

Part I. LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 53/2012/ND-CP of June 20, 2012, amending and supplementing a number of articles of the decrees on fisheries

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 26, 2003 Fisheries Law;

At the proposal of the Minister of Agriculture and Rural Development,

The Government issues this Decree to amend and supplement a number of articles of the decrees on fisheries.

Article 1. To amend and supplement a number of articles of the Government's Decree No. 59/2005/ND-CP of May 4, 2005, on conditions for a number of fisheries production and business lines

1. To amend Clauses 1, 2, 3 and 4, Article 6 as follows:

“Article 6. Licensing procedures and order

A dossier set of application for a permit comprises:

- a/ An application for a permit;
- b/ Copies of the papers specified in Clause

1, Article 5 of Decree No. 59/2005/ND-CP.

2. A dossier set of application for permit extension comprises:

a/ An application for permit extension;

b/ A copy of the certificate of fishing vessel safety.

3. An applicant for re-grant of a permit, which is lost, torn, ragged or damaged, shall submit an application, made according to the form provided in Appendix I to this Decree (*not translated herein*).

4. Competent licensing agencies shall consider granting or re-granting permits within 5 (five) working days and extend permits within 2 (two) working days, after receiving complete dossiers as required. In case of refusal, they shall reply in writing, clearly stating the reason.”

2. To amend Article 7 as follows:

“Article 7. Licensing agencies

Departments of Capture Fisheries and Resources Protection or units which are tasked to perform specialized management of marine resource exploitation and protection of provinces or centrally run cities shall grant, extend, re-grant and withdraw permits from organizations and individuals whose fishing vessels are registered in their provinces or cities.”

Article 2. To annul a number of articles and clauses of the Government's Decree No. 14/ 2009/ND-CP of February 13, 2009, amending

and supplementing a number of articles of Decree No. 59/2005/ND-CP of May 4, 2005, on conditions for a number of fisheries production and business lines

1. To annul Clause 5 of Article 1.
2. To annul Clause 6 of Article 1.

Article 3. To amend and supplement a number of articles of the Government's Decree No. 33/2010/ND-CP of March 31, 2010, on management of fishing activities of Vietnamese organizations and individuals in sea areas

1. To amend Clauses 4 and 5, Article 2 as follows:

“Article 2. Interpretation of terms

4. Outside seas areas of Vietnam mean the open sea and sea areas of other countries and territories.

5. Open sea means all sea areas outside the exclusive economic zone, territorial waters or internal waters of a country, and outside the archipelagic waters of an archipelagic country.”

2. To amend Point a, Clause 1, Article 4 as follows:

“Article 4. Fishing zoning

a/ The coastal area, which lies between the lowest tide level and the coastal route. For localities having islands, provincial-level People's Committees shall, based on the necessity and specific characteristics of each island, determine the coastal area of these

islands, which must not exceed 6 nautical miles, counting from the lowest tide level of the islands.”

3. To amend Article 6 as follows:

“Article 6. Conditions for fishing outside sea areas of Vietnam

Organizations and individuals fishing outside sea areas of Vietnam must fully meet the following conditions:

1. For fishing vessels:

a/ To fully meet the criteria on restricted operation areas of level I or unrestricted operation areas. To fully meet the criteria on restricted operation areas of level II or higher, when operating in sea areas of a Southeast Asian country.

b/ To have been registered and technically examined. The certificate of technical safety of fishing vessel is valid for at least 3 months.

c/ To fully have safety equipment for crew members and fishing vessels, and communication equipment corresponding to sea areas of operation under law;

d/ To have sufficient crew members under law.

2. For crew members and people working on board:

a/ Captains and chief mechanics must possess a diploma or certificate of captain or chief mechanic granted by a competent agency;

b/ To have crew member insurance;

c/ To have crew member registers or certificate of crew member training.

