

# ACT ON THE EXERCISE OF SOVEREIGN RIGHTS ON FOREIGNERS' FISHING, ETC. WITHIN THE EXCLUSIVE ECONOMIC ZONE

Act No. 5152, Aug. 8, 1996  
Amended by Act No. 5153, Aug. 8, 1996  
Act No. 5809, Feb. 5, 1999  
Act No. 8220, Jan. 3, 2007  
Act No. 8377, Apr. 11, 2007  
Act No. 8852, Feb. 29, 2008  
Act No. 9627, Apr. 22, 2009  
Act No. 10119, Mar. 17, 2010  
Act No. 11420, May 14, 2012  
Act No. 11690, Mar. 23, 2013  
Act No. 14507, Dec. 27, 2016

## Article 1 (Purpose)

The purpose of this Act is to contribute to the appropriate conservation, management, and utilization of marine biological resources by prescribing matters necessary for the Republic of Korea's exercising its sovereign rights, etc. in relation to foreigners' fishing activities, etc. conducted in the exclusive economic zone of the Republic of Korea, as stipulated by the related provisions of the United Nations Convention on the Law of the Sea.

## Article 2 (Definitions)

The terms used in this Act shall be defined as follows: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. The term "exclusive economic zone" means a zone created in accordance with the Exclusive Economic Zone Act;
2. The term "foreigner" means any of the following persons:
  - (a) A person who is not a national of the Republic of Korea;
  - (b) A corporation established in accordance with any foreign law (including a corporation established in accordance with the laws of the Republic of Korea with its head office or principal office in a foreign country, or a corporation with no less than 1/2 of its stocks or shares under the ownership of a foreigner);

3. The term "fisheries" means a business involving the capture, picking, or cultivation of marine animals and plants;

4. The term "fishery activity" means fisheries or a search and gathering activity related to fisheries; keeping, storage, and processing of fishery products; transportation of the catch and its products; supply of materials necessary for vessels; and other acts related to fisheries, as stipulated by Ordinance of the Ministry of Oceans and Fisheries.

#### **Article 3 (Scope of Application, etc.)**

(1) Where a foreigner conducts fishery activities in an exclusive economic zone, the provisions of this Act shall apply, notwithstanding the Fisheries Act and the Fishery Resources Management Act.

(2) Where any matter provided for in this Act is determined differently in an agreement with a foreign country, the agreement concerned shall take precedence.

(3) The provisions of the Acts and subordinate statutes stipulated by Presidential Decree shall not apply to fishery activities conducted by foreigners in an exclusive economic zone, notwithstanding Article 5 (1) of the Exclusive Economic Zone Act.

#### **Article 4 (Prohibition of Fishery Activities in No Take Zones)**

No foreigner may conduct fishery activities in an exclusive economic zone set by Presidential Decree for the purpose of protecting fishery resources or regulating fisheries (hereinafter referred to as "no take zone").

#### **Article 5 (License for Fisheries, etc.)**

(1) Each foreigner who intends to conduct fishery activities in an exclusive economic zone other than a no take zone shall obtain a license for each vessel from the Minister of Oceans and Fisheries. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) When granting a license pursuant to paragraph (1), the Minister of Oceans and Fisheries shall issue a certificate of license to the relevant foreigner. *<Amended by Act No. 11690, Mar. 23, 2013>*

(3) Each foreigner who has obtained a license pursuant to paragraph (1) shall mark on the licensed vessel to ensure the distinguishability of the licensed matters and carry a certificate of license pursuant to paragraph (2).

(4) Matters relating to licenses under paragraphs (1) through (3) shall be stipulated by Presidential Decree, and licensing procedure, issuance of a certificate of license, methods of marking, and other necessary matters shall be stipulated by Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 6 (Standards of License)**

(1) When the Minister of Oceans and Fisheries receives an application for a license under Article 5 (1), the Minister may grant a license only when all of the following requirements are satisfied: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. It shall be deemed that the fishery activities for which a license is applied do not impede the implementation of international agreements, agreements between nations, or others equivalent thereto;

2. It shall be deemed that the fishing quota determined by the Minister of Oceans and Fisheries, as prescribed by Ordinance of the Ministry of Oceans and Fisheries, is not exceeded due to the fishery activities for which a license is applied;

3. It shall be deemed that the standards stipulated by Ordinance of the Ministry of Oceans and Fisheries, such as those of allowable fisheries and vessel sizes, are met.

(2) The fishing quota under paragraph (1) 2 shall be determined based on the total allowable catch under Article 36 of the Fishery Resources Management Act, in view of the trends of marine resources, the actual state of catch by fishermen of the Republic of Korea, the fishery situation of foreigners, the fishery situation of fishermen of the Republic of Korea in the neighboring foreign waters, etc.

