

Act on the Exercise of Sovereign Rights on Fishing Operations in the Exclusive Economic Zone

(Act No. 76 of June 14, 1996)

(Outline)

Article 1 This Act establishes measures necessary for exercising sovereign rights on fishing operations in the exclusive economic zone for the purpose of ensuring appropriate preservation and management of living marine resources by suitably exercising the right provided for by the United Nations Convention on the Law of the Sea.

(Definitions)

- Article 2 (1) The term "fishing operations" as used in this Act means the business of gathering or catching aquatic animals or plants or their aquaculture (including acts incidental to fishing operations).
- (2) The term "acts incidental to fishing operations" as used in this Act means acts such as searching for or gathering fish, preserving or processing catches, transporting catches or their products, and supplying to vessels, which are used in gathering or catching aquatic animals or plants or their aquaculture; or any other equivalent acts as specified by Order of the Ministry of Agriculture, Forestry and Fisheries.
- (3) In this Act, the term "search" means investigating the state of habitat of aquatic animals or plants that contributes to, but does not involve gathering or catching of aquatic animals or plants, and the term "survey" means a search that does not fall under acts incidental to fishing operations.
- (4) The term "foreign nationals" as used in this Act means the following persons:
- (i) persons who do not have Japanese nationality, except for those who stay in Japan lawfully and are designated by the Minister of Agriculture, Forestry and Fisheries;
 - (ii) foreign states, public organizations, or their equivalents; or corporations or other organizations established on the basis of foreign laws.

(Application of Laws and Regulations regarding Fishing Operations by Foreign Nationals in the Exclusive Economic Zone)

Article 3 (1) Fishing operations, gathering or catching aquatic animals or plants (gathering or catching aquatic animals or plants includes acts incidental to fishing operations but excludes those that fall under fishing operations; the same applies hereinafter), and surveys engaged in by foreign nationals in Japan's exclusive economic zone (hereinafter simply referred to as the

"exclusive economic zone"; and those actions are hereinafter referred to in this Article as the "fishing operations by foreign nationals in the exclusive economic zone") are governed by the provisions of this Act.

- (2) Notwithstanding the provisions of Article 3, paragraph (1) of the Act on the Exclusive Economic Zone and Continental Shelf (Act No. 74 of 1996), the provisions of the Fishery Act (Act No. 267 of 1949) (excluding Article 128, paragraphs (1), (2), (4), and (5)) and other laws provided for by Cabinet Order (including those of orders based on them) do not apply to fishing operations by foreign nationals in the exclusive economic zone.
- (3) For Article 128 of the Fishery Act to be applied to fishing operations by foreign nationals in the exclusive economic zone, the term "The Minister of Agriculture, Forestry and Fisheries or the prefectural governor" in paragraph (1) of that Article is deemed to be replaced with "The Minister of Agriculture, Forestry and Fisheries", and the term "authorized fishery supervisors or authorized fishery supervising officers" is deemed to be replaced with "authorized fishery supervisors".
- (4) Beyond what is provided for by the preceding paragraph, Cabinet Order may provide for necessary provisions for the technical replacement relating to the application of laws and regulations regarding fishing operations by foreign nationals in the exclusive economic zone.

(Prohibition of Fishing Operations)

Article 4 (1) Foreign nationals must not engage in fishing operations or the gathering or catching of aquatic animals or plants in areas of sea within the exclusive economic zone (including the sea bed; hereinafter referred to as "prohibited area of sea") listed below; provided, however, that this does not apply if the relevant gathering or catching of aquatic animals or plants is on a minor scale provided for by Order of the Ministry of Agriculture, Forestry and Fisheries:

- (i) the area of sea which falls under the specified area of sea set forth in paragraph (2) of the Supplementary Provisions of the Act on Territorial Waters and Contiguous Water Area (Act No. 30 of 1977) (which is limited to a sea stretching between Japan's baseline (which means the baseline set forth in Article 2, paragraph (1) of the Act; the same applies hereinafter in this item) and a line all of whose points are at the distance of 12 nautical miles from their nearest point on Japan's baseline);
 - (ii) the area of sea provided for by the Minister of Agriculture, Forestry and Fisheries as the area of sea necessary for the protection of living marine resources or the adjustment of fishing operations.
- (2) Foreign nationals must not transship or load catches or their products in the prohibited area of sea (which is limited to the area of sea under item (i) of the

preceding paragraph) except for cases provided for by Cabinet Order.

