

MARINE SCIENTIFIC RESEARCH ACT

Act No. 4941, Jan. 5, 1995
Amended by Act No. 5153, Aug. 8, 1996
Act No. 5809, Feb. 5, 1999
Act No. 8852, Feb. 29, 2008
Act No. 11690, Mar. 23, 2013
Act No. 12091, Aug. 13, 2013

Article 1 (Purpose)

The purpose of this Act is to provide for procedures for marine scientific research conducted by foreigners or international organizations and contribute to advancing marine science and technology by efficiently managing and publishing research data which are the findings of marine scientific research conducted by nationals of the Republic of Korea, foreigners, or international organizations.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "marine scientific research" means conducting research, exploration, etc. into the seabed, subsoil, superjacent waters, and lower atmosphere to study and discover the natural phenomena of the sea;
2. The term "foreigner" means any of the following:
 - (a) An non-national of the Republic of Korea (including a holder of dual nationality under the Nationality Act);
 - (b) A corporation incorporated pursuant to the laws of a foreign country (including a corporation provided for in the proviso to subparagraph 3 (b));
 - (c) A foreign government;
3. The term "national of the Republic of Korea" means any of the following:
 - (a) A person who holds nationality of the Republic of Korea (excluding a holder of dual nationality under the Nationality Act);
 - (b) A corporation incorporated pursuant to the laws of the Republic of Korea: Provided, That a corporation which has its head office or principal office in a foreign country or a corporation, at least half the shares or equity stake of which is owned by foreigners shall be excluded;
4. The term "waters under the jurisdiction" means any of the following:

- (a) Internal waters and territorial waters under the Territorial Sea and Contiguous Zone Act;
- (b) Exclusive economic zones designated under the Exclusive Economic Zone Act;
- (c) Continental shelves over which the Republic of Korea exercises its sovereign right and jurisdictional authority;

5. The term "research data" means the basic data and samples obtained through marine scientific research;

6. The term "basic data" means data organized so that users may use them universally among the data obtained in the field and related information essential for the interpretation and evaluation of such data.

Article 3 (Scope of Application)

This Act shall not apply to research, exploration, etc. related to projects for developing marine mineral resources.

Article 4 (Principles of Conducting Marine Scientific Research)

Where any foreigner or international organization (hereinafter referred to as "foreigner, etc.") conducts marine scientific research, he/she/it shall follow the following principles:

1. Marine scientific research shall be conducted only for peaceful purposes;
2. Marine scientific research shall not unfairly interfere with other legitimate use of the sea;
3. Marine scientific research shall be conducted by scientific methods or means complying with international agreements related thereto;
4. Marine scientific research shall not violate related international agreements for the protection and preservation of the marine environment.

Article 5 (Promotion of International Cooperation)

(1) The Minister of Oceans and Fisheries shall formulate policies necessary to promote international exchange of marine scientific research on the basis of mutual benefit.

(2) Where a foreigner, etc. that conducts marine scientific research makes a request, the Minister of Oceans and Fisheries may provide convenience for a vessel's arrival in or departure from port, or take measures necessary for the protection, etc. of safe waters in consultation with the heads of related central administrative agencies.

Article 6 (Permission to Conduct Marine Scientific Research in Territorial Sea)

(1) Any foreigner, etc. that intends to conduct marine scientific research in the territorial sea of the Republic of Korea shall obtain permission from the Minister of Oceans and Fisheries.

(2) Any foreigner, etc. that intends to obtain permission under paragraph (1) shall submit a research plan (hereinafter referred to as "research plan") including matters prescribed by Presidential Decree to the Minister of Oceans and Fisheries via the Minister of Foreign Affairs six months prior to the scheduled date of conducting marine scientific research.

(3) Upon receipt of an application for permission pursuant to paragraph (2), the Minister of Oceans and Fisheries shall decide whether to grant permission within four months from the date of application in consultation with the heads of related central administrative agencies, and immediately inform the relevant

applicant of his/her decision.

