

SPECIAL ACT ON ASSISTANCE TO FISHERMAN, ETC. AND DEVELOPMENT OF FISHERIES FOLLOWING THE CONCLUSION OF FISHERIES AGREEMENT

Act No. 6029, Sep. 7, 1999

Amended by Act No. 6075, Dec. 31, 1999

Act No. 6515, Sep. 12, 2001

Act No. 6611, Jan. 14, 2001

Act No. 6836, Dec. 30, 2002

Act No. 7207, Mar. 22, 2004

Act No. 7271, May 31, 2005

Act No. 7275, Dec. 31, 2004

Act No. 7639, Jul. 29, 2005

Act No. 8045, Oct. 4, 2006

Act No. 8260, Jan. 19, 2007

Act No. 8377, Apr. 11, 2007

Act No. 8625, Aug. 3, 2007

Act No. 8629, Aug. 3, 2007

Act No. 8852, Feb. 29, 2009

Act No. 9626, Apr. 22, 2009

Article 1 (Purpose)

The purpose of this Act is to seek to devise effective supportive measures for fishermen, etc. for whom restrictions on fishing operations, etc. are imposed due to agreements, etc., thereby contributing to boosting the development of sustainable and competitive fishery as a new global fishery order is created, as well as facilitating the stability of the lives of fishermen, etc. and improving their welfare.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows: <Amended by Act No. 8377, Apr. 11, 2007; Act No. 9626, Apr. 22, 2009>

1. The term "agreement" means any international agreement on fisheries concluded or affiliated by the Republic of Korea as the contracting party, which includes fishing grounds, fish catch, and other restrictions on fisheries;

2. The term "fishermen" means fishery operators and transporters of fish catches (hereinafter referred to as "fishery operators, etc."), and seafarers. In such cases, the term "fishery operators" means any person who obtains fishery permission under Article 41 of the Fisheries Act, the term "transporters of fish catches" means any person who files the registration of transportation of fish catch under Article 49 of the aforementioned Act, and the term "seafarers" means any person engaged in fishery or the transportation of fish catch (hereinafter referred to as "fisheries, etc.") for the sake of fishery operators, etc.;

3. The term "subsidy" means purchase prices of fishing boats and fishing gear paid to fishermen for whom restrictions on fishing operations are imposed due to any agreement, subsidies for business closure, and unemployment benefits;

4. The term "related industries" means fisheries processing, fishing net manufacturing, fishing boat repair, shipbuilding, and production of fishery equipment, maintenance, and other industrial sectors directly related to fishery, as prescribed by Presidential Decree;

5. Deleted. <by Act No. 9626, Apr. 22, 2009>

Article 3 (Special Examples of Application)

The provisions of this Act shall apply to fishermen for whom restrictions on fishing operations are imposed due to any fishery agreement concluded between Japan and the People's Republic of China.

Article 4 (Assistance to Fishery Operators, etc.)

(1) The criteria for the payment of subsidies for fishermen, etc. who find it difficult to continue to engage in fisheries, etc., as restrictions on fishing operations are imposed due to any agreement, shall be as follows:

1. In cases where they intend to close down fisheries, etc., purchase of fishing boats and fishing gear at an appraised price and subsidies for business closure prescribed by Presidential Decree within the extent of the three-year portion of the average amount of profit;

2. In cases where fishing gear has been fully or partially made useless due to the transfer of fishing grounds or switchover of types of business, purchase of such fishing gear at an appraised price.

(2) The Minister for Food, Agriculture, Forestry and Fisheries may, in cases where necessary for the payment of a subsidy by taking into account the degree of restrictions imposed on fishing operations due to any agreement, plans on the restructuring of fisheries, and other fishery conditions for the maintenance of the foundation for fishery, prescribe the number of fishery operators, etc. subject to assistance by type of business. <Amended by Act No. 8852, Feb. 29, 2008>

(3) Fishery operators, etc. may, in cases where they intend to develop a new fishing ground in water areas prescribed by Presidential Decree without subsidies, subsidize the expenses for the remodeling of fishing boats or fishing gear and costs incurred in sailing out for fish as prescribed by Ordinance of Ministry for Food, Agriculture, Forestry and Fisheries. <Amended by Act No. 8852, Feb. 29, 2008>

(4) Necessary matters concerning the concrete criteria for the calculation of subsidies under paragraph (1), methods thereof, and persons subject to subsidies, etc. shall be prescribed by Presidential Decree.