(Permission for Fishing Operations)

Article 5 (1) Foreign nationals must not engage in fishing operations or gathering or catching of aquatic animals or plants in the exclusive economic zone (excluding the prohibited area of sea; the same applies in paragraphs (1) and (2) of the following Article, Article 8 and Article 9) unless they obtain the permission of the Minister of Agriculture, Forestry and Fisheries for each vessel engaging in the fishing operations or the gathering or catching of aquatic animals or plants as provided for by Order of the Ministry of Agriculture, Forestry and Fisheries; provided, however, that this does not apply in cases falling under any one of the following items:

- (i) the relevant gathering or catching of aquatic animals or plants is on a minor scale provided for by Order of the Ministry of Agriculture, Forestry and Fisheries as referred to in the proviso of paragraph (1) of the preceding Article;
- (ii) the relevant gathering or catching of aquatic animals or plants is engaged in with the approval under Article 8;
- (iii) the relevant acts incidental to fishing operations are engaged in with the approval under Article 9.

(2) If the Minister of Agriculture, Forestry and Fisheries grants the permission set forth in the preceding paragraph, the Minister issues a permit to the foreign nationals in question as provided for by Order of the Ministry of Agriculture, Forestry and Fisheries.

(3) Foreign nationals who have obtained permission referred to in paragraph (1) must display that fact in a prominent manner on vessels engaging in fishing operations or the gathering or catching of aquatic animals or plants, and must keep the permit set forth in the preceding paragraph aboard the vessels, as provided for by Order of the Ministry of Agriculture, Forestry and Fisheries.

(Standard for Permission)

Article 6 (1) If an application for the permission referred to in paragraph (1) of the preceding Article is made, the Minister of Agriculture, Forestry and Fisheries must not grant permission unless the fishing operations or the gathering or catching of aquatic animals or plants is conducted in a reliable manner in accordance with international agreements or other arrangements, does not exceed the limit for the quantity of catches provided for by the Minister of Agriculture, Forestry and Fisheries for the respective classifications of fishing operations or the gathering or catching of aquatic animals or plants engaged in by the foreign nationals in the exclusive economic zone provided for by Order of the Ministry of Agriculture, Forestry and

Fisheries, and conforms to other standards provided for by Cabinet Order.

- (2) The limit for the quantity of catches under the preceding paragraph must be decided, as provided for by Cabinet Order, on the basis of the state of living marine resources and under scientific grounds, and on the basis of the actual state of catches by Japanese fishing operators in the exclusive economic zone, in comprehensive consideration of the state of fishing operations by the foreign nationals in the exclusive economic zone and Japanese fishing operations in the surrounding waters of foreign states or others.
- (3) The decision on the limit for the quantity of catches under paragraph (1) with regard to specified fishery resources set forth in Article 11, paragraph (2), item (iii) of the Fishery Act that provides for the total allowable catch specified in Article 7, paragraph (1) of that Act must be made on the basis of the total allowable catch in addition to what is provided for by the preceding paragraph.

(Fishing Fees)

- Article 7 (1) Foreign nationals must pay fishing fees in the amount provided for by Cabinet Order to the national government at the time when they are issued the certificate of permission pursuant to the provisions of Article 5, paragraph (2).
- (2) If any special circumstance exists, the fishing fees set forth in the preceding paragraph may be reduced in amount or exempted as provided for by Cabinet Order.
 - (3) Beyond what is provided for by the preceding two paragraphs, matters necessary for fishing fees are prescribed by Cabinet Order.

(Approval for the Gathering or Catching of Aquatic Animals or Plants for Tests and Research)

Article 8 If foreign nationals intend to carry out the gathering or catching of aquatic animals or plants in the exclusive economic zone for the purposes provided for by Order of the Ministry of Agriculture, Forestry and Fisheries, such as testing and research, they must obtain the approval of the Minister of Agriculture, Forestry and Fisheries for each vessel engaging in the gathering or catching of aquatic animals or plants as provided for by Order of the Ministry of Agriculture, Forestry and Fisheries; provided, however, that this does not apply if the relevant gathering or catching of aquatic animals or plants is on a minor scale provided for by Order of the Ministry of Agriculture, Forestry and Fisheries as referred to in the proviso of Article 4, paragraph (1), or if the relevant acts incidental to fishing operations are engaged in with the approval referred to in the following Article.