3. An organization or individual that operates a fishing vessel in sea areas of another country or territory must meet the conditions on fishing vessels, crew members and people working on board and the following conditions:

a/ To possess a fisheries cooperation contract with an organization or individual of the coastal host country or territory, which is approved by a competent agency of that country or territory; or under a fisheries cooperation agreement between the Socialist Republic of Vietnam and the coastal host country or territory ;

b/ Crew members on board must possess ordinary passports;

c/ To have on board a vessel or a group of vessels at least 1 (one) person proficient in English or a popular language of the country or territory in which the vessel operates;

d/ To meet other conditions under regulations (if any) of the host country.

4. An organization or individual that makes arrangement for a fishing vessel to operate in sea areas of another country or territory must meet the following conditions:

a/ To possess a fisheries cooperation contract with an organization or individual of the coastal host country or territory, which is approved by a competent agency of that country or territory; or under a fisheries cooperation agreement between the Socialist Republic of Vietnam and another country or territory;

b/ To meet the conditions on fishing vessels, crew members and people working on board specified in Clauses 1 and 2 of this Article;

c/ To meet other conditions under regulations (if any) of the host country.”

4. To amend Article 7 as follows:

“Article 7. Procedures and order to license a vessel to fish in sea areas of another country or territory and return papers submitted by the licensed applicant

1. An organization or individual shall submit a dossier to the Directorate of Fisheries under the Ministry of Agriculture and Rural Development. A dossier set comprises:

a/ An application for a permit for a fishing vessel to operate in sea areas of another country or territory;

b/ A notarized copy of the fisheries cooperation contract in sea areas of another country or territory which is approved by a competent agency of that country or territory;

c/ A copy of the fishing vessel registration certificate;

d/ A list of crew members and people working on board and their photos and passport numbers;

e/ Copies of diplomas of the captain and chief mechanic.

2. Within 5 (five) working days after receiving a complete dossier under regulations, the Directorate of Fisheries shall consider the dossier and license a fishing vessel to operate

in sea areas of another country or territory (in Vietnamese and English).

In case of refusal, the Directorate of Fisheries shall issue a written reply to the fishing vessel owner, clearly stating the reason.

3. Within 5 (five) working days after receiving a complete dossier under regulations, the Directorate of Fisheries shall consider the dossier, grant a permit for a fishing vessel to operate in sea areas of another country or territory and related papers (in Vietnamese and English), comprising:

a/ Permit for a fishing vessel to operate in sea areas of another country or territory;

b/ Fishing vessel registration certificate;

c/ Certificate of technical safety of fishing vessel;

d/ A list of crew members and people working on board, and their photos and passport numbers.

4. Within 2 (two) working days after licensing a fishing vessel to operate in sea areas of another country or territory, the Directorate of Fisheries shall notify such to the provincial-level People's Committee having that fishing vessel and the Ministries of National Defense; Public Security; and Foreign Affairs for coordinated control and management.

5. When receiving a permit for a fishing vessel to operate in sea areas of another country or territory and related papers, an organization or individual shall submit the following papers to the Directorate of Fisheries:

a/ The original fishing permit;

b/ The original fishing vessel registration certificate;

c/ The original certificate of technical safety of fishing vessel.

6. To receive the submitted papers, an organization or individual shall send a request to get back these papers to the Directorate of Fisheries, made according to the form provided in Appendix II to this Decree (*not translated herein*).

Within 2 working days after receiving a request under regulations, the Directorate of Fisheries shall return the papers submitted by the applicant."

5. To add Clauses 6 and 7 to Article 9 as follows:

"Article 9. Responsibilities of organizations and individuals engaged in fishing activities outside sea areas of Vietnam

6. Before leaving a seaport of another country or territory for home, the captain or vessel owner shall notify such to the Directorate of Fisheries or the provincial-level fisheries state management agency with which the vessel is registered, by means of communications or in writing, at least 5 days before the expected date of arrival at Vietnam's seaport.

