

ENFORCEMENT DECREE OF THE ACT ON THE EXERCISE OF SOVEREIGN RIGHTS ON FOREIGNER'S FISHING, ETC. WITHIN THE EXCLUSIVE ECONOMIC ZONE

Presidential Decree No. 15449, Aug. 6, 1997
Amended by Presidential Decree No. 19976, Mar. 27, 2007
Presidential Decree No. 20351, Oct. 31, 2007
Presidential Decree No. 20677, Feb. 29, 2008
Presidential Decree No. 22127, Apr. 20, 2010
Presidential Decree No. 22493, Nov. 15, 2010
Presidential Decree No. 23491, Jan. 6, 2012
Presidential Decree No. 24455, Mar. 23, 2013

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters delegated by the Act on the Exercise of Sovereign Rights on Foreigners' Fishing, etc. within the Exclusive Economic Zone and those matters necessary for the enforcement thereof. <Amended by Presidential Decree No. 19976, Mar. 27, 2007>

Article 2 (Specifically Prohibited Zone)

A Specifically Prohibited Zone referred to in the provisions of Article 4 of the Act on the Exercise of Sovereign Rights on Foreigners' Fishing, etc. within the Exclusive Economic Zone (hereinafter referred to as the "Act") shall be listed in the annexed Table. <Amended by Presidential Decree No. 19976, Mar. 27, 2007>

Article 3 (Matters Subject to Authorization of Fishing, etc.)

(1) Any foreigner wishing to do fishing activities in the Exclusive Economic Zone pursuant to Article 5 of the Act shall obtain a license or a permit from the Minister of Oceans and Fisheries in respect of each of the following subparagraphs: <Amended by Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 24455, Mar. 23, 2013>

1. Type of fisheries;
2. Size of fishing vessel;
3. Number of accompanying ships;
4. Type of target fish or sea plant, and the volume of expected fishing catch.

(2) The type of fisheries, the size of fishing vessel, the number of accompanying ships, etc. as referred to in the provisions of paragraph (1) shall be prescribed by the Ordinance of the Ministry of Oceans and

Fisheries. <Amended by Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 24455, Mar. 23, 2013>

Article 3-2 (Judicial Police Officials)

The term "judicial police officials who are prescribed by the Presidential Decree" in the front part of the portion other than each subparagraph of Article 6-2 of the Act means the persons falling under each of the following subparagraphs:

1. Judicial police officials provided for in the provisions of Article 196 (1) of the Criminal Procedure Act; and
2. Public officials of Grade VII or higher in their ranks from among public officials in charge of fishing supervision as provided for in the provisions of subparagraph 18 of Article 5 of the Act on the Persons Performing the Duties of Judicial Police Officials and the Scope of Their Duties. <Amended by Presidential Decree No. 24455, Mar. 23, 2013>

Article 4 (Fees on Rights to Access Korean Fishery Zone)

(1) Fishing fees for a fishery zone pursuant to the provisions of Article 7 of the Act, shall be categorized as either standard fishing fees for a fishery zone or fishing fees for a fishery zone determined by the volume of expected fishing catch.

(2) Standard fishing fees for a fishery zone referred to in paragraph (1) shall be as follows:

1. For a fishing vessel of gross tonnage of not more than 30 (excluding accompanying ships; hereafter the same shall apply in this Article): 30,000 won;
2. For a fishing vessel of gross tonnage of more than 30: the amount of money calculated by adding 1,000 won per each ton exceeding the gross tonnage of 30 to 30,000 won.

(3) While fishing fees for a fishery zone determined by the volume of expected fishing catch as provided for in paragraph (1) shall be calculated by tons, the Minister of Oceans and Fisheries shall determine such fees with the advice of the National Fishery Coordination Committee according to Article 88 of the Fisheries Act. <Amended by Presidential Decree No. 19976, Mar. 27, 2007; Presidential Decree No. 20351, Oct. 31, 2008; Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 22127, Apr. 20, 2010; Presidential Decree No. 24455, Mar. 23, 2013>

(4) A foreigner (referring to a foreign government where it has applied comprehensively for fishing licenses on behalf of all of its nationals as provided for in Article 5 of the Act) shall pay fishing fees for a fishery zone in Korean currency to the banks stipulated by Article 2 (1) 2 of the Banking Act within the period stipulated by the Minister of Oceans and Fisheries. <Amended by Presidential Decree No. 19976, Mar. 27, 2007; Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 22493, Nov. 15, 2010; Presidential Decree No. 24455, Mar. 23, 2013>

(5) Procedures for the collection of fishing fees for a fishery zone shall be prescribed by the Ordinance of the Ministry of Oceans and Fisheries. <Amended by Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 24455, Mar. 23, 2013>

Article 5 (Reduction, Exemption, etc. from Fees on Access Rights)

Where the Republic of Korea and foreign countries agree on the reduction or exemption from, or the ways to the payment of fishing fees for a fishery zone, the Minister of Oceans and Fisheries may reduce or exempt fishing fees for a fishery zone or provide other ways to pay them, notwithstanding Article 4 (1) through (3). *<Amended by Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 24455, Mar. 23, 2013>*

Article 6 (Request, etc. for Revocation of Permit or Approval)

(1) Where a foreigner with a permit under Article 5 (1) of the Act or a license under Article 8 (1) of the Act fails to comply with the Act or the orders issued under the Act or restriction or conditions thereunder, the head of a police authority to which the judicial police officials referred to in subparagraph 1 of Article 3-2 belongs or a public prosecutor, may request the Minister of Oceans and Fisheries to revoke the permit or license, or to make an order for the stay of fishing activities, or catching or collecting fish and sea plant for tests, research, etc. (hereafter referred to as "administrative measures" in this Article). *<Amended by Presidential Decree No. 19976, Mar. 27, 2007; Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 24455, Mar. 23, 2013>*

(2) Where the head of a police authority or a public prosecutor requests the Minister of Oceans and Fisheries to take administrative measures pursuant to the provisions of paragraph (1), he/she shall submit documents or other sources evidencing offences including copies of suspect interrogation records, declaration, confirmation on offences, etc. *<Amended by Presidential Decree No. 24455, Mar. 23, 2013>*

Article 7 Deleted. *<by Presidential Decree No. 19976, Mar. 27, 2007; Presidential Decree No. 20677, Feb. 29, 2008>*

Article 8 (Notice of Seizure or Detention of Violating Vessels, etc.)