(Approval for Acts Incidental to Fishing Operations in Relation to Fishing

Operations by Persons Other Than Foreign Nationals)

Article 9 If foreign nationals intend to engage in acts incidental to fishing operations in the exclusive economic zone in relation to the fishing operations or the gathering or catching of aquatic animals or plants that are engaged in by persons other than the foreign nationals in that zone, they must obtain the approval of the Minister of Agriculture, Forestry and Fisheries for each vessel engaging in the acts incidental to fishing operations as provided for by Order of the Ministry of Agriculture, Forestry and Fisheries.

(Approval of Surveys)

Article 10 If foreign nationals intend to undertake a survey in the exclusive economic zone, they must obtain the approval of the Minister of Agriculture, Forestry and Fisheries for each vessel undertaking the survey as provided for by Order of the Ministry of Agriculture, Forestry and Fisheries.

(Fees)

Article 11 (1) Foreign nationals who apply for approval referred to in the preceding three Articles must pay a fee in the amount provided for by Cabinet Order in the consideration of the actual cost.
(2) The provisions of Article 5, paragraphs (2) and (3) apply mutatis mutandis to the approval referred to in the preceding three Articles, and the provisions of Article 7, paragraph (2) apply mutatis mutandis to the fee referred to in the preceding paragraph.

(Restrictions and Conditions)

Article 12 Restrictions or conditions may be attached to the permission referred to in Article 5, paragraph (1) or the approval referred to in Article 8 through Article 10, or they may be changed.

(Revocation of Permission)

Article 13 (1) If the foreign nationals who have received permission referred to in Article 5, paragraph (1) or the approval referred to in Article 9 violate laws or regulations, or restrictions or conditions referred to in the preceding Article, the Minister of Agriculture, Forestry and Fisheries may order them to suspend fishing operations or the gathering or catching of aquatic animals or plants in the exclusive economic zone for a specified period, or may revoke the permission referred to in Article 5, paragraph (1) or the approval referred to in Article 9.
(2) If the foreign nationals who have received the approval referred to in Article 8 or 10 violate laws or regulations, or restrictions or conditions referred to in the preceding Article, the Minister of Agriculture, Forestry and Fisheries may

revoke the approval referred to in Article 8 or 10.

(Mutatis Mutandis Application to Fishing Operations Regarding Fixative Species on the Continental Shelf)

Article 14 (1) The provisions of Article 3 through to the preceding Article apply mutatis mutandis to fishing operations, the gathering or catching of aquatic animals or plants and surveys regarding fixative species (meaning living creatures belonging to the sedentary species set forth in 4 of Article 77 of the United Nations Convention on the Law of the Sea; the same applies in the following paragraph) in the area which is on the continental shelf (meaning the area set forth in Article 2 of the Act on the Exclusive Economic Zone and Continental Shelf) but not in the exclusive economic zone. In this case, any necessary technical replacement is provided for by Cabinet Order.

(2) The Minister of Agriculture, Forestry and Fisheries issues public notice on fixative species referred to in Article 4, paragraph (1), Article 5, paragraph (1) and Article 8 through Article 10 as applied mutatis mutandis pursuant to the preceding paragraph following the replacement of terms.

(Preservation and Control of Anadromous Stocks)

Article 15 Japan has the primary interest and responsibility under 1 of Article 66 of the United Nations Convention on the Law of the Sea even in the area of sea outside the exclusive economic zone with regard to anadromous stocks that lay eggs in Japan's inland water.

(On-site Inspections)

Article 15-2 (1) If authorized fishery supervisors find it necessary to enforce this Act, they may enter fishing grounds, vessels, places of business, offices, or warehouses; and may inspect books, documents or other items or ask questions to the relevant persons.

(2) The authority under the preceding paragraph must not be construed as being granted for criminal investigations.