Article 7 (Consent to Marine Scientific Research in Exclusive Economic Zone or Continental Shelf)

(1) Any foreigner, etc. that intends to conduct marine scientific research in the exclusive economic zone or continental shelf of the Republic of Korea shall obtain consent from the Minister of Oceans and Fisheries.

(2) Any foreigner, etc. that intends to obtain consent under paragraph (1) shall submit a research plan to the Minister of Oceans and Fisheries via the Minister of Foreign Affairs six months prior to the scheduled date of conducting marine scientific research.

(3) Upon receipt of an application for consent pursuant to paragraph (2), the Minister of Oceans and Fisheries shall decide whether to grant consent within four months from the date of application in consultation with the heads of related central administrative agencies, and immediately inform the relevant applicant of his/her decision.

(4) In any of the following cases, the Minister of Oceans and Fisheries may refuse to grant consent under paragraph (1):

1. Where the content of the research plan has a direct effect on the exploration and development of marine resources conducted by a national or government agency of the Republic of Korea (hereinafter referred to as "Korean national, etc.");
2. Where the content of research plan contains matters concerning drilling on the continental shelf, the use of explosives, or the input of substances harmful to the marine environment;
3. Where the content of the research plan contains the construction, operation, or use of artificial islands, installations, or structures;
4. Where the content of the research plan is unclear or violates a related law of the Republic of Korea or international agreement;
5. Where a government agency or national of a foreign country that has refused marine scientific research of a Korean national, etc. without justifiable grounds submits the research plan;
6. Where the content of the research plan violates the principles of conducting marine scientific research under Article 4;
7. Where a foreigner, etc. that has filed an application for consent to marine scientific research fails to perform his/her obligations toward the Republic of Korea in relation to other marine scientific research conducted pursuant to this Act.

Article 8 (Permission, etc. to Conduct Joint Research)

(1) Where a foreigner, etc. and a Korean national, etc. intend to conduct joint marine scientific research (hereafter referred to as "joint research" in this Article) in waters under the jurisdiction of the Republic of Korea, excluding the internal waters, the foreigner, etc. or the Korean national, etc. participating in joint research shall jointly obtain permission under Article 6 (1) or consent under Article 7 (1).

(2) Article 6 (2) or (3), or Article 7 (2) through (4) shall apply mutatis mutandis to permission or consent to conduct joint research under paragraph (1): Provided, That where a Korean national, etc. participating in joint research submits a research plan to the Minister of Oceans and Fisheries, he/she need not submit it

via the Minister of Foreign Affairs.

Article 9 (Conditional Permission, etc.)

Where the Minister of Oceans and Fisheries grants permission or consent under Articles 6 through 8, he/she may attach conditions or impose burdens.

Article 10 (Obligations of Foreigner, etc.)

(1) A foreigner, etc. that obtains permission or consent under Articles 6 through 8 shall perform the following obligations: Provided, That where a Korean national, etc. participating in joint research performs obligations under Article 21 (2), the Minister of Oceans and Fisheries may exempt the foreigner, etc. participating in joint research from obligations under subparagraph 3:

1. The foreigner, etc. shall ensure that a person designated by the Minister of Oceans and Fisheries will participate in marine scientific research;
2. The foreigner, etc. shall submit research reports, as prescribed by Presidential Decree, after he/she completes marine scientific research;
3. The foreigner, etc. shall submit all research data he/she has obtained from marine scientific research and provide opportunities to use the relevant data;
4. Where the Minister of Oceans and Fisheries makes a request, the foreigner, etc. shall provide research data and records of analysis and evaluation of the findings of research, or provide other necessary support;
5. Where any significant matter prescribed by Presidential Decree is changed, among the content of the research plan, the foreigner, etc. shall immediately notify the Minister of Oceans and Fisheries of such change;
6. The foreigner, etc. shall attach identification markings and warning signals to facilities or equipment used for marine scientific research;
7. The foreigner, etc. shall not install facilities or equipment used for marine scientific research on major sea routes where vessel traffic occurs frequently;
8. Where the foreigner, etc. has completed marine scientific research or suspended marine scientific research pursuant to Article 12 (2), he/she shall remove facilities or equipment installed and used for marine scientific research;
9. The foreigner, etc. shall ensure the fair sharing of profits generated from the findings of marine scientific research.

