant department to organize restoration at the expense of the entity or individual causing the ecological damage.

Article 26 The construction of any building or facility on a beach of an inhabited island shall be

strictly restricted; and if the construction is really necessary, the relevant laws and regulations on urban and rural planning, land management, environmental protection, etc. shall be observed. Where any building or facility is constructed on a beach of an inhabited island without any legal authorization and causes serious damage to the ecosystems of the island and its surrounding waters, such a building or facility shall be demolished according to law.

The excavation of sea sand on an inhabited island shall be strictly restricted; and if the excavation is really necessary, the relevant laws and regulations on the management of use of sea areas and mineral resources shall be observed.

Article 27 Sea filling, sea enclosure and other acts changing the coastlines of inhabited islands shall be strictly restricted, and the engineering construction of sea filling to connect islands or connect an island with continent shall be strictly restricted; and if it is really necessary to carry out sea filling or sea enclosure to change the coastline of an island or sea filling to connect islands or connect an island with continent, the project applicant shall submit a project demonstration report, an approved environmental impact assessment report and other application materials for approval according to the Law of the People's Republic of China on the Administration of Use of Sea Areas.

For any project of sea filling to connect islands or connect an island with continent which was constructed on an inhabited island before the implementation of this Law and has caused serious damage to the ecosystems of the island and its surrounding waters, the oceanic administrative department of the people's government of the province, autonomous region or municipality directly under the Central Government where the island is located shall, jointly with the relevant departments of the people's government at the same level, formulate an ecological restoration plan, and organize the implementation thereof upon the approval of the people's government at the same level.

Section 3 Protection of Uninhabited Islands

Article 28 The status quo of an uninhabited island shall be maintained if the use of it has not been approved; and such activities as quarrying, excavating sea sand, felling trees, production, construction and tourism shall be prohibited.

Article 29 Collecting biological and non-biological samples on uninhabited islands shall be strictly restricted; and if it is really necessary to do so for the purpose of teaching or scientific research, it shall be subject to the approval of the oceanic administrative department of the local people's government at or above the county level of the place where the island is located.

Article 30 The development and utilization of a utilizable uninhabited island as determined in the national island protection plan shall comply with the protection and utilization plan on utilizable uninhabited islands, and strict ecological protection measures shall be taken to avoid any damage to the ecosystems of the island and its surrounding waters.

For the development and utilization of a utilizable uninhabited island as prescribed in the preceding paragraph, an application shall be made to the oceanic administrative department of the people's government of a province, autonomous region or municipality directly under the Central Government, a project demonstration report, a specific development and utilization scheme and other application materials shall be submitted, and the oceanic administrative department shall organize the relevant departments and experts to examine the application, put forward an examination opinion, and submit the application to the people's government of the province, autonomous region or municipality directly under the Central Government for examination and approval.

Where the development and utilization of an uninhabited island involves the utilization of any special purpose island, or really needs any sea filling to connect islands or connect the island with continent or any serious change of the natural terrain or landform of the island, it shall be subject to the examination and approval of the State Council.

The specific measures for the examination and approval of the development and utilization of uninhabited islands shall be formulated by the State Council.

Article 31 For the development and utilization of an uninhabited island upon approval, a use fee shall be paid in accordance with law unless the uninhabited island is used for national defense, public affairs, teaching, disaster prevention and mitigation, non-profit public infrastructure construction, basic mapping, meteorological observation or any other public cause.

The measures for the administration of collection and application of use fees for uninhabited islands shall be formulated by the financial department of the State Council jointly with the oceanic administrative department of the State Council.

Article 32 In the construction of buildings or facilities on a utilizable uninhabited island upon approval, the total number of construction, the heights and the distances from the coastline of the buildings or facilities shall be restricted according to the protection and utilization plan on utilizable uninhabited islands, so as to make the buildings or facilities in harmony with the surrounding vegetation and landscape.

Article 33 The wastewater generated in the utilization of uninhabited islands shall be handled and discharged according to the relevant provisions.

The solid waste generated in the utilization of uninhabited islands shall undergo harmless treatment and disposal according to the relevant provisions, and it shall be prohibited to discard solid waste on any uninhabited island or dump solid waste into its surrounding waters.

Article 34 For any temporary utilization of an uninhabited island, no permanent building or facility shall be constructed on the exploited island.