Article 5 (Assistance to Seafarers)

(1) The Government shall pay an unemployment subsidy equivalent to the six-month portion of the ordinary wage to any person prescribed by Presidential Decree (hereinafter referred as "unemployed seafarers") from among seafarers who lost their jobs due to business closure of fishery, etc.: Provided, That the foregoing shall not apply to cases where an unemployed seafarer is the same as a fishing operator, etc. *<Amended by Act No. 8852, Feb. 29, 2008>*

(2) The Minister for Food, Agriculture, Forestry and Fisheries shall carry out vocational training programs for unemployed seafarers and seek to devise measures for employment referrals. In such cases, he/she shall have a prior consultation with the Minister of Labor. *<Amended by Act No. 8852, Feb. 29, 2008>*

(3) Unemployed seafarers shall, in cases where they receive unemployment subsidies under paragraph (1), be deemed to have received unemployment benefits under Article 40 of the Seafarers Act.

(4) The method of calculation of ordinary wages under paragraph (1) shall be prescribed by Presidential Decree.

Article 6 (Assistance to Related Industries)

(1) The Government shall, in cases where any reasonable ground for providing subsidies exists to secure the business stability of related industries on which the conclusion of any agreement has an influence, seek to devise necessary supportive measures, such as special loan.

(2) The Government shall, in cases where any laborer engaged in related industries under paragraph (1) gets unemployed, seek to devise necessary measures for vocational training, employment referral, etc. as prescribed by labor-related Acts and subordinate statutes.

(3) The criteria for the selection of persons subject to subsidies under paragraph (1) and other necessary matters shall be prescribed by Presidential Decree.

Article 7 (Establishment of Committee for Deliberation on Assistance to Fishermen)

(1) The Central Committee for Deliberation on Assistance to Fishermen (hereinafter referred to as the "Central Committee") shall be established under the control of the Ministry for Food, Agriculture, Forestry and Fisheries, and a Committee for Deliberation on Assistance to Fishermen in the Metropolitan Cities and Dos (hereinafter referred to as "City and Do Committees") shall be established under the control of the relevant Metropolitan Cities and Dos, in order to have the aforementioned Committees deliberate on or determine persons subject to assistance under this Act, the amount of subsidy, etc. *<Amended by Act No. 8852, Feb. 29, 2008>*

(2) The Central Committee and City and Do Committees shall be comprised of 15 or less members, including fishermen's representative, persons with abundant knowledge and experience in fisheries-related fields, appraisal evaluator, and relevant public officials.

(3) Secretariats may be established respectively to assist the activities of the Central Committee and City and Do Committees and handle administrative affairs.

(4) The composition and operation of the Central Committee and City and Do Committees or other necessary matters shall be prescribed by Presidential Decree.

Article 8 (Functions of Committee for Deliberation on Assistance to Fishermen)

(1) The Central Committee shall deliberate on or resolve the following matters: *<Amended by Act No. 8852, Feb. 29, 2008>*

1. Guidelines concerning assistance to fishermen, etc.;
2. Matters concerning measures to secure financial resources for assistance to fishermen, etc.;
3. Detailed criteria for the selection of persons subject to assistance, decision for the method of assistance, and confirmation of subsidies;
4. Matters concerning expenses incurred in the remodeling of fishing boats and fishing gear concerning fishery operators, etc. and subsidization of costs incurred in sailing out for fish;
5. Matters concerning assistance to related industries;
6. Matters re-deliberation under Article 13;
7. Other matters requiring deliberation by the Minister for Food, Agriculture, Forestry and Fisheries.

(2) The City and Do Committees shall deliberate and resolve on the following matters in accordance with the detailed criteria deliberated and resolved by the Central Committee under paragraph (1) 3:

1. Selection of persons subject to assistance;
2. Factual survey for the confirmation of subsidies and evaluation;
3. Confirmation of subsidies by person subject to assistance;
4. Other matters requiring deliberation by the Metropolitan City Mayor or Do Governor (hereinafter referred to as "Mayor/Do Governor").