(2) Where a foreigner, etc. fails to perform his/her obligations under paragraph (1), the Minister of Oceans and Fisheries may demand that the head of a country or the head of an international organization to which such foreigner, etc. belongs should perform such obligations.

Article 11 (Restrictions on Publication and Transfer of Research Data)

(1) Where the Minister of Oceans and Fisheries deems that the research data and findings of research obtained through marine scientific research conducted by a foreigner, etc. have a significant effect on the national interest of the Republic of Korea, he/she may request the foreigner, etc. to restrict the publication

and transfer of such research data and the findings of such research.

(2) Where a foreigner, etc. fails to comply with a request for restrictions on the publication and transfer of research data and the findings of research under paragraph (1), the Minister of Oceans and Fisheries may demand that the head of a country or the head of an international organization to which such foreigner, etc. belongs should take measures for restrictions on the publication and transfer thereof.

Article 12 (Suspension and Discontinuance of Marine Scientific Research)

(1) In any of the following cases, the Minister of Oceans and Fisheries may direct a foreigner, etc. to suspend marine scientific research: Provided, That where grounds for suspension cease to exist, the Minister of Oceans and Fisheries may allow the foreigner, etc. to resume marine scientific research:

1. Where marine scientific research is not conducted in accordance with a research plan;
2. Where the foreigner, etc. fails to perform obligations under Article 10 (1) 1 and 5 through 7;
3. Where the Minister of National Defense requests the Minister of Oceans and Fisheries to suspend marine scientific research to perform military operations.

(2) Where marine scientific research conducted by a foreigner, etc. falls under any of the following cases, the Minister of Oceans and Fisheries may direct the foreigner, etc. to discontinue marine scientific research:

1. Where significant grounds prescribed by Presidential Decree arise, such as conducting marine scientific research beyond the scope of permission or consent under Articles 6 through 8;
2. Where the non-fulfillment of obligations under paragraph (1) 2 is not corrected within the period for correction prescribed by the Minister of Oceans and Fisheries;
3. Where the head of a related central administrative agency requests the Minister of Oceans and Fisheries to discontinue marine scientific research for maintaining peace or public order and security of the Republic of Korea.

(3) Suspension under paragraph (1) or discontinuance under paragraph (2) shall become effective when the Minister of Oceans and Fisheries gives notice to a foreigner, etc.

(4) Where the Minister of Oceans and Fisheries gives notice under paragraph (3), he/she shall also give notice to the head of a country or the head of an international organization to which the foreigner, etc. belongs.

Article 13 (Unauthorized Research)

(1) Where the head of a related agency suspects that a foreigner, etc. conducts marine scientific research without obtaining permission or consent under Articles 6 through 8, he/she may stop, search, or seize a ship, issue necessary orders, or take necessary action.

(2) Where the head of a related agency has stopped, searched, or seized a ship, issued necessary orders, or taken necessary action pursuant to paragraph (1), he/she shall immediately notify the Minister of Oceans and Fisheries of such fact.

Article 14 (Relationship with other Treaties)

(1) Marine scientific research conducted by a foreign government or international organization in accordance with a treaty or agreement concluded with the Republic of Korea shall be deemed to have obtained permission or consent under this Act.

(2) Where a foreign government or international organization conducts marine scientific research pursuant to paragraph (1), it shall submit a research plan to the Minister of Oceans and Fisheries via the Minister of Foreign Affairs one month prior to the scheduled date of conducting marine scientific research.

Article 15 (Emergency Research)

International joint research urgently conducted by mutual agreement between governments to discover the cause of a marine accident, marine pollution, etc. shall be deemed to have obtained permission under Article 6 or consent under Article 7.

Article 15-2 (Permitting Marine Scientific Research Vessel to Make Calls at Ports)

(1) Where a marine scientific research vessel of a foreigner, etc. that fails to obtain permission or consent under Articles 6 through 8 intends to make a call at a port of the Republic of Korea (excluding where it intends to make a call at the port due to emergency situations prescribed by Presidential Decree, such as a typhoon), he/she shall obtain permission from the Minister of Oceans and Fisheries: Provided, That where the Republic of Korea has agreed otherwise with the flag state of the relevant vessel in accordance with a treaty or agreement, such agreement shall apply thereto.

