

SPECIAL ACT ON COMPENSATION FOR LOSSES DUE TO REFUSAL OF PERMISSION FOR EXTENSION OF LICENSE PERIOD FOR CAGE AQUACULTURE IN INLAND WATERS

Act No. 17327, May 26, 2020

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to promote the livelihood stabilization of fishers by prescribing matters necessary to compensate them for losses caused by the refusal of permission to extend a period of license for cage aquaculture in inland waters.

Article 2 (Definitions)

The terms used in this Act are defined as follows:

1. The term “inland waters” means inland waters defined in subparagraph 1 of Article 2 of the Inland Water Fisheries Act;
2. The term “cage aquaculture business” means a business that cultivates aquatic animals or plants by confining them in a structure installed in a demarcated area of waters using buoys, nets, etc.;
3. The term “waters manager” means a waters manager defined in subparagraph 4 of Article 2 of the Inland Water Fisheries Act.

Article 3 (Scope of Persons Eligible for Compensation)

A person eligible for compensation under this Act shall be a person who has been granted a license for aquaculture under Article 7 (1) 1 of the Inland Water Fisheries Development Promotion Act (Act No. 2835) to engage in a cage aquaculture business, but who has failed to obtain permission for extension of the relevant license period according to the special measures for source water quality preservation (referring to the Ministry of Environment Notice Nos. 90-15 and 90-16) communicated to each central administrative agency, local government, and public institution as part of the Government’s clean water supply policy implemented since 1989 and the instructions on the thorough management of cage farms for protecting source water (referring to the Prime Minister’s Order No. 1997-10) (including where

permission for extension of the license period is not granted because the waters manager's consent is not obtained).

Article 4 (Relationship to Other Statutes)

With respect to compensation for losses due to the refusal of permission for extension of a license period for cage aquaculture under Article 3 (hereinafter referred to as “nonpermission for license extension”), the Fisheries Act and the Act on Acquisition of and Compensation for Land for Public Works Projects shall apply *mutatis mutandis*, except as provided in this Act.

CHAPTER II ESTABLISHMENT AND OPERATION OF LOSS COMPENSATION COMMITTEE

Article 5 (Loss Compensation Committee)

(1) A Loss Compensation Committee (hereinafter referred to as the “Committee”) shall be established under the jurisdiction of the Minister of Oceans and Fisheries to deliberate on the following matters regarding compensation for losses due to nonpermission for license extension:

1. Whether to fall under an aquaculturist who suffered a loss due to nonpermission for license extension (hereinafter referred to as “victim”);
2. Whether to compensate for a loss due to nonpermission for license extension, and decision on payment of compensation;
3. Objection under Article 10;
4. Other matters deemed necessary by the chairperson for compensating for sufferers' losses.

(2) The Committee shall be comprised of not more than 15 members including one chairperson.

(3) The office of the Committee's chairperson shall be assumed by the Vice Minister of Oceans and Fisheries, and members shall be those appointed or commissioned by the Vice Minister of Oceans and Fisheries from among the following persons:

1. A public official in charge of loss compensation who belongs to a central administrative agency or a relevant local government;
2. An officer who is engaged in the affairs of loss compensation in a public institution under Article 4 of the Act on the Management of Public Institutions;
3. A person recognized by the Vice Minister of Oceans and Fisheries as having adequate expertise and experience in compensation for fishery loss.

(4) The Committee may hear the opinions of the victims' group and interested persons under Article 7 if necessary for deliberation pursuant to paragraph (1).

(5) If necessary for deliberation pursuant to paragraph (1), the Committee may request the head of a relevant central administrative agency, the head of a local government, or an interested person to submit data and provide necessary cooperation. In such cases, the person in receipt of such request shall comply

therewith, unless there is a compelling reason not to do so.

(6) Other matters necessary for the establishment and operation of the Committee shall be prescribed by Presidential Decree.

Article 6 (Fact-Finding Survey)

(1) The Committee may conduct a fact-finding survey of losses caused by nonpermission for license extension in order to efficiently promote compensation for victims' losses.

(2) The scope and methods of fact-finding surveys under paragraph (1), and other necessary matters, shall be prescribed by Ordinance of the Ministry of Oceans and Fisheries.

Article 7 (Victims' Groups)

(1) Victims may form a victims' group and report it to the Minister of Oceans and Fisheries.

(2) Matters necessary for the procedures, methods, etc. for reporting under paragraph (1) shall be prescribed by Ordinance of the Ministry of Oceans and Fisheries.