(Exclusion from Application of the Administrative Procedure Act)

Article 16 The provisions in Chapters II and III of the Administrative Procedure Act (Act No. 88 of 1993) do not apply to the disposition under this Act.

(Delegation to Cabinet Orders)

Article 17 (1) If a Cabinet Order or Order of the Ministry of Agriculture, Forestry and Fisheries is established, amended or repealed on the basis of the provisions of this Act, necessary transitional measures (including transitional measures on penal provisions) may be provided by that Cabinet Order or Order

of the Ministry of Agriculture, Forestry and Fisheries within the scope reasonably considered necessary as a result of that establishment, amendment or repeal.

(2) Unless otherwise provided for by this Act, procedures necessary to implement the provisions of Article 24 through Article 26 and other matters necessary to enforce those provisions are provided for by order of the competent ministry, and other procedures necessary to implement this Act and other matters necessary to enforce it are provided for by Order of the Ministry of Agriculture, Forestry and Fisheries.

(Penal Provisions)

Article 17-2 Any person who violates the provisions of Article 4, paragraph (1) (including as applied mutatis mutandis pursuant to Article 14, paragraph (1)) or Article 5, paragraph (1) (including as applied mutatis mutandis pursuant to Article 14, paragraph (1); the same applies in item (ii) of the following Article) is subject to a fine of not more than thirty million yen.

Article 18 Any person who falls under any of the following items is subject to a fine of not more than ten million yen:

- (i) a person who violates the provisions of Article 4, paragraph (2) or Article 10 (including as applied mutatis mutandis pursuant to Article 14, paragraph (1); the same applies in Article 19);
- (ii) a person who violates the restrictions or conditions (including those changed pursuant to the provisions of Article 12) attached to the permission under Article 5, paragraph (1) pursuant to the provisions of Article 12 (including as applied mutatis mutandis pursuant to Article 14, paragraph (1); hereinafter the same applies in this item and Article 19);
- (iii) a person who violates the order under Article 13, paragraph (1) (including as applied mutatis mutandis pursuant to Article 14, paragraph (1)).

Article 18-2 A person who refuses, precludes, or evades the inspection by an authorized fishery supervisor pursuant to the provisions of Article 15-2, paragraph (1), or who fails to respond to questions by the supervisor, or makes a false statement is subject to a fine of not more than three million yen.

Article 19 Any person who violates the restrictions or conditions (including those changed pursuant to the provisions of Article 12) attached to the approval referred to in Article 8 (including as applied mutatis mutandis pursuant to Article 14, paragraph (1)), Article 9 (including as applied mutatis mutandis pursuant to Article 14, paragraph (1)) or Article 10 pursuant to the provisions of Article 12 is subject to a fine of not more than five hundred thousand yen.

Article 20 In the cases referred to in Article 17-2, Article 18, or the preceding Article, catches or their products, vessels or fishing gear, or other articles for the fishing operations, the gathering or catching of aquatic animals or plants, or surveys that offenders own or possess may be confiscated; provided, however, that if it is impossible to confiscate all or part of these articles owned by the offenders, their equivalent value may be collected.

Article 21 Any person who violates the provisions of Article 5, paragraph (3) (including as applied mutatis mutandis pursuant to Article 14, paragraph (1)) or Article 5, paragraph (3) as applied mutatis mutandis pursuant to Article 11, paragraph (2) (including as applied mutatis mutandis pursuant to Article 14, paragraph (1)) is subject to a fine of not more than two hundred thousand yen.

Article 22 If a representative of a corporation, or agents, employees or other workers of a corporation or individual commit an act in violation of Article 17-2 through Article 19 or the preceding Article in connection with the business or property of that corporation or individual, in addition to the offender being subject to the punishment, the corporation or individual is subject to the punishment referred to in the respective Articles.

(Special Provisions for Jurisdiction of First Instance)

Article 23 The jurisdiction of the first instance of a suit over a crime that violates the provisions of this Act also resides with a district court.

