

Fisheries Act

Amended and Promulgated by Presidential Order on December 18, 2002

Chapter One General Principles

Article 1

This Act is enacted to conserve and rationally utilize aquatic resources, to increase fisheries productivity, to promote sound fisheries development, to guide and assist the recreational fishery, to maintain order of the fisheries, and to improve the living of fishermen. Matters not covered by this Act shall be governed by the provisions of other acts and regulations.

Article 2

In this Act, the term "competent authority" or "competent authorities" means the Council of Agriculture of the Executive Yuan at the central government, municipal governments at municipalities, and county/city governments at /counties/cities.

Article 3

In this Act, the term "fishery" means the industries of catching, of harvesting, or of cultivating aquatic organisms, as well as processing, transportation, and distribution industries associated thereto.

Article 4

In this Act, the term "fishery operator" means the fishing right holders, the piscary holders, or any other persons who engage in fisheries operation in accordance with the provisions of this Act.

In this Act, the term "fishing professional" means any crew members of fishing vessels and any other persons who catch, harvest, or cultivate aquatic organisms for any fishery operator.

Article 5

Only nationals of the Republic of China may qualify as fishery operators hereunder unless a foreign national obtains the approval from the central competent authority to operate fisheries in cooperation with any Republic of China fishery operator.

Article 6

Any person who wishes to operate fishery in the public waters or non-public waters adjacent thereto shall obtain approval given and fishing license issued by the competent authority prior to the operation.

Article 7

The competent authority shall collect fees from applicants for fishing licenses issued. The central competent authority shall prescribe guidelines of granting license and the amount of the fees.

Article 7-1

The competent authorities of different levels shall not issue fishing licenses when the following circumstances occurs:

- (1) any fishery operator whose fishing license has been revoked by the fisheries competent authorities;
- (2) any fishery operator who engages in smuggling and whose vessels are consequently confiscated or withheld by the customs or the courts;
- (3) any fishery operator who arbitrarily imports vessels without obtaining permission from the central competent authority;

- (4) any fishery operator who is within the restrained or suspended period in accordance with Article 10 of this Act;
 - (5) any fishery operator whose fishing license is still under withdrawal;
 - (6) any fishery operator who has not paid for penalties in accordance with this Act;
- and
- (7) any fishery operator who violates the provisions of this Act or these regulations promulgated pursuant to this Act before any alteration of vessel ownership takes place, but who has yet to be dealt with by the competent authorities.

Article 8

The building, alteration, or chartering of any fishing vessel used by a fishery operator operating in fishery shall obtain permission from the competent authority. A fishery operator shall obtain permission from the competent authority before importing/exporting any fishing vessel in accordance with regulations provided by the competent trade authorities.

The qualifications, conditions, application procedure and any other standards to be followed for the building, alteration or chartering of any fishing vessel in accordance with paragraph 1, or the rights of exportation and importation provided in the preceding paragraph, shall be prescribed by the central competent authority.

Article 9

For the purposes of exploiting or conserving aquatic resources, or for the need of public interests, the competent authority may impose restrictions or conditions when giving approval to any fishery operation.

Article 10

Any fishery operator who violates the provisions of this Act or any other regulations promulgated pursuant to this Act, the central competent authority may restrain or suspend the operator's right to operate any fishery, or revoke his fishing license for not more than one year. Where the violation is considered gross, the central competent authority may withdraw the approval of the fishery operation or revoke the fishing license of the fishery operator.

Any fishery professional who violates this Act or any other regulations promulgated pursuant to this Act, the central competent authority may withdraw the professional's Fishing Vessel Officer Certificate or Fishing Vessel Crew Identification for not more than one year. Where the violation is considered gross, the central competent authority may revoke the professional's Fishing Vessel Officer Certificate or Fishing Vessel Crew Identification.

Article 11

Where any of the following circumstances occurs, the competent authority shall revoke the approval of the fishery operation:

- (1) any fishery operator who does not have any justification for not being able to undertake his fishery operation for more than one year as from the date of approval was given, or who suspends his fishery operation for more than two years without being approved from the commencement of the operation;
- (2) any fishery operator who applies and is approved to operate fishery as a Republic of China national loses his Republic of China nationality; or
- (3) any applicant who obtains the approval of the fishery operation by fraud or illicit means.

Without stating justification and being approved by the competent authority, any fishery operator shall not suspend his fishery operation for more than one year. The operator shall report to the competent authority for resumption of fishery operation on records. Failure to do so, the operation shall be considered as not resumed.

Article 12

For the purposes of maintaining the orderly operation of fishing vessels and safety of navigation and operation, the central competent authority shall prescribe rules governing the management of crew members of any fishing vessel.

Article 13

For the purposes of adjusting the fisheries structure, the competent authority may establish a fisheries advisory committee, which consists of experts, scholars, fisheries associations, and officials from relevant government agencies. The fisheries advisory committee shall be organized, functioned, and operated in accordance with regulations prescribed by the central competent authority.

Article 14

The competent authority shall, by the types of fishery, respectively establish and promulgate the facilities of fishing grounds, methods of catching, harvesting, and cultivating, fishing gears, and any other matters as deemed necessary.

Chapter Two Fishing Right Fishery

Article 15

In this Act, the term "fishing right" means any of the following rights:

- (1) set net fishing right: the right to build underwater rocky cliffs or wooden fences or to install fishing gears within a specific water area for catching or harvesting aquatic animals;
- (2) demarcated fishing right: the right to partition a specific water area for operating aquaculture; or
- (3) exclusive fishing right: the right to use a specific water area and form a fishing ground for piscary holders to operate the following fisheries:
 - (a) catching or harvesting aquatic organisms;
 - (b) aquaculture; or
 - (c) catching or harvesting aquatic animals with anchored fishing gears within the waters at a depth of twenty-five meters or less

Only fishermen's associations or fisheries production cooperatives can qualify as exclusive fishing right holders mentioned in the preceding paragraph.

Article 16

In this Act, the term "piscary" means the right to operate fishery within the authorization of exclusive fishing right.

Article 17

The competent authority shall, according to the production of fishery resources and taking into account minerals exploration and exploitation, navigation, irrigation, environmental protection, and other public interests, make an integrated plan with respect to the fishing right fishery in public waters and shall elaborate and regularly publicize relevant programs annually, as well as take applications for fishing rights.

The programs mentioned in the preceding paragraph may be revised according to practical needs. The competent authority shall promulgate such revised programs.

Article 18

Set net and demarcated fishing rights shall be granted according to the following order of priority:

- (1) any fishery operator or fishery professional in hsiang /town /city /district where the fishing ground is located;
- (2) any fishermen's association or fishery production cooperative in hsiang /town

/city /district where the fishing ground is located;

(3) any fishery operator or fishing professional in municipality /county /city where the fishing ground is located;

(4) any fishermen's association or fishery production cooperative in municipality/county/city where the fishing ground is located;

(5) any non-fishery operator or non-fishery professional in hsiang/town/city/district where the fishing ground is located;

(6) any non-fishery operator or non-fishery professional in municipality/county/city where the fishing ground is located;

(7) any fishery operator or fishery professional in other municipalities/counties/cities;

(8) any non-fishery operator or non-fishery professional in other municipalities/counties/cities.

Any fishery operator applying for continuous operation before his fishing right expires shall not be subject to the order of priority mentioned in the preceding paragraph.

Article 19

Any fishermen's associations or fishery production cooperatives approved to operate exclusive fishing right shall draft rules for access fishing and apply to the competent authority for approval.

Piscary undertaken by any non-member of fishermen's associations or fishery production cooperatives shall be agreed by a contract.

Article 20

The fishing right shall be considered as the right over things. Except as this Act otherwise provides, the provisions of the Civil Code governing immovables of the right over things shall, mutatis mutandis, apply.

Article 21

The creation, acquisition, alteration, and loss of fishing right shall not become effective before registration.

In taking legal proceedings pursuant to Articles 10, 11, and 29 regarding set net fishing right, demarcated fishing right, and exclusive fishing right, the competent authority shall also register such legal proceedings to the respective fishing right. The competent authority processing application for fishing right registration shall charge the applicant registration fees. The central competent authority shall prescribe the registration rules and the amount of fees.

Article 22

Jurisdiction over any dispute concerning fishing right shall be exercised by a court at the municipality or city/county with its coast closest to the fishing ground where such fishing right is exercised.

Article 23

Exclusive fishing right shall not be the subject of any other rights or juristic acts other than entitling the holder thereof to fish in the specific waters.

Article 24

Set net fishing right and demarcated fishing right shall not be the subject of any other rights or juristic acts except for succession, transference, and mortgage.

Article 25

Unless approved by the competent authority, no mortgage shall be created over the fishing right provided in the preceding article, nor shall such right be transferred

unless otherwise arises out of a compulsory execution and the approval of the competent authority has been duly obtained.

A fishery operator or fishery professional shall be preferred to be the transferee of the compulsory execution and the transference provided in the preceding paragraph. Except as otherwise provided in a contract, the working articles grounded within a fishing ground over which a mortgage has been registered shall be deemed as the subject of the mortgage created.

Article 26

Except as the competent authority otherwise approves, the fishing right shall neither be merged nor subdivided.

Article 27

Unless consented by at least two-thirds of the other joint-holders who hold their respective percentage shares, the joint-holders of set net fishing right, demarcated fishing right, or piscary shall in no event dispose of their respective percentage shares.

The provision of the preceding paragraph shall, *mutatis mutandis*, apply to the fishing right jointly held by public bodies.

Article 28

The term of fishing rights shall be as follows:

- (1) set net fishing right: 5 years;
- (2) demarcated fishing right: 5 years;
- (3) exclusive fishing right: 10 years.

Upon the expiration of the term provided in the preceding paragraph, the fishing right holder may be preferred to apply for renewing the respective rights.

Article 29

The competent authority may alter or revoke its fishing right approval or suspend the operation of any fishing right if any one of the following circumstances occurs:

- (1) requirements of national defense;
- (2) economic utilization of land;
- (3) conservation of aquatic resources;
- (4) requirements of environmental protection;
- (5) navigation and anchoring of any vessel;
- (6) laying of underwater pipelines and cables;
- (7) exploration and exploitation of minerals; or
- (8) other public interests.

Before taking any official proceedings provided in the preceding paragraph, the competent authority shall publicize such proceedings and notify all fishery operators concerned.

Where the official proceedings provided in the first paragraph cause any loss to the fishery operator, the relevant competent authority or the party claiming alteration, revocation, or termination shall reconcile the operator to make appropriate compensation for the losses. Should the reconciliation fails, the central competent authority shall decide the content of the compensation.

Article 30

The piscary shall not be the subject of other rights or juristic acts apart from succession and transference.

Article 31

The term of a piscary that is not specified shall be valid for a term as that of an exclusive fishing right.

Article 32

An exclusive fishing right holder may collect fishing access fees from piscary holders. The amount of the fees shall be enunciated in the rules or the contract of fishing access.

Article 33

Where the fishing right holder deems necessary, he may, with the consent of the land owner or user, utilize the land or request the reservation of bamboo, timber, soil, and stones therefrom:

- (1) to build signs within the fishing ground;
- (2) to build or maintain necessary signs within the fishing ground; or
- (3) to build beacons or other necessary facilities relating to fishing right.

Article 34

For the purposes of fisheries survey, site investigation, or the building of facilities mentioned in any subparagraph of the preceding article, the fishing right holder may, with the consent of the land owner and land user, access to the land or remove any obstruction from the land.

Article 35

If any one of the circumstances occurred under Articles 33 and 34 prevents the obtaining of any necessary consent to take any action under the articles, an application may be filed to the competent authority for permission to take the said action. The competent authority shall publicize the permission it has issued and shall also notify the said land owner and land user. The applicant shall make appropriate compensation to the particular land owner and land user for any losses incurred.

Chapter Three Directed Fisheries

Article 36

In this Act, the term "directed fishery" means the fishery authorized by the competent authority for the use of fishing vessels to catch or harvest aquatic organisms for commercial purposes.

The authorizations of fishery operation provided in the preceding paragraph shall include the types of fishery, operating period as well as operating areas, and such items shall be stipulated in the fishing license.

Article 37

The competent authority may impose restrictions on respective directed fishery regarding the total number and tonnage of the fishing vessels, operating areas, operating period, and other matters, if any one of the following circumstances occurs:

- (1) conservation of aquatic resources;
- (2) adjustment of fisheries structure; or
- (3) restrictions on terms of international fisheries agreements or fisheries cooperation with foreign countries.

Article 38

Where the restrictions imposed in accordance with the provisions of the preceding article on the total number of fishing vessels within respective directed fishery requires the reduction of the approved number of fishing vessels, the fisheries association of the particular directed fishery shall coordinate with the operators for the reduction. The operators who continue their operation shall compensate those who are restricted. Provided that those fishing vessels imposed restrictions may

operate other types of fishery, no compensation shall be given. Should no coordination be reached, the competent authority shall mediate between the relevant operators, and make a decision at its discretion if such mediation fails.

Where the restrictions in the preceding paragraph cause termination of the fishery operation and revocation of the fishing license, the competent authority shall make appropriate compensation accordingly.

Article 39

Any fishery operator shall obtain approval from the central competent authority before his fishing vessels and crew members operate at overseas bases. The central competent authority shall prescribe regulations governing such operations.

Article 40

For the purposes of meeting the needs of the fisheries development and promoting fisheries cooperation with foreign countries, the central competent authority shall prescribe rules governing fisheries cooperation with foreign countries.

Chapter Four Recreational Fishery

Article 41

In this Act, the term "recreational fishery" means the fishery using fishing vessels, for recreational purposes, to catch or harvest aquatic organisms or to engage in sightseeing.

Any fishery operator engaging in recreational fishery provided in the preceding paragraph shall apply to the competent authority for license.

Article 42

The recreational fishery operator shall obtain the consent of the exclusive fishery right holder and comply with the rules prescribed by the said holder prior to operate within the waters covered by the exclusive fishing right. The exclusive fishing right holder can not withhold his consent without justification.

Article 43

The central competent authority shall prescribe regulations to strictly govern the equipment of the fishing vessels, life saving, and other compliance matters that must be met concerning full time or part time recreational fishery.

Chapter Five Conservation and Management

Article 44

For the purposes of resources management and fisheries structure adjustment, the competent authority may promulgate the following matters:

- (1) restriction or prohibition of the catching, harvesting, or processing of aquatic organisms;
- (2) restriction or prohibition of the sale or possession of aquatic organisms or the products made therefrom;
- (3) restriction or prohibition of the use of fishing gears and fishing methods;
- (4) restriction or prohibition of fishing area and fishing period;
- (5) restriction or removal of any article obstructing the migratory routes of aquatic animals;
- (6) restriction or prohibition of placing or dumping of objects harmful to aquatic organisms;
- (7) restriction or prohibition of placing or removal of protective objects necessary for the propagation of aquatic organisms;
- (8) restriction or prohibition of transplantation of aquatic organisms; or
- (9) other matters as deemed necessary.

Article 45

For the purposes of conserving aquatic resources, the competent authority may designate the establishment of aquatic organisms propagation and conservation zones. The establishment of the conservation zones shall be subject to the approval of the municipal competent authority. In the case of the county/city, the competent authority may submit a project concerning the conservation zones to the central competent authority for approval and promulgate the project after being approved. If the establishment of the conservation zone involves two or more provinces or municipalities, the project shall be subject to the approval of the central competent authority.

The municipal/county/city competent authority with jurisdiction over the conservation zone shall be responsible for the management of the conservation zone. Where the jurisdiction over the waters on which the conservation zone established is extended over two or more provinces/municipalities/counties/cities or is not clear, the central competent authority shall appoint an agency to manage the conservation zones.

Article 46

For the purposes of conserving aquatic resources, the competent authority may undertake survey on respective directed fishery regarding its catch volume, operation conditions, and sea conditions.

In undertaking the investigation as mentioned in the preceding paragraph, the competent authority may request the fishery operator or fishing professional to submit a report on catch volume, operation period, fishing gears, fishing methods and other relevant facts. The fishery operator or the fishing professional shall not withhold his consent.

Article 47

The central competent authority shall draft regulations for conserving and managing aquatic resources for submission to the Executive Yuan for approval.

Article 48

Aquatic organisms shall not be caught or harvested by use of:

- (1) toxic substances;
- (2) explosives or other dynamites; or
- (3) electricity or other narcotics.

The restrictions provided in the preceding paragraph shall not apply to the catch or harvest which is for experimental and research purposes and with permission from the central/municipal competent authority.

Article 49

When the competent authority deems necessary, it may designate an officer to the fishing vessel or other relevant sites of the fishery operator to inspect the operator's catch, fishing gears, account books, and other objects. The officer may also question any relevant party who shall not withhold his consent.

In carrying out the inspection provided in the preceding paragraph, where the officer finds any commission regarding fisheries offense but is not in the position to request the judicial authority to proceed with search or seizure, he/she may provisionally seize the fishing vessel, the catch, or other objects that may serve as evidence of the offense committed. In case that any other violation of the provisions of this Act is found, the catch, the fishing gears and other objects may be seized.

The seizure undertaken in accordance with the preceding paragraph shall be witnessed by any person in charge of the fishing vessel or the site, or any other civil servant.

An inventory shall be made in respect of the objects detained.

In carrying out the inspection, the officer mentioned in the first paragraph above

shall produce his identification and authorization issued by the competent authority specifying the area of inspection. Failure to do so, the subject of the inspection may refuse such inspection.

Article 50

Where any dispute arises concerning the operation areas, fishing grounds, or the methods of catching, harvesting, or aquaculture, the fishery operator may apply to the competent authority for the mediation.

Article 51

Where there are more than one fishing methods used within the same fishing ground, the competent authority may, after consulting the fishery operators' opinion, prescribe rules for operation.

Chapter Six Fishery Development

Article 52

For the purposes of facilitating fisheries fund, the competent authority shall, in consultation with the authorities concerned, consult financial institutions in providing various fishery loans.

Whenever necessary, the financial and the fisheries competent authorities may approve the establishment of fisheries financial institutions.

Article 53

For the purposes of promoting fisheries investment and assuring safety fisheries, the competent authority shall coordinate with the authorities concerned to conduct various fisheries insurance programs, or shall designate fishermen's associations or consult public or private insurance institutions to undertake the programs.

Article 53-1

For the purposes of protecting fishermen's lives and property safety, the competent authorities may prescribe regulations regarding salvage operations for fishermen and their fishing vessels in maritime distress, awards to motor-powered vessel owners, and insurance to fishermen in their sea operations.

Article 54

For the purposes of assuring fishery security and maintaining the order of the fishing areas, the competent authority shall:

- (1) construct and maintain fishing ports and fisheries infrastructures;
- (2) dispose patrol fleets to perform the duties of salvage, patrol, and fishery protection;
- (3) establish fisheries radio broadcasting stations;
- (4) establish such safety facilities as beacons, sign poles, and weather forecasting systems;
- (5) prescribe regulations which must be observed in the fishing grounds and for the fishing vessels; and
- (6) request the Ministry of Defense and other authorities concerned for necessary assistance and protection.

Article 55

The competent authority may award those who have performed any of the following:

- (1) improving facilities which are conducive to safety fishing and salvage;
- (2) improving fishing vessels, fishing gears, fishing methods, or processing methods of fisheries products, with remarkable result;
- (3) promoting fisheries education or conducting fisheries research, with remarkable result;

(4) exploiting fisheries resources which are conducive to fisheries development; or
(5) any other performance which contributes greatly to fisheries development.
The central competent authority shall prescribe regulations for providing incentives mentioned in the preceding paragraph.

Article 56

For the purposes of promoting fisheries development, the government shall establish fisheries development fund. The competent authority shall propose the amount of the said fund to the Executive Yuan for approval, and duly appropriate its budget accordingly.

The Executive Yuan shall prescribe regulations on the incomes and expenditures, safe custody, and application of the fisheries development fund.

Article 57

For the purposes of coping with price fluctuation of fishery products and stabilizing the market of fishery products, the government shall establish a fishery products market stabilization fund. The central competent authority shall prescribe regulations for the establishment of the fund and guidelines for its management and application.

Article 58

Any fishing vessels, fishing gears, or capital goods for fishing imported for fisheries production purposes shall be exempted from or reduced from import duties in case such items are not manufactured domestically or the quantity of those domestically manufactured is insufficient to meet the demand. Any item imported by fisheries research institutes for experimental and research purposes shall be exempted from import duties.

The Executive Yuan shall decide and promulgate those items eligible for exemption or reduction of import duties and the applicable criteria mentioned in the preceding paragraph.

Article 59

Fuel for powered equipment used in fisheries shall be exempted from commodity tax. The Executive Yuan shall decide the standard of preferential fuel price.

Chapter Seven Penalty

Article 60

Any person who violates the provisions of any subparagraph of Article 48(1) shall be convicted to imprisonment for a period of not exceeding five years, detention, or in lieu thereof, or a fine of not exceeding one hundred and fifty thousand New Taiwan Dollars.

Any person who violates the rules promulgated by the competent authority pursuant to Article 44(1) and (2) shall be convicted to imprisonment not exceeding three years, detention or in lieu thereof or in addition thereto a fine of not exceeding one hundred and fifty thousand New Taiwan Dollars.

Article 61

Any person who violates the rules promulgated by the competent authority pursuant to Article 44(3) shall be convicted to imprisonment not exceeding six months, detention, or in lieu thereof or in addition thereto, a fine of not exceeding thirty thousand New Taiwan Dollars.

Article 62

Any person who undertakes any one of the following activities shall be liable to detention or in lieu thereof a fine of not exceeding one hundred and fifty thousand

New Taiwan Dollars:

- (1) altering the fishing vessel's name or the registration number;
- (2) removing, vitiating, or destroying the signs on any fishing grounds or any fishing gears; or
- (3) setting up fences, buildings, or any other fishing gears to obstruct the migratory routes of fish.

Article 63

Where the representative of a judicial person, or an agent, an employee, or any other professional of a judicial person or natural person, in performing his duty, violates the provisions of Articles 60 to 62, the offender shall be punished pursuant to the provisions of the respective article. In addition thereto, the relevant judicial person or natural person shall be punished with a fine for the amount as specified in the relevant article.

Article 64

Any person who undertakes any one of the following activities shall be liable to a fine of between sixty thousand and three hundred thousand New Taiwan Dollars:

- (1) operating fisheries in violation of the provisions of Article 6;
- (2) violating the official proceedings imposed by the competent authority pursuant to Article 29(1); or
- (3) continuing to operate fisheries after his fishing license has expired and application for renewal of the license has not been duly approved.

Article 65

Any person who undertakes any one of the following activities shall be liable to a fine of between thirty thousand and one hundred and fifty thousand New Taiwan Dollars:

- (1) violating the restrictions or conditions imposed pursuant to Article 9;
- (2) violating conditions as promulgated pursuant to Article 14;
- (3) violating the provisions or restrictions pursuant to Article 36 or Article 37;
- (4) failing to apply for license pursuant to Article 41(2);
- (5) violating any one of the provisions of Article 44(4) to (9);
- (6) refusing, bypassing, or obstructing an inspection carried out pursuant to Article 49(1), or refusing to answer without proper reason or making false statement to the officers' queries;
- (7) violating the regulations prescribed pursuant to Article 54(5); or
- (8) violating the orders issued by the competent authority pursuant to this Act.

Article 66

Any person who undertakes any one of the following activities shall be liable to a fine of between fifteen thousand and seventy-five thousand New Taiwan Dollars:

- (1) violating the provisions of Article 11(2) in suspending operation for more than one year without approval;
- (2) refusing, bypassing, or obstructing the inspection carried out pursuant to Article 46(1), or violating the provisions of Article 46(2) by refusing to submit a report; or
- (3) violating the rules prescribed pursuant to Article 51.

Article 67

Fines imposed in accordance with this Act not paid within the designated time limit shall be transferred to the court for compulsory execution.

Article 68

In addition to the punishment imposed pursuant to Article 60, Article 61, Article 62(3), Article 64, and Article 65(1), the catch or fishing gears may also be confiscated. In case the whole or part of such catch or fishing gears cannot be

confiscated, the value of such catch or fishing gears shall be collected.

Chapter Eight Miscellaneous

Article 69

The municipal/county/city competent authority shall prescribe rules for registration and management of inland aquaculture.

The municipal/county/city competent authority may plan and set up an aquaculture area in which the environment is appropriate for developing aquaculture or presently fish farms concentrated.

Any aquatic organisms that involved in genetic breeding and transference shall run prior field tests and safety assessments before promotion. Regulations on genetic breeding and transference shall be prescribed by the central competent authority.

Article 70

The central competent authority shall prescribe rules for the enforcement of this Act.

Article 71

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