CHAPTER III COMPENSATION

Article 8 (Compensation)

(1) Compensation under this Act shall be calculated based on the amount of property loss such as the residual value of facilities, nursery disposal costs, and facility removal costs due to the closure of a cage aquaculture business.

(2) With respect to the calculation of compensation under paragraph (1), the Act on Acquisition of and Compensation for Land for Public Works Projects shall apply mutatis mutandis, except as otherwise provided in this Act.

Article 9 (Application for Payment of Compensation)

(1) The Minister of Oceans and Fisheries shall determine and announce persons eligible for compensation, the scope of compensation, and the method and period of application for compensation in order to compensate for losses caused by nonpermission for license extension. In such cases, the period of application for compensation shall not be shorter than 90 days in view of the preparatory actions necessary for applying for compensation.

(2) A victim who intends to receive compensation shall file a written application for compensation with the Minister of Oceans and Fisheries with a document, as determined by the Minister of Oceans and Fisheries, certifying that he or she is a person eligible for compensation, within the application period under paragraph (1).

(3) Upon receipt of an application under paragraph (2), the Minister of Oceans and Fisheries shall decide whether to pay compensation and the amount of compensation, within 90 days from the date of application

after deliberation by the Committee: Provided, That the same shall not apply where the Committee recognizes that there exist any special circumstances under which such decision cannot be rendered within the said period.

(4) When the Minister of Oceans and Fisheries decides whether to pay compensation and the amount of compensation pursuant to paragraph (3), he or she shall serve the applicant with an authentic copy of the decision within 30 days from the date of such decision. In such cases, the provisions of the Civil Procedure Act concerning service shall apply mutatis mutandis to the service of the authentic copy of the decision.

(5) Matters necessary for the procedures for applying for compensation payment, methods for deliberating on payment of victim compensation, decisions on compensation payment, etc. shall be prescribed by Presidential Decree.

Article 10 (Objections)

(1) If an applicant has an objection to the decision of the Minister of Oceans and Fisheries on the payment of compensation, he or she may file an objection with the Minister of Oceans and Fisheries within 30 days from the date of receiving the notification of the decision, as prescribed by Presidential Decree.

(2) The Minister of Oceans and Fisheries shall make a decision on the objection after deliberation by the Committee within 30 days from the date of receiving the objection and notify the applicant of the result without delay. In such cases, if a decision as to whether to pay compensation or the amount of compensation is changed, he or she shall serve the applicant with an authentic copy of the decision stating the details of such change.

Article 11 (Applicant's Consent and Compensation Payment)

(1) Where an applicant who has been served with an authentic copy of a decision admitting the payment of compensation pursuant to Article 9 (4) or 10 (2) intends to receive compensation, he or she shall file an application for payment of compensation, along with a written consent to the decision, with the Minister of Oceans and Fisheries.

(2) Other matters necessary for compensation payment procedures, etc. shall be prescribed by Ordinance of the Ministry of Oceans and Fisheries.

Article 12 (Restitution of Compensation)

(1) The Minister of Oceans and Fisheries shall retribute all or part of the compensation under this Act if its recipient falls under any of the following subparagraphs:

1. Where he or she has received the compensation by fraud or other improper means;
2. Where the compensation has been wrongly paid by mistake, etc.

(2) If a person liable to return compensation under paragraph (1) fails to do so, it may be collected in the same manner as national taxes in arrears are collected.

CHAPTER IV SUPPLEMENTARY PROVISIONS

Article 13 (Extinctive Prescription)

Right to receive compensation shall be extinguished by prescription, if not exercised within three years from the date on which the authentic copy of the decision under Article 9 (4) (if a decision as to whether to pay compensation or the amount of compensation is changed through an objection, it refers to the authentic copy of the decision under Article 10 (2)) is served.

Article 14 (Delegation of Authority)

The Minister of Oceans and Fisheries may delegate part of his or her authority under this Act to the Special Metropolitan City Mayor, a Metropolitan City Mayor, the Special Self-Governing City Mayor, a Do Governor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu (referring to an autonomous Gu), as prescribed by Presidential Decree.

CHAPTER V PENALTY PROVISIONS

Article 15 (Penalty Provisions)

- (1) A person who receives compensation by fraud or other improper means or who pays compensation with knowledge that the application is filed by fraud or other improper means shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 30 million won.
- (2) A person who attempts to commit an offense under paragraph (1) shall be punished.

ADDENDUM <Act No. 17327, May 26, 2020>

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

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