Article 35 On a utilizable uninhabited island which is legally determined as one for tourism activities and in its surrounding waters, no residential settlement shall be constructed and no productive farming shall be allowed; and if any productive farming has already existed, corresponding pollution prevention and control measures shall be determined in the formulation of the protection and utilization plan on utilizable uninhabited islands.

Section 4 Protection of Special Purpose Islands

Article 36 The state shall apply special protection to the islands where the territorial sea base points are located, islands for the purpose of national defense, islands within the marine natural reserves and other islands for special purposes or with special conservation value.

Article 37 For an island where the territorial sea base point is located, the people's government of the

province, autonomous region or municipality directly under the Central Government where the island is located shall delimit the scope of protection and file a report on it with the oceanic administrative department of the State Council. Obvious signs shall be set up on the territorial sea base point and the periphery of its scope of protection.

It shall be prohibited to conduct engineering construction within the scope of protection of territorial sea base points or conduct other activities that may change the terrain or landform of this area. If it is really necessary to conduct any engineering construction for the purpose of protecting a territorial sea base point, it shall be subject to scientific demonstration, and upon the consent of the oceanic administrative department of the State Council, examination and approval procedures shall be handled according to law.

It shall be prohibited to damage or move signs of territorial sea base points without authorization.

The oceanic administrative department of the people's government at or above the county level shall, according to the relevant provisions of the state, conduct surveillance and monitoring of the ecosystems of the islands where territorial sea base points are located and their surrounding waters.

All entities and individuals shall have the obligation to protect territorial sea base points of islands.

Whoever finds any damage to the terrain or landform at the territorial sea base point or within the scope of protection of the territorial sea base point shall report it in a timely manner to the local people's government or oceanic administrative department.

Article 38 It shall be prohibited to damage the natural terrain or landform of uninhabited islands for the purpose of national defense and the terrain or landform of the areas for the purpose of national defense of inhabited islands and their surrounding areas.

It shall be prohibited to use any uninhabited island for the purpose of national defense for any purpose irrelevant to national defense. When the purpose of national defense is terminated, upon the approval of the military authority, the island, the relevant ecological protection data, etc. shall be delivered altogether to the people's government of the province, autonomous region or municipality directly under the Central Government where the island is located.

Article 39 The State Council, the relevant departments of the State Council and the people's governments of coastal provinces, autonomous regions and municipalities directly under the Central Government shall, according to the needs of protection of natural resources, natural landscapes and historical and cultural relics of the islands, legally approve the establishment of marine natural reserves or special marine protection areas for islands with a special conservation value and their surrounding waters.

Chapter IV Supervisory Inspection

Article 40 The relevant departments of the people's government at or above the county level shall conduct supervisory inspection of the protection, development and construction of inhabited islands according to law.

Article 41 The oceanic administrative departments shall conduct supervisory inspection of the protection and rational utilization of uninhabited islands.

The oceanic administrative departments and their oceanic supervisory institutions shall conduct supervisory inspection of the protection of the ecosystems of waters surrounding islands.

Article 42 When performing the duties of supervisory inspection according to law, the oceanic administrative department shall have the authority to require the inspected entity or individual to explain the relevant issues on utilization of islands, and provide the relevant documents and materials on utilization of islands; and have the authority to enter the island exploited by the inspected entity or individual to conduct on-site inspection.

When performing duties of inspection, the inspectors shall show their valid certificates for law enforcement. The relevant entities and individuals shall be cooperative in the inspection, truthfully tell the situation, provide the relevant documents and materials, etc.; and shall not refuse or impede the inspection.

Article 43 The inspectors must be devoted to their duties, impartially enforce law, keep honest and clean, provide services with manners, and accept supervision according to law. When legally

investigating any violation of this law, if any state functionary is found to have committed any illegal conduct and shall be subject to disciplinary action, the inspectors shall offer an opinion on disciplinary action to the appointment and removal organ for the state functionary or the supervisory organ.

Chapter V Legal Liabilities

Article 44 Where an oceanic administrative department or any other department with the duties of island protection supervision and administration fails to legally investigate any violation which is found by itself or reported by any other party, or otherwise fails to perform its duties according to this Law, the people's government at the same level or the relevant competent department of the people's government at the next higher level shall order it to correct and take disciplinary actions against the directly liable person in charge and other directly liable persons according to law.

Article 45 Whoever, in violation of this Law, changes the coastline of an island within a natural reserve, changes the coastline of an island through sea filling or sea enclosure, or carries out sea filling to connect islands or connect an island with continent shall be punished according to the Law of the People's Republic of China on the Administration of Use of Sea Areas.

Article 46 Whoever, in violation of this Law, excavates or destroys corals or coral reefs, or fells the mangroves in the waters surrounding an island, shall be punished according to the Marine Environmental Protection Law of the People's Republic of China.

Article 47 Where, in violation of this Law, any entity or individual quarries stone, excavates sea sand, fells trees or collects biological or non-biological samples on an uninhabited island, the oceanic administrative department of the people's government at or above the county level shall order it/him to stop the illegal act and confiscate the illegal income, and may impose a fine of not more than 20,000 yuan on it/him.

Where, in violation of this Law, any entity or individual conducts production or construction or organizes tourism activities on an uninhabited island, the oceanic administrative department of the people's government at or above the county level shall order it/him to stop the illegal act, confiscate

the illegal income, and impose a fine of not less than 20,000 yuan but not more than 200,000 yuan on it/him.

Article 48 Where, in violation of this Law, any entity or individual conducts any activity seriously changing the natural terrain or landform of an uninhabited island, the oceanic administrative department of the people's government at or above the county level shall order it/him to stop the illegal act and impose a fine of not less than 50,000 yuan but not more than 500,000 yuan on it/him.

Article 49 Whoever illegally discharges pollutants to an island or into its surrounding waters shall be punished according to the relevant law on environmental protection.

Article 50 Where, in violation of this law, any entity or individual conducts any engineering construction within the scope of protection of a territorial sea base point or any other activity that may change the terrain or landform of this area, constructs any permanent building or facility on an uninhabited island which is temporarily utilized, or constructs any residential settlement on a utilizable uninhabited island which is legally determined as one for tourism activities, the oceanic administrative department of the people's government at or above the county level shall order it/him to stop the illegal act and impose a fine of not less than 20,000 yuan but not more than 200,000 yuan on it/him.

Article 51 Whoever damages or moves any sign of a territorial sea base point without authorization shall be subject to the public security administrative punishment according to law.

Article 52 Whoever damages or endangers any military facility set up on an island, or damages or moves without authorization any public facility set up on an island for navigation assistance or guidance, surveying, meteorological observation, marine monitoring, seismic monitoring, etc. shall be punished in accordance with the relevant laws and administrative regulations.

Article 53 Where any department grants an approval of the development and utilization of an uninhabited island without the approval authority, approves the development and utilization of an uninhabited island beyond its approval authority, or approves the development and utilization of an

uninhabited island in violation of the island protection plan, the approval document shall be void; and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law.

Article 54 Where, in violation of this Law, any entity or individual refuses a supervisory inspection conducted by the oceanic administrative department, makes falsification during a supervisory inspection, or does not provide the relevant documents and materials, the oceanic administrative department of the people's government at or above the county level shall order it/him to correct, and may impose a fine of not more than 20,000 yuan on it/him.

Article 55 Whoever violates this Law shall be subject to criminal liability if a crime is constituted.

Whoever causes damage to the ecosystems of an island and its surrounding waters shall assume civil liability according to law.

Chapter VI Supplementary Provisions

Article 56 The protection of low-tide elevations and the relevant administrative activities shall be governed analogically by the relevant provisions of this Law.

Article 57 Definitions of the following terms as used in this Law:

- (1) The term "ecosystems of an island and its surrounding waters" refers to an organic complex formed by biological communities and non-biological environment which maintain the existence of the island, including island body, coastline, beach, vegetation, freshwater, surrounding waters, etc.
- (2) The term "uninhabited islands" refers to the islands which are not address registration places for resident household management.
- (3) The term "low-tide elevations" refers to the naturally formed land areas which are surrounded by seawater and above the surface of water at low tide but are submerged at high tide.
- (4) The term "sea filling to connect islands or connect an island with continent" refers to the acts of connecting an island with continent or connecting an island with another island by means of sea reclamation, etc.

(5) The term “temporary utilization of an uninhabited island” refers to the act of short-term landing or docking at an uninhabited island for the needs of public affairs, teaching, scientific research, disaster relief, risk avoidance, etc.

Article 58 This Law shall come into force on March 1, 2010.