(2) A foreigner, etc. that intends to obtain permission to make a call at a port pursuant to paragraph (1) shall submit a plan for making a call at the port, including matters prescribed by Presidential Decree, to the Minister of Oceans and Fisheries via the Minister of Foreign Affairs two months prior to the scheduled date of making a call at the port.

(3) Upon receipt of an application for permission to make a call at a port pursuant to paragraph (2), the Minister of Oceans and Fisheries shall decide whether to grant permission within one month from the date of such application in consultation with the head of a related central administrative agency, and immediately inform the relevant applicant of his/her decision.

Article 16 (Compensation for Losses)

Where a foreigner, etc. causes a loss to a Korean national, etc. while conducting marine scientific research under this Act, he/she shall compensate for such loss in accordance with related Acts of the Republic of Korea and international agreements.

Article 17 (Disapproval of Occurrence of Rights Related to Marine Scientific Research)

No foreigner, etc. shall assert his/her rights to exploration, development, etc. of the marine environment or natural resources in waters under the jurisdiction of the Republic of Korea based on research data he/she has obtained from marine scientific research.

Article 18 (Special Provisions in Time of National Emergency, etc.)

No foreigner, etc. shall unjustly interfere with the exercise of rights and legitimate use of the sea by the Republic of Korea related to security under a national emergency when he/she conducts marine scientific research.

Article 19 Deleted. <by Act No. 12091, Aug. 13, 2013>

Article 20 (Encouragement of Marine Scientific Research)

(1) Except as otherwise expressly provided for in other Acts, the Government shall ensure that any national of the Republic of Korea may freely conduct marine scientific research and actively encourage him/her to conduct marine scientific research.

(2) To advance marine science and technology, the Minister of Oceans and Fisheries shall devise necessary supporting measures to efficiently disclose and provide research data.

Article 21 (Management and Publication of Research Data)

(1) The head of a State agency or local government (hereinafter referred to as "State agency, etc.") or the representative of a corporation prescribed by Presidential Decree shall conscientiously manage research data obtained from marine scientific research conducted on the budget of the State agency, etc.: Provided, That where the State agency, etc. may entrust the management of research data to a management agency under Article 22, if deemed necessary.

(2) The head of a State agency, etc. and the representative of a corporation under paragraph (1) shall make public research data, and when a user requests him/her to provide basic data, he/she shall provide such data. In such cases, he/she may require the user to bear expenses incurred in providing basic data.

(3) Matters necessary for the management and publication of research data under paragraphs (1) and (2), or the scope of and procedures for providing research data shall be prescribed by Presidential Decree.

Article 22 (Management Agencies)

(1) Where the head of a related central administrative agency deems it necessary for shared use of research data, he/she may designate and operate a management agency, as prescribed by Presidential Decree. In such cases, the head of the related central administrative agency shall provide close cooperation for sharing information and smooth communication related to marine scientific research.

(2) A management agency designated under paragraph (1) shall:

1. Manage research reports and research data submitted pursuant to Article 10 (1) 2 and 3 and providing them to users;
2. Manage a list of research data collected pursuant to paragraph (3) and provide such list to users;
3. Promote user convenience for the use of research data, and create conditions for the use thereof;
4. Other matters prescribed by the Minister of Oceans and Fisheries for the shared use and efficient management of research data.

(3) The head of a management agency designated under paragraph (1) may request the head of a State agency, etc. and the representative of a corporation under Article 21 (1) to provide a list of research data, as prescribed by Presidential Decree.

(4) The head of a State agency, etc., and the representative of a corporation in receipt of a request for providing a list of research data under paragraph (3) shall provide such list, except in extenuating circumstances.

Article 23 (Advice on Performance)

The Minister of Oceans and Fisheries may advise a person who fails to perform his/her obligations under Article 21 without justifiable grounds to perform his/her obligations.