#### **Article 6-2 (Order for Stoppage of Vessel Suspected of Illegal Fishery Activities)**

Any public prosecutor or judicial police officer prescribed by Presidential Decree (hereinafter referred to as "judicial police officer") may issue an order to stop any foreign vessel which is suspected of conducting any of the following illegal fishing activities in an exclusive economic zone. In such cases, the relevant foreign vessel shall comply with such order:

1. When a foreign vessel is suspected of violating this Act, or any order or restrictions or conditions under this Act;
2. When a vessel of a country which has concluded a fishery agreement with the Republic of Korea is suspected of violating the said agreement, or any order, restrictions or conditions under the said agreement.

#### **Article 7 (Fishing Fees)**

(1) A foreigner to whom the certificate of license is issued under Article 5 (2) shall pay a fishing fee to the Government of the Republic of Korea.

(2) Fishing fees under paragraph (1) may be reduced or exempted if extenuating circumstances exist.

(3) The amount of fishing fees under paragraphs (1) and (2), deadline and method for its payment, and criteria for reduction or exemption and other necessary matters pertaining to fishing fees shall be stipulated by Presidential Decree.

#### **Article 8 (Approval for Capture, Picking, etc. of Marine Animals and Plants for Experiment, Research, etc.)**

(1) A foreigner who intends to conduct any of the following activities in an exclusive economic zone for an experiment and research, educational practice or other purposes stipulated by Ordinance of the Ministry of Oceans and Fisheries shall obtain approval from the Minister of Oceans and Fisheries for each vessel, as prescribed by Ordinance of the Ministry of Oceans and Fisheries: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. Capture and picking of marine animals and plants;
2. Search and gathering related with fisheries;
3. Keeping, storage, and processing of a catch and its products;

4. Transportation of a catch and its products.

(2) Where approval is granted under paragraph (1), the provisions of Article 5 (2) and (3) shall apply mutatis mutandis to the issuance and carrying of a certificate of approval and marking of the approved matters. In such cases, "license", "certificate of license", and "licensed matters" shall be construed as "approval", "certificate of approval", and "approved matters", respectively.

(3) Approval procedures, issuance of certificate of approval, approved matters, method of marking, and other necessary matters under paragraphs (1) and (2) shall be stipulated by Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 9 (Fees)**

(1) When a foreigner applies for approval under Article 8 (1), the foreigner shall pay a fee to the Government of the Republic of Korea, as prescribed by Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) Fees under paragraph (1) may be reduced or exempted where extenuating circumstances exist.

(3) Necessary matters pertaining to the amount of fees and criteria for reduction or exemption under paragraphs (1) and (2) shall be stipulated by Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 10 (Restrictions or Conditions on Licenses, etc.)**

When the Minister of Oceans and Fisheries grants a license under Article 5 (1) or approval under Article 8 (1), the Minister may impose restrictions or conditions thereon, and change such restrictions or conditions.

*<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 11 (Prohibition on Transfer, etc. of Catch, etc.)**

No foreigner or captain of a foreign vessel may transfer a catch or its products to or from another vessel in an exclusive economic zone: Provided, That this shall not apply to cases stipulated by Ordinance of the Ministry of Oceans and Fisheries, such as the occurrence of a marine accident. *<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 12 (Prohibition of Direct Unloading of Catch, etc.)**

No foreigner or captain of a foreign vessel may unload a catch from an exclusive economic zone or its products directly into a harbor of the Republic of Korea: Provided, That this shall not apply to cases stipulated by Ordinance of the Ministry of Oceans and Fisheries, such as the occurrence of a marine accident. *<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 13 (Revocation, etc. of License and Approval)**

When a foreigner who is granted a license under Article 5 (1) or approval under Article 8 (1) violates this Act, an order, restrictions, or conditions under this Act, the Minister of Oceans and Fisheries may order the suspension of fishery activities or of the capture, picking, etc. of marine animals and plants for the purpose of experimentation, research, etc. (hereinafter referred to as "fishery activities, etc."), or revoke the license under Article 5 (1) or approval under Article 8 (1). *<Amended by Act No. 11690, Mar. 23, 2013>*

#### **Article 14 (Application Mutatis Mutandis to Fishery Activities Related to Sedentary Species in Continental Shelf)**

(1) The provisions of Articles 3 through 13 shall apply mutatis mutandis to fishery activities, etc. related to sedentary species (referring to the organisms which belong to a sedentary species under Article 77 (4) of the United Nations Convention on the Law of the Sea) in the continental shelf of the Republic of Korea outside the exclusive economic zone.

(2) A sedentary species under paragraph (1) shall be publicly notified by the Minister of Oceans and Fisheries. <Amended by Act No. 11690, Mar. 23, 2013>

#### **Article 15 (Protection and Management of Anadromous Species)**

For the purposes of protecting and managing anadromous fish stocks that spawn within inland waters of the Republic of Korea, the Republic of Korea shall have the preferential interests and responsibilities for such fish stocks in the waters outside the exclusive economic zone, in accordance with Article 66 (1) of the United Nations Convention on the Law of the Sea.

#### **Article 16 (Delegation of Authority)**

The Minister of Oceans and Fisheries may delegate part of his/her authority bestowed by this Act to a Special Metropolitan City Mayor, a Metropolitan City Mayor, Do Governor, or the Governor of a Special Self-Governing Province, as prescribed by Presidential Decree. <Amended by Act No. 11690, Mar. 23, 2013>

#### **Article 16-2 (Penalty Provisions)**

A person who conducts fishery activities in violation of Articles 4 or 5 (1) shall be punished by a fine up to 300 million won:

#### **Article 17 (Penalty Provisions)**

Any of the following persons shall be punished by a fine not exceeding 200 million won: <Amended by Act No. 11420, May 14, 2012>

1. Deleted; <by Act No. 14507, Dec. 27, 2016>
2. Any person who violates restrictions or conditions imposed on a license under Article 5 (1) pursuant to Article 10 (including restrictions or conditions changed pursuant to Article 10);
3. Any person who transfers a catch or its products to or from another vessel, in violation of Article 11;
4. Any person who violates an order to suspend fishery activities under Article 13;
5. Any person who conducts fishery activities, in violation of Article 4, 5 (1), 10, or 13 which is applied mutatis mutandis under Article 14 (1).

#### **Article 17-2 (Penalty Provisions)**

An owner or captain of a vessel who fails to comply with an order to stop the vessel in violation of Article 6-2 shall be punished by a fine not exceeding 100 million won. <Amended by Act No. 11420, May 14, 2012>

#### **Article 18 (Penalty Provisions)**

A person who directly unloads a catch or its products in violation of Article 12 shall be punished by a fine not exceeding 30 million won.

### **Article 19 (Penalty Provisions)**

A person falling under any of the following subparagraphs shall be punished by a fine not exceeding five million won:

1. A person who catches or picks up, etc. marine animals and plants for the purposes of experimentation, research, etc. without obtaining approval under Article 8 (1) (including cases applicable mutatis mutandis under Article 14 (1));
2. A person who violates restrictions or conditions (including restrictions or conditions changed pursuant to Article 10) imposed on approval of Article 8 (1) under Article 10 (including persons who violate the restrictions or conditions that are applied mutatis mutandis under Article 14 (1) or changed restrictions or conditions);
3. A person who violates an order for suspension of capturing or picking, etc. of marine animals and plants for the purposes of experimentation, research, etc. under Article 13 (including cases applicable mutatis mutandis under Article 14 (1)).

### **Article 20 (Penalty Provisions)**

A person who fails to mark licensed matters under Article 5 (3) or fails to keep a certificate of license (including cases applicable mutatis mutandis under Article 8 (2) or 14 (1)) shall be punished by a fine not exceeding two million won.

### **Article 21 (Confiscation or Collection Equivalent Value)**

(1) The catch and its products, vessel or fishing implements, and other objects used for fishery activities, etc. owned or held by any person who commits an offence under Article 16-2, 17, 18 or 19 (hereafter referred to as “the catch of fish and others” in this Article) may be confiscated: Provided, That where a person who commits a crime under Article 16-2 fails to obtain a permission related to fishery activities from his or her State, the catch of fish and others shall be confiscated. <Amended by Act No. 14507, Dec. 27, 2016>

(2) Where all or part of the catch of fish and others cannot be confiscated in compliance with paragraph (1), the value equivalent thereto shall be collected. <Newly Inserted by Act No. 14507, Dec. 12, 2016>

### **Article 22 (Joint Penalty Provisions)**

When a representative of a corporation or an agent, employee or other servant of a corporation or individual commits an offence under Articles 16-2 17, 17-2 or Articles 18 through 20 in connection with the business or property of the corporation or individual, not only shall such offender be punished, but the corporation or individual shall also be punished by a fine under each relevant Article. <Amended by Act No. 14507, Dec. 12, 2016>

### **Article 23 (Judicial Procedure against Violating Vessels, etc.)**

(1) Any public prosecutor or judicial police officer may stop, board, search, seize the vessel that violates this Act or orders, restrictions or conditions issued or imposed under this Act or take other necessary measures with respect to the captain of such vessel or other violators.