(Release through Paying a Bond)

Article 24 (1) If a seizure (meaning the seizure of vessels or arresting the captain of a vessel or other crew members; the same applies hereinafter) is executed in connection with a crime that violates the provisions of this Act or an incident falling under other crimes provided for by Cabinet Order (hereinafter referred to as "incident"), a judicial police officer provided for by Cabinet Order (hereinafter referred to as "law-enforcement officer") must notify the captain of the vessel (including a person who takes the duty on behalf of the captain) subject to the seizure and the offender of the points listed below without delay; provided, however, that this does not apply if the incident relates to the fishing operations, the gathering or catching of aquatic animals or plants, or the survey that are provided for by Cabinet Order and are conducted by the foreign nationals:

(i) the offender will be released and the vessel and other seized articles (hereinafter referred to as "seized articles") will be returned without delay if the bond or a document that certifies the bond will be provided is offered to

the competent minister as provided for by Cabinet Order as prescribed in paragraph (1) of the following Article;

(ii) the amount of bond to be provided.

- (2) The amount of bond referred to in item (ii) of the preceding paragraph is to be decided by the law-enforcement officer on the basis of the standard prescribed by the competent minister, depending on the category and type of the incident or other circumstances, as provided for by Cabinet Order.

Article 25 (1) If the bond in the amount announced pursuant to the provisions of paragraph (1) of the preceding Article, or the document that certifies it will be provided, is offered to the competent minister as provided for by Cabinet Order, the competent minister is to notify the law-enforcement officer or the public prosecutor of this fact without delay.

(2) If the law-enforcement officer receives the notification under the preceding paragraph, that law-enforcement officer must release the offender and return the seized articles without delay.

(3) If the public prosecutor receives the notification under paragraph (1), that prosecutor must take necessary measures for the release of the offender and the return of the seized articles without delay.

Article 26 (1) The bond is retained by the competent minister.

(2) If the offender fails to appear, or a part of the returned seized articles required to be submitted is not submitted, on the date and at the place required in the proceedings relating to the incident, the bond belongs to the national treasury when one month has elapsed counting from the day following that date; provided, however, that this does not apply if an application is made, no later than the date on which one month has elapsed counting from the day following that date, to the effect that the offender will appear, or that seized articles will be submitted on a specific date earlier than the date on which three months will have elapsed counting from the day following that date.

(3) In the case referred to in the proviso of the preceding paragraph, if the offender fails to appear, or the seized articles are not submitted, on the specific date subject to the application, the bond belongs to the national treasury on the day following that date.

(4) The bond is returned if the proceedings relating to the incident are completed or any event arises that makes it no longer necessary to keep it.

(Competent Minister)

Article 27 The competent minister referred to in the preceding three Articles and order of the competent ministry referred to in Article 17, paragraph (2) are provided for by Cabinet Order.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act comes into effect as from the day on which the United Nations Convention on the Law of the Sea comes into effect for Japan.

(Clarification of Subject Areas of Water)

Article 1-2 Until otherwise provided for by law, for the provisions of Article 3, paragraph (1) to be applied, "exclusive economic zone" and "the gathering or catching of aquatic animals or plants (gathering or catching aquatic animals or plants includes acts incidental to fishing operations but excludes those that fall under fishing operations; the same applies hereinafter)" in that paragraph are deemed to be replaced with "exclusive economic zone (or waters after adjustment, if the adjustment has been made pursuant to the provisions of the treaty under Article 4 of the Act on the Exclusive Economic Zone and Continental Shelf (Act No. 74 of 1996) on the waters in which Japan exercises its sovereign rights regarding the fishing operations, the gathering or catching of aquatic animals or plants (gathering or catching aquatic animals or plants includes acts incidental to fishing operations but excludes those that fall under fishing operations; the same applies hereinafter) and the survey;" and with "the gathering or catching of aquatic animals or plants" respectively.

Article 1-3 For Article 3 of the Act on the Exclusive Economic Zone and Continental Shelf to be applied to the sovereign right set forth in Article 3, paragraph (1) of this Act in the event of the adjustment set forth in that paragraph as applied mutatis mutandis pursuant to the provisions of the preceding Article following the replacement of terms, the term "exclusive economic zone" in Article 3, paragraph (1), item (i) of the Act on the Exclusive Economic Zone and Continental Shelf is deemed to be replaced with the "exclusive economic zone (meaning the exclusive economic zone under Article 3, paragraph (1) of the Act on the Exercise of the Sovereign Rights on Fishing Operations in the Exclusive Economic Zone (Act No. 76 of June 14, 1996) as applied mutatis mutandis pursuant to the provisions of Article 1-2 of the Supplementary Provisions of that Act following the replacement of terms; the same applies in this Article)".