(1) Where a public prosecutor has seized or detained vessels failing to comply with the Act or the orders issued under the Act or restrictions or conditions thereunder (hereafter referred to as "violating vessels" in this Article) or the captain of such violating vessels or other offenders in accordance with the provisions of Article 23 (1) of the Act, the public prosecutor shall forthwith give a notice containing the following details to the State of registry of the violating vessel and the Minister of Oceans and Fisheries: *<Amended by Presidential Decree No. 20677, Feb. 29, 2008; Presidential Decree No. 24455, Mar. 23, 2013>*

1. Name and gross tonnage of the violating vessel;
2. Name and address of the owner of the violating vessel;
3. Name and address of the captain of the violating vessel;
4. Number of the crew;
5. Matters as to measures against the violating vessel, captain thereof, or other offender.

(2) Where the captain of a violating vessel or other offender is sentenced to a penalty of a fine and such a sentence becomes final, the public prosecutor shall forthwith give a notice of the judgment to the State of registry of the violating vessel.

Article 9 (Criteria for Amount of Bail)

The amount of bail pursuant to the provisions of Article 23 (5) of the Act shall be fixed in consideration of the type, the amount of penalty, the degree, the number of offences, etc.

Article 10 (Payment of Bail to National Treasury)

(1) When the amount of bail is paid to the National Treasury pursuant to the provisions of Article 24 (2) or (3) of the Act, a public prosecutor shall give a notice containing the following details to a public official in charge of the payment of cash other than revenue and expenditure who is designated by the chief public prosecutor or chief of branch office belonging to District Public Prosecutors' Office, by the fifth day of the month following the month in which each quarter ends: <Amended by Presidential Decree No. 19976, Mar. 27, 2007>

1. The date on which bail is paid;
2. The amount of bail;
3. The grounds of payment of bail; and
4. The grounds on which payment is to be made into the national treasury, and the date on which such grounds take place.

(2) Where a public official in charge of the payment of cash other than revenue and expenditure is given a notice, the public official shall take measures necessary for the payment of the bail to the National Treasury in compliance with the Money under the Government's Custody Act and give a notice on the effects of such measures to the public prosecutor forthwith.

ADDENDA

Article 1 (Enforcement Date)

This Decree shall enter into force on August 7, 1997: Provided, That the provisions of subparagraphs 1 and 2 of Table 1 enter into force on November 7, 1997.

Article 2 (Provisions as to Date of Entry into Force of Act on Exercise of Sovereign Rights on Foreigner' Fishing, etc. within Exclusive Economic Zone)

The Act on the Exercise of Sovereign Rights on Foreigners' Fishing, etc. within the Exclusive Economic Zone (Act No. 5152) shall enter into force on August 7, 1997.

Article 3 (Special Case of Application of Articles 5 through 15 of Act)

(1) Pursuant to the provisions of paragraph (2) of the Addenda of the Act, the provisions of Articles 5 through 15 of the Act shall not apply to persons falling under each of the following subparagraphs for the period of one year from the date when this Decree enters into force within the area of the Exclusive Economic Zone which is not designated as a specifically prohibited zone:

1. Nationals of the People's Republic of China; and
2. A juristic person established under the laws of the People's Republic of China (including a juristic person established under the laws of the Republic of Korea which has its head or main office in the territory of the People's Republic of China, or more than half of its stocks or shares of which are held by

the nationals of the People's Republic of China).

(2) Where the Minister of Maritime Affairs and Fisheries deems it necessary for the reliable conservation, management, and uses of living marine resources, despite the provisions of paragraph (1) above, he may apply in consultation with the Minister of Foreign Affairs the whole or part of the provisions of Articles 5 through 15 of the Act to persons falling under each subparagraph of paragraph (1) within the Exclusive Economic Zone stipulated by the Ordinance of the Minister of Maritime Affairs and Fisheries by setting up a period of time before one year elapses from the date on which this Decree enters into force.

ADDENDUM <Presidential Decree No. 19976, Mar. 27, 2007>

This Decree shall enter into force on April 4, 2007.

ADDENDA <Presidential Decree No. 20351, Oct. 31, 2007>

Article 1 (Enforcement Date)

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

Articles 2 through 9 Omitted.

ADDENDA <Presidential Decree No. 20677, Feb. 29, 2008>

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <Presidential Decree No. 22127, Apr. 20, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on April 23, 2010.

Articles 2 through 11 Omitted.

ADDENDA <Presidential Decree No. 22493, Nov. 15, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on November 18, 2010.

Articles 2 through 5 Omitted.

ADDENDUM <Presidential Decree No. 23491, Jan. 6, 2012>

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

ADDENDA <Presidential Decree No. 24455, Mar. 23, 2013>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. (Proviso Omitted)

Articles 2 through 6 Omitted.