7. Responsibilities of an organization or individual that makes arrangement for a Vietnam's fishing vessel to operate in sea areas of another country and territory:

a/ To make such arrangement only when the

fishing vessel has been licensed by the Directorate of Fisheries;

b/ To guide and inform the captain and crew members of their rights and responsibilities when fishing in sea areas of another country or territory, to sign labor contracts and observe the labor law;

c/ To coordinate with functional agencies in settling arising matters related to people and the fishing vessel operating in sea areas of another country or territory under its arrangement;

d/ To advance costs for taking home the captain, crew members and people working on board back and other risk expenses (if any);

e/ To comply with Decree No. 33/2010/ND-CP, this Decree and other relevant laws.”

6. To replace Appendix I to Decree No. 33/2010/ND-CP with Appendix III to this Decree *(not translated herein)*

Article 4. To amend, supplement and annul a number of articles of the Government’s Decree No. 32/2010/ND-CP of March 30, 2010, on management of fishery activities of foreign vessels in Vietnam’s sea areas

1. To amend Clause 2, Article 3 as follows:

“Article 3. Interpretation of terms

2. Vietnam’s sea areas are the sea areas under the sovereignty, sovereign rights and jurisdiction of the Socialist Republic of Vietnam as defined in the June 17, 2003 Law on National

Boundaries.”

2. To amend Clause 3, and add Clause 5 to Article 4 as follows:

“Article 4. Principles of fishery activities of foreign fishing vessels in Vietnam’s sea areas

3. Foreign fishing vessels may be engaged in fishery activities in Vietnam’s sea areas only after having obtained a fishery operation permit granted by a competent agency and a permit for use of radio frequency and radio transceivers by the Authority of Radio Frequency Management under the Ministry of Information and Communications (except vessels transporting aquatic products).

5. A foreign fishing vessel engaged in fishery activities in Vietnam’s sea areas must fly the Vietnamese flag in the course of operation. The Vietnamese flag must be flied beside the vessel’s national flag at the same height.”

3. To amend Article 5 as follows:

“Article 5. Fishery operation permits of foreign fishing vessels

1. A fishery operation permit (below referred to as permit) shall be granted to each fishing vessel. A fishing vessel owner may apply for permits for more than one fishing vessel.

The form of permit is provided in Appendix I to Decree No. 32/2010/ND-CP.

2. The validity of a permit for a vessel transporting aquatic product is no more than 12 months. For a vessel engaged in other fishery activities, the validity of a permit depends on the life of the cooperation project but is no more than 36 months”.

3. A permit may be extended for no more than 2 times, with each extension not exceeding 12 months.”

4. To amend Article 8 as follows:

“Article 8. Procedures and order for the grant, re-grant and extension of permits

1. A dossier set of application for a new permit comprises:

a/ An application for a permit for the fishing vessel, made according to the form provided in Appendix III to Decree No. 32/2010/ND-CP;

b/ Certified copy of a cooperation project on aquatic resource survey and exploration approved by the Prime Minister, or a cooperation project on aquatic technical training and technology transfer cooperation approved by the Minister of Agriculture and Rural Development or a project on aquatic product purchase and transportation, approved by the chairperson of a provincial-level People’s Committee;

c/ A certified copy of the fishing vessel registration certificate;

d/ A certified certificate of the technical safety of fishing vessel;

e/ Certified copies of diplomas of the captain and chief engine;

f/ A list of crew members and people working on board (with their full names, titles and contact addresses), and their photos and passport numbers.

2. A dossier set of application for a re-granted permit comprises:

a/ An application for a re-granted permit, made according to the form provided in Appendix IV to Decree No. 32/2010/ND-CP;

b/ The granted permit (in case the permit is torn or ragged);

c/ A report on change of the fishing vessel (if any), together with the papers specified at Points c, d, e and f, Clause 1 of this Article;

d/ A report on change of the registered seaport or fishing vessel’s operation (if any).