(2) Where a judicial police officer takes a measure under paragraph (1), he/she shall report the results to a public prosecutor, and the judicial police officer shall take a measure under paragraph (1) under the supervision of the public prosecutor, except in cases where he/she cannot receive the supervision in advance due to emergency.

(3) Where a public prosecutor takes a measure under paragraph (1) or receives a report under paragraph (2), he/she shall, without delay, notify the captain or other violators of the following matters: Provided, That this shall not apply to fishery activities, etc. conducted by foreigners prescribed by Presidential Decree: *<Amended by Act No. 11420, May 14, 2012>*

1. The purport that the captain and other violators should be released and the vessel should be returned on condition that a bond or the document guaranteeing the provision of the bond is submitted to the prosecutor, as prescribed by Ordinance of the Ministry of Justice;

2. The amount of a bond.

(4) A prosecutor in receipt of the bond notified under paragraph (3) or the document guaranteeing the provision of such bond shall, without delay, release the captain or other violators, and return the vessel. *<Amended by Act No. 11420, May 14, 2012>*

(5) The amount of a bond referred to in paragraph (3) 2 shall be determined by the prosecutor pursuant to the standards prescribed by Presidential Decree, taking into consideration the details and frequency of a violation and other circumstances. *<Amended by Act No. 11420, May 14, 2012>*

#### **Article 24 (Custody, Reversion to National Treasury, and Return, etc. of Bonds)**

(1) The prosecutor shall have custody of a bond, as prescribed by Ordinance of the Ministry of Justice.

(2) In any of the following cases, a bond shall revert to the national treasury one month after the day following the designated date, as prescribed by Presidential Decree: Provided, That this shall not apply when the captain or other violator makes an application to the effect that he/she will appear before the court or present the confiscated materials on a specific date within three months from the day following the designated date:

1. When the captain or other violator fails to appear before the court on the designated date and at the designated place, in spite of having been requested to do so by the court;

2. When the captain or other violator fails to submit the returned confiscated materials on the designated date and at the designated place, in spite of having been requested to do so by the court.

(3) The bond that has not reverted to the national treasury under the proviso to paragraph (2) shall revert to the national treasury on the date following the specific date designed by the captain or other violator who fails to submit the relevant confiscated materials on the specific date.

(4) When any ground stipulated by Ordinance of the Ministry of Justice as not requiring the custody of a bond accrues, such as cases where a fine sentenced by the court is paid before the bond in question reverts to the national treasury on any ground under paragraph (2) or (3), the prosecutor shall return such bond, as prescribed by Ordinance of the Ministry of Justice.

**Article 25 (Detailed Matters for Enforcement of Judicial Procedures, etc. Related to Violating Vessels)**

Necessary procedures pertaining to the enforcement of judicial procedures related to violating vessels under Article 23 and the custody, reversion to the national treasury, and return, etc. of a bond under Article 24 and other detailed matters may be determined by the heads of the relevant central administrative agencies.

**Article 26 Deleted.** <by Act No. 10119, Mar. 17, 2010>

ADDENDA

(1) (Enforcement Date) This Act shall enter into force on the date stipulated by Presidential Decree within one year after its promulgation.

(2) (Special Cases concerning Application of Articles 5 through 15) With regard to foreigners and waters stipulated by Presidential Decree, application of all or part of Articles 5 through 15 may be forgone for a given period.

ADDENDA <Amended by Act No. 5153, Aug. 8, 1996>

**Article 1 (Enforcement Date)**

This Act shall enter into force within 30 days after its promulgation, on the enforcement date of Presidential Decree pertaining to the Organization of the Ministry of Maritime Affairs and Fisheries and the National Maritime Police Agency pursuant to the amended provision of Article 41.

**Articles 2 through 4 Omitted.**

ADDENDA <Act No. 5809, Feb. 5, 1999>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 6 Omitted.**

ADDENDUM <Act No. 8220, Jan. 3, 2007>

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

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.**

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. 9627, Apr. 22, 2009>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 10 Omitted.**

ADDENDUM <Act No. 10119, Mar. 17, 2010>

This Act shall enter into force one year after the date of its promulgation: Provided, That the amended provisions of Articles 3 (1) and 6 (2) shall enter into force on April, 23, 2010.

ADDENDA <Act No. 11420, May. 14, 2012>

**Article 1 (Enforcement Date)**

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

**Article 2 (Transitional Measures concerning Penal Provisions and Judicial Procedures against Violating Vessels, etc.)**

For the purposes of the penal provisions or judicial procedures against violating vessels, etc., any offense committed before this Act enters into force shall be governed by the former provisions.

ADDENDA <Act No. 11690, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

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

(2) Omitted.

**Articles 2 through 7 Omitted.**

ADDENDUM <Act No. 14507, Dec. 27, 2016>

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