Article 9 (Application for Payment)

(1) Any person who intends to receive the payment of subsidies, etc. under Articles 4 through 6 shall file an application for the payment of subsidies, etc. with the Minister for Food, Agriculture, Forestry and Fisheries or the relevant Mayors/Do Governors, accompanied with the related evidential documents within six months from the date on which any ground for assistance under this Act occurs. *<Amended by Act No. 8852, Feb. 29, 2008>*

(2) The Minister for Food, Agriculture, Forestry and Fisheries or Mayors/Do Governors shall, in cases where an application under paragraph (1) is filed, immediately request the relevant Committee for Deliberation on Assistance to Fishermen to deliberate on such application. *<Amended by Act No. 8852, Feb. 29, 2008>*

(3) In cases where any person who intends to file an application under paragraph (1), the documents required for submission, procedures thereof, and other necessary matters shall be prescribed by Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries. *<Amended by Act No. 8852, Feb. 29, 2008>*

Article 10 (Appraisal Evaluation, etc.)

(1) Committees for Deliberation on Assistance to Fishermen may, in cases where necessary for the confirmation of subsidies, request any specialized institution of survey, research, and education on fisheries or accredited specialized appraisal institution to make a survey of services or make appraisal evaluation, as prescribed by Presidential Decree.

(2) Committees for Deliberation on Assistance to Fishermen may, in cases where necessary for factual confirmation, engage in conducting field investigations, verification, etc. and hear verbal testimonies or statements from applicants, witnesses, and the relevant persons, or may demand the submission of necessary data from administrative institutions or other related institutions.

Article 11 (Hearings of Opinions)

(1) Committees for Deliberation on Assistance to Fishermen shall, in cases where application for the payment of subsidies under Article 4 (1) is filed, hear opinions by obtaining a written or verbal statement from the relevant applicants before resolving on whether such assistance is to be rendered and the amount of subsidies: Provided, That the foregoing shall not apply to cases where such applicants fail to submit their opinions without justifiable grounds.

(2) Concrete procedures for hearing opinions under paragraph (1) shall be prescribed by Presidential Decree.

Article 12 (Payment of Subsidies)

(1) The Minister for Food, Agriculture, Forestry and Fisheries or Mayors/Do Governors shall decide on the payment of subsidies in accordance with the resolution results of Committees for Deliberation on Assistance to Fishermen. In such cases, he/she shall immediately notify applicants of such results.
<Amended by Act No. 8852, Feb. 29, 2008>

(2) Subsidies shall be paid within three months from the date on which application is filed. In such cases, the number of days required for service investigation or appraisal evaluation under Article 10 (1) shall not be included in such period.

(3) Subsidies shall be paid by cash in a lump: Provided, That in cases where inevitable due to budgetary limits, subsidies may be paid in installments as prescribed by Presidential Decree.

Article 13 (Re-deliberation)

(1) Fishery operators, etc. who files an application for the payment of subsidies under Article 4 (1) may, in cases where they are dissatisfied with a payment decision, etc. under Article 12 (1), file an application for re-deliberation with the Minister for Food, Agriculture, Forestry and Fisheries or Mayors/Do Governors along with the related evidential documents within one month from the date on which such decision is notified, as limited to cases falling under any of the following subparagraphs. In such cases, the Mayors/Do Governors shall add their opinions and immediately forward such documents to the Minister for Food, Agriculture, Forestry and Fisheries: <Amended by Act No. 8852, Feb. 29, 2008>

1. Where fishery operators, etc. fail to submit data likely to have an influence upon deliberation and resolution by the Committees for Deliberation on Assistance to Fishermen in the absence of gross negligence or intentional misconduct;
2. Where the Committees for Deliberation on Assistance to Fishermen fails to make any judgement on matters likely to have an influence on resolution or any other case where any serious error lies in deliberation and resolution.

(2) The Minister for Food, Agriculture, Forestry and Fisheries shall, in cases where grounds for the application for re-deliberation are deemed to fall under any of the subparagraphs of paragraph (1), immediately request the Central Committee to conduct re-deliberation and make a decision, etc. on the payment of subsidies again, in accordance with the results of such resolution. In such cases, the deadline for handling such payment decision shall not exceed two months from the date on which application under paragraph (1) is filed. *<Amended by Act No. 8852, Feb. 29, 2008>*

(3) The provisions of Articles 10 and 11 shall apply mutatis mutandis to re-deliberation of the Central Committee.

Article 14 (Protection of Unemployment Benefits)

No entitlement to receive unemployment benefits under Article 5 (1) shall be transferred, seized or offered as a security.

Article 15 (Special Examples of Tax Reduction or Exemption)

Subsidies and other forms of subsidies may be exempt from national and local taxes as prescribed by the Restriction of Special Taxation Act and the Local Tax Act, and any other relevant Acts and subordinate statutes.

Article 16 (Recovery of Subsidies, etc.)

(1) The Minister for Food, Agriculture, Forestry and Fisheries may, in cases where any person who receives a subsidy or other form of subsidy falls under any of the following subparagraphs, fully or partially recover a subsidy or other form of subsidy received by him/her: *<Amended by Act No. 8852, Feb. 29, 2008>*

1. Where a payment is made by deceit or other fraudulent means;
2. Where an erroneous payment is made.

(2) The Minister for Food, Agriculture, Forestry and Fisheries shall, in cases where recovery under paragraph (1) is made, follow the precedents on collection of national taxes. *<Amended by Act No. 8852, Feb. 29, 2008>*

Article 17 (Prescription)

The entitlement to receive subsidies under this Act shall be extinguished by prescription upon the lapse of one year from the date on which such payment decision is notified, unless the entitlement is exercised.

Articles 18 through 21 Deleted. *<by Act No. 9626, Apr. 22, 2009>*

Articles 22 through 26 Deleted. *<by Act No. 9626, Apr. 22, 2009>*

Article 27 (Disposal of Purchased Fishing Boats and Fishing Gear)

(1) The Minister for Food, Agriculture, Forestry and Fisheries and the Mayors/Do Governors may dispose of fishing boats and fishing gear purchased under Article 4 (1), notwithstanding the provisions of the State Property Act, the Commodity Management Act, and the Local Finance Act, by one of the following means: *<Amended by Act No. 8852, Feb. 29, 2008>*

1. Sale or transfer within the limited extent of having a negative influence on fishery restructuring;

2. Grant without compensation in the dimension of overseas exports or international cooperation;
3. Exploitation for the sake of public projects;
4. Incineration or dismantlement;
5. Other purposes of use and methods prescribed by the Minister for Food, Agriculture, Forestry and Fisheries

(2) Necessary matters concerning the acquisition of purchased fishing boats and fishing gear and procedures for the disposal thereof shall be prescribed by Presidential Decree.

Articles 28 Deleted. <by Act No. 9626, Apr. 22, 2009>

Article 29 (Delegation, etc. of Authority)

(1) The Minister for Food, Agriculture, Forestry and Fisheries may delegate or entrust part of his/her authority or duties under this Act to Mayors/Do Governors or the National Federation of Fisheries Cooperatives respectively, as prescribed by Presidential Decree. <Amended by Act No. 9626, Apr. 22, 2009>

(2) Mayors/Do Governors may delegate part of their authority or duties under this Act to the heads of Sis/Guns/Gus (referring to the head of an autonomous Gu) as prescribed by the relevant Municipal Ordinance.

Article 30 (Legal Fiction of Public Officials in Application of Penal Provisions)

Any person falling under any of the following subparagraphs shall be deemed a public official for the purposes of Articles 129 through 132 of the Criminal Act:

1. Any person who is not a public official from among the members of the Central Committee and the Cities/Dos Committees under Article 7 (2);
2. Any person who issues related evidential documents under Article 9 (1);
3. Any person conducts service investigation or appraisal evaluation as entrusted by the Committees for Deliberation on Assistance to Fishermen to fishermen under Article 10.

Article 31 (Penal Provisions)

Any person falling under any of the following subparagraphs shall be punished by imprisonment for a term not exceeding two years or by a fine not exceeding 20 million won:

1. Any person who prepares a false application document for the payment of subsidies or other forms of subsidies;
2. Any person who conducts false service investigation or appraisal evaluation under Article 10 (1).

Article 32 (Fines for Negligence)

(1) Any person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding two million won:

1. Any person who refuses, obstructs, or evades a field investigation, verification, etc. under Article 10 (2);
2. Deleted. <by Act No. 9626, Apr. 22, 2009>

(2) Fines for negligence under paragraph (1) shall be imposed and collected by the Minister for Food, Agriculture, Forestry and Fisheries or Mayors/Do Governors (hereafter referred to as "imposing authority")

in this Article), as prescribed by Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008>

(3) Any person who is dissatisfied with the disposition of a fine for negligence under paragraph (2) may file an objection with the imposing authority within 30 days from the date on which such disposition is notified.

(4) In cases where any person who is imposed the disposition of a fine for negligence under paragraph (2) files an objection under paragraph (3), the imposing authority shall, without delay, notify the competent court, which, in turn, shall proceed to a trial on fines for negligence pursuant to the Non-Contentious Case Litigation Procedure Act.

(5) If neither an objection is raised nor a fine for negligence paid within a period prescribed in paragraph (3), the aforementioned fine for negligence shall be collected pursuant to the precedents on dispositions on default of national or local taxes.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the date prescribed by Presidential Decree for a term not exceeding three months after the date of its promulgation.

Article 2 (Retroactive Application and Transitional Measures Subsequent thereto)

(1) Any person prescribed by Presidential Decree from among fishermen, etc. for whom restrictions on their fishing operations are imposed due to the Agreement on Fisheries between the Republic of Korea and Japan which entered into force on January 22, 1999 shall also be governed by this Act.

(2) Any seafarer who obtains a subsidy for reducing the number of surplus vessels, etc. granted as a supportive measure under Article 11 of the Act on the Special Measures for Development of Agricultural and Fishing Villages or an unemployment benefit for unemployed fishermen accompanied thereby in relation to the Agreement on Fisheries between the Republic of Korea and Japan under paragraph (1) before this Act enters into force shall be paid the adjusted amount of subsidy.

(3) Application, deliberation, appraisal evaluation, re-deliberation, etc. as a supportive measure under paragraph (2) before this Act enters into force shall be deemed conducted under this Act.

Article 3 (Transitional Measures for Transporters of Fish Catches)

Any transporter of a fish catch under subparagraph 2 of Article 2 shall be deemed to have obtained permission under Article 46 of the former Fisheries Act, prior to the enforcement date of the amended provisions of Article 46 in the amended Fisheries Act No. 5977.

Article 4 Omitted.

ADDENDA <Act No. 6075, Dec. 31, 1999>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2000.

Articles 2 through 4 Omitted.

ADDENDA <Act No. 6515, Sep. 12, 2001>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That environment improvement charge under Article 46-3 of the Prevention of Marine Pollution Act in the amended provisions of Article 23 (1) 7 shall be imposed and collected from the date prescribed by Ordinance of the Ministry of Maritime Affairs and Fisheries for a term not exceeding one year after the date of its promulgation.

Article 2 (Retrospective Application concerning Reversion of Proceeds from Sale of Fishing Boats and Fishing Gear)

The amount prescribed by Presidential Decree in the proceeds of sale of fishing boats and fishing gear under Article 27 (1) 1 before this Act enters into force may be used secure the financial resources of the fund pursuant to the amended provisions of Article 23 (1) 5.

Article 3 Omitted.

ADDENDA <Act No. 6611, Jan. 14, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force one year and six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 4 Omitted.

ADDENDA <Act No. 6836, Dec. 30, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2003.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 7207, Mar. 22, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force on the effective date of the Free Trade Agreement between the Government of the Republic of Korea and the Government of the Republic of Chile.

Articles 2 and 3 Omitted.

ADDENDA <Act No. 7275, Dec. 31, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2005.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 7571, May 31, 2005>

Article 1 (Enforcement Date)

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

Articles 2 through 8 Omitted.

ADDENDUM <Act No. 7639, Jul. 29, 2005>

This Act shall enter into force on January 1, 2006.

ADDENDA <Act No. 8045, Oct. 4, 2006>

Article 1 (Enforcement Date)

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

Articles 2 through 11 Omitted.

ADDENDA <Act No. 8260, Jan. 19, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 24 Omitted.

ADDENDA <Act No. 8377, Apr. 11, 2007>

Article 1 (Enforcement Date)

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

Articles 2 through 16 Omitted.

ADDENDUM <Act No. 8625, Aug. 3, 2007>

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

ADDENDA <Act No. 8629, Aug. 3, 2007>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <Act No. 9626, Apr. 22, 2009>

Article 1 (Enforcement Date)

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

Articles 2 through 12 Omitted.