Article 24 (Penal Provisions)

(1) A person who conducts marine scientific research in the territorial sea of the Republic of Korea without obtaining permission from the Minister of Oceans and Fisheries, in violation of Article 6 (1) or 8 (1), shall be punished by imprisonment for not more than five years, or by a fine not exceeding 200 million won.

(2) A person who conducts marine scientific research in the exclusive economic zone or continental shelf of the Republic of Korea without obtaining consent from the Minister of Oceans and Fisheries, in violation of Article 7 (1) or 8 (1), shall be punished by a fine not exceeding 100 million won.

(3) A foreigner, etc. that makes a call at a port of the Republic of Korea without obtaining permission from the Minister of Oceans and Fisheries, in violation of Article 15-2 (1), shall be punished by a fine not exceeding 10 million won.

(4) In cases falling under paragraphs (1) and (2), the Minister of Oceans and Fisheries may confiscate the relevant vessel, facilities, or equipment used for marine scientific research and research data obtained from such research.

Article 25 (Joint Penal Provisions)

Where the representative of a corporation, or an agent, employee, or other servant of a corporation or an individual commits an offence provided for in Article 24 (1) through (3) in relation to the affairs of the corporation or the individual, not only shall the offender be punished, but the corporation or individual also shall be punished by a fine under the relevant provision: Provided, That the foregoing shall not apply where such corporation or individual has not been negligent in giving due attention and supervision in relation to the relevant affairs to prevent such offence.

ADDENDA

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures on Marine Scientific Research of Foreigner, etc.) This Act shall not apply to the marine scientific research of a foreigner, etc., which commenced before the enforcement of this Act within the maritime jurisdiction of the Republic of Korea.

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

Article 1 (Enforcement Date)

This Act shall enter into force within 30 days after the date of enforcement of the Presidential Decree on the Organization of the Ministry of Maritime Affairs and Fisheries and the Korea National Maritime Police Agency under the revised provisions 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.

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. 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.

ADDENDA <Act No. 12091, Aug. 13, 2013>

Article 1 (Enforcement Date)

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

Article 2 (Applicability to Consent to Marine Scientific Research)

The amended provisions of Article 7 (4) shall apply from the first application filed to obtain consent to conduct marine scientific research after this Act enters into force.

Article 3 (Applicability to Obligations of Foreigners, etc.)

The amended provisions of Article 10 shall apply from cases where a foreigner, etc. files an application for permission or consent under Articles 6 through 8 to conduct marine scientific research after this Act enters into force.

Article 4 (Applicability to Notification of Suspension or Discontinuance of Marine Scientific Research)

The amended provisions of Article 12 (4) shall apply from cases where the Minister of Oceans and Fisheries requires a foreigner, etc. to suspend or discontinue marine scientific research after this Act enters into force.

Article 5 (Special Cases on Deadline for Submission of Research Plans)

Where a holder of dual nationality under the Nationality Act or a corporation referred to in the proviso to subparagraph 3 (b) of Article 2 files an application for permission or consent to conduct marine scientific research within six months after this Act enters into force, the deadline for submission of a research plan under the amended provisions of Articles 6 through 8 shall not apply.

Article 6 (Special Cases on Marine Scientific Research Vessel's Call at Port)

Where a marine scientific research vessel of a foreigner, etc. that fails to obtain permission or consent under Articles 6 through 8 files an application for making a call at a port of the Republic of Korea within two months after this Act enters into force, the deadline for submission of a plan for making a call at the port under the amended provisions of Article 15-2 (2) shall not apply.

Article 7 (Transitional Measures concerning Foreigners)

Notwithstanding the amended provisions of subparagraph 2 of Article 2, the former provisions shall apply to a holder of dual nationality under the Nationality Act or a corporation referred to in the proviso to subparagraph 3 (b) of Article 2 that conducts marine scientific research as at the time this Act enters into force until he/she/it completes marine scientific research he/she/it conducts.

Article 8 (Transitional Measures concerning Penal Provisions)

The former penal provisions shall apply to offences committed before this Act enters into force.