3. A dossier set of application for an extended permit comprises:

a/ An application for an extended permit, made according to the form provided in Appendix V to Decree No. 32/2010/ND-CP;

b/ A copy of the granted permit;

c/ A copy of the certificate of technical safety of fishing vessel;

d/ A report on the operation of the fishing vessel during the validity term of its permit;

e/ The fishing logbook, for vessels operating fishing during the validity term of its permit.

4. Organizations or individuals applying for

new, extended or re-granted permits shall submit dossiers to the Directorate of Fisheries under the Ministry of Agriculture and Rural Development (directly or by post).

5. Permit applicants or authorized people may get licensing notifications at the Directorate of Fisheries under the Ministry of Agriculture and Rural Development or request the licensing authority to send these notifications by post.”

5. To add Clause 5 to Article 10 as follows:

“Article 10. Cases in which permits are withdrawn

5. Failing to report, record and submit the logbook under regulations.”

6. To amend Article 11 as follows:

“Article 11. Competence to grant, re-grant and extend permits

1. The Directorate of Fisheries under the Ministry of Agriculture and Rural Development is competent to grant, re-grant, extend and withdraw permits for foreign fishing vessels operating in Vietnam’s sea areas.

2. The time limit for grant, extension and re-grant of permits is as follows:

a/ Five working days after receiving a complete dossier under regulations, for granting a new permit;

b/ Five working days after receiving a complete dossier under regulations, for re-

granting a permit,

c/ Three working days after receiving a complete dossier under regulations, for extending a permit.”

7. To amend Clause 9, Article 13 as follows:

“Article 13. Responsibilities of owners of foreign fishing vessels

9. Foreign fishing vessels licensed for fishery activities within the sea areas of Vietnam may only moor, purchase, receive or sell aquatic products at the seaports specified in their permits.”

8. To replace Appendix I to Decree No. 32/2010/ND-CP, with Appendix IV to this Decree (*not translated herein*).

9. To replace Appendix II to Decree No. 32/2010/ND-CP, with Appendix V to this Decree (*not translated herein*).

Article 5. To amend, supplement and annul a number of articles of the Government’s Decree No. 52/2010/ND-CP of May 17, 2010, on import of fishing vessels

1. To amend Article 4 as follows:

“Article 4. Conditions on imported fishing vessels

1. Being of lawful origin.

2. Having steel hulls and a total main engine capacity of 400 H.P. or more.

3. Having an age (counted from the year of building to the date of import) of no more than 8 (eight) years; main engines (counted from the year of building to the date of import) being not 2 years older than the vessel's age (for used fishing vessels).

4. Being registered by the Vietnam fishing vessel registry agency before entering Vietnam (for used fishing vessels).

These conditions do not apply to fishing vessels donated by foreign governments, organizations and individuals to Vietnam."

2. To annul Articles 5 and 6.

3. To amend Article 7 as follows:

"Article 7. Order and procedures for importing a fishing vessel

1. A fishing vessel importer shall submit an import application (made according to the form provided in Appendix I to Decree No. 52/2010/ND-CP) together with a dossier to the provincial-level Department of Agriculture and Rural Development of the locality in which the importer bases its headquarter or registers residence. For an incomplete dossier under regulations, within 1 (one) working day, the provincial-level Department of Agriculture and Rural Development shall notify such to the import applicant for supplementation of the dossier.

2. Within 3 (three) working days after receiving a complete dossier under regulations, the provincial-level Department of Agriculture

and Rural Development shall give opinions and send the full dossier to the Directorate of Fisheries.

3. Within 5 (five) working days after receiving the dossier under regulations, the Directorate of Fisheries shall consider and permit in writing the import of a fishing vessel, made according to the form provided in Appendix VI to this Decree (*not translated herein*). In case of refusal, within 3 (three) working days after receiving the dossier under regulations, the Directorate of Fisheries shall reply in writing, clearly stating the reason.