(Special Provisions for Application)

Article 2 With respect to the provisions of Article 4 through Article 13 (including as applied mutatis mutandis pursuant to the provisions of Article 14, paragraph (1)) and of Article 14, paragraph (2), it may be provided for by

Cabinet Order that these provisions are not applicable to the foreign national and the area of sea designated for each relevant provision; provided, however, that if the period is provided for by Cabinet Order, the exclusion of application is only valid until the expiration of that period.

(Repeal of the Act on Temporary Measures Concerning Fishing Waters)

Article 3 The Act on Temporary Measures Concerning Fishing Waters (Act No. 31 of 1977) is repealed.

(Validity of Disposition or Procedures Based on the Former Act)

Article 4 Unless otherwise provided for by these Supplementary Provisions, permission, approval and other dispositions, or application and other procedures made on the basis of the provisions of the Act on Temporary Measures Concerning Fishing Waters prior to the repeal by this Act (hereinafter referred to as "former Act") or orders based on the former Act is to be deemed as the permission, approval and other dispositions, or application and other procedures made on the basis of the corresponding provisions of this Act or of orders based on this Act.

(Transitional Measures for Certificate of Permission or Certificate of Approval)

Article 5 Certificates of permission or approval that are actually issued pursuant to the provisions of the former Act at the time of the enforcement of this Act is deemed as certificates of permission or approval that are issued pursuant to the corresponding provisions of this Act.

(Transitional Measures for the Application of Penal Provisions)

Article 6 Prior laws continue to govern the application of penal provisions to acts committed prior to the enforcement of this Act.

(Transitional Measures for Special Exceptions to Jurisdiction of the First Instance)

Article 7 Prior laws continue to govern the application of provisions of the former Act on the special exceptions to the jurisdiction of the first instance of a suit over a crime that violates the provisions of the former Act.

(Transitional Measures for Release through Paying a Bond)

Article 8 Prior laws continue to govern the application of the provisions of Article 23 through Article 26 of the former Act to the incident set forth in Article 23, paragraph (1) of that Act.

(Delegation to Cabinet Order)

Article 9 Beyond what is provided for by Article 4 through the preceding Article of the Supplementary Provisions, necessary transitional measures for the enforcement of this Act are prescribed by Cabinet Order.

Supplementary Provisions [Act No. 149 of December 18, 1998]

(Effective Date)

Article 1 This Act comes into effect as from the date on which the Agreement between Japan and the Republic of Korea on Fishing Operations comes into effect.

(Repeal of the Act on the Establishment of the Fishing Waters under 1 of Article 1 of the Agreement between Japan and the Republic of Korea on Fishing Operations as a Result of the Enforcement of that Agreement)

Article 2 The Act on the Establishment of the Sea Area on Fishing Operations under 1 of Article 1 of the Agreement between Japan and the Republic of Korea on Fishing Operations as a Result of the Enforcement of that Agreement (Act No. 145 of 1965) is repealed.

(Transitional Measures for Application of Penal Provisions)

Article 3 Prior laws continue to govern the application of penal provisions to acts committed prior to the enforcement of this Act.

Supplementary Provisions [Act No. 91 of June 29, 2001 Extract] [Extract]

(Effective Date)

Article 1 This Act comes into effect as from the date specified by Cabinet Order within a period not exceeding nine months from the day of promulgation.

Supplementary Provisions [Act No. 119 of November 27, 2014]

(Effective Date)

(1) This Act comes into effect as of the date on which ten days have elapsed since the date of promulgation.

(Transitional Measures)

(2) Prior laws continue to govern the application of penal provisions to acts committed prior to the enforcement of this Act.

**Supplementary Provisions [Act No.95 of December 14, 2018 Extract]
[Extract]**

(Effective Date)

Article 1 This Act comes into effect as from the date specified by Cabinet Order within a period not exceeding 2 years from the day of promulgation.