4. The written permission for fishing vessel import shall be sent to the import applicant and concurrently to the provincial-level Department of Agriculture and Rural Development of the locality in which the vessel owner registers permanent residence, the Ministry of National Defense (the Border Guard Command), the Ministry of Finance and the General Department of Customs."

4. To amend Clause 4 of Article 12 as follows:

"Article 12. Registration of an imported fishing vessel

4. Grant of fishing vessels registration certificates

Within 3 (three) working days after receiving a complete dossier under regulations, the fishing vessel registration agency shall grant a fishing vessel registration certificate and register the

vessel in the Vietnam National Vessel Registration Book.

For an incomplete dossier under regulations, within 2 (two) working days after receiving the dossier, the fishing vessel registration agency shall notify such to the importer for supplementation."

5. To amend Article 13 as follows:

"Article 13. Dossier of indefinite registration of a fishing vessel

1. An organization or individual shall submit one dossier set for registration of a fishing vessel to the fishing vessel registration agency of the locality in which it sets up its headquarter or he/she registers permanent residence, comprising:

a/ The fishing vessel registration declaration, made according to the form provided in Appendix II to Decree No. 52/2010/ND-CP;

b/ A certified copy of the competent authority's written permission for the import of the fishing vessel;

c/ The original certificate of deregistration enclosed with a certified Vietnamese translation, for used fishing vessels;

d/ A certified copy of the customs declaration with certification of customs procedure completion;

e/ Certified copies of tax receipts under Vietnamese law;

f/ Two 9 cm x 12 cm color photos of the imported fishing vessel, taken alongside the

vessel.

2. Dossier to be produced at the fishing vessel registration agency, comprising the original ex-works dossier of the vessel, for newly built fishing vessels."

6. To amend Article 15 as follows:

"Article 15. Competence to decide on import of fishing vessels

The Directorate of Fisheries under the Ministry of Agriculture and Rural Development is competent to decide on the import of fishing vessels."

7. To amend Article 16 as follows:

"Article 16. Competence to register imported fishing vessels

Provincial-level People's Committees shall organize the registration of fishing vessels and their crewmembers, for imported fishing vessels, make statistics on imported fishing vessels in their localities, and periodically report thereon to the Directorate of Fisheries under Ministry of Agriculture and Rural Development."

Article 6. Implementation provisions

1. This Decree takes effect on August 10, 2012.

2. This Decree supersedes articles and clauses of the following Decrees:

a/ Clauses 1 thru 4, Article 6, and Article 7 of the Government's Decree No. 59/2005/

ND-CP of May 4, 2005, on conditions for a number of fisheries production and business lines;

b/ Clauses 5 and 6, Article 1 of the Government's Decree No. 14/2009/ND-CP of February 13, 2009, amending and supplementing a number of articles of the Government's Decree No. 59/2005/ND-CP of May 4, 2005, on conditions for a number of fisheries production and business lines;

c/ Articles 6 and 7 of, and Appendix I to the Government's Decree No. 33/2010/ND-CP of March 31, 2010, on management of fishing activities in sea areas by Vietnamese organizations and individuals;

d/ Clause 2 of Article 3, Clause 3 of Article 4, Article 5, Article 8, Article 11, Clause 9 of Article 13 of, and Appendices I and II to the Government's Decree No. 32/2010/ND-CP of March 30, 2010, on management of fishery activities of foreign ships in Vietnam's sea areas;

e/ Articles 4 thru 7, Clause 4 of Article 12, Article 13, Article 15 and Article 16 of the Government's Decree No. 52/2010/ND-CP of May 17, 2010, on import of fishing vessels.

Article 7. Implementation responsibilities

1. The Ministry of Agriculture and Rural Development shall assume the prime responsibility for and coordinate with related ministries and sectors in implementing this Decree.

2. Ministers, heads of ministerial agencies, heads of government-attached agencies, and chairpersons of provincial-level People's Committees shall implement this Decree.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG