

Act on the Exercise of the Sovereign Right for Fishery, etc. in the Exclusive Economic Zone

(Act No. 76 of June 14, 1996)

(Purpose)

Article 1 This Act establishes necessary measures for the exercise of the sovereign right for fishery, etc. 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 in the United Nations Convention on the Law of the Sea.

(Definitions)

Article 2 (1) "Fishery" as used in this Act means the undertaking of the harvest or cultivation of aquatic animals and plants (including acts incidental to fishery, etc.).

(2) "Fishery Incidental Acts" as used in this Act mean acts that are incidental to the harvest or cultivation of aquatic animals and plants such as the search for fish, collection of fish, storage or processing of fish catches, transport of fish catches or products made therefrom, supply to vessels and other similar acts and that are provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) "Search" as used in this Act means the investigation of the habitat status of aquatic animals and plants that contributes to, but does not involve, the harvest of aquatic animals and plants, and "Survey" means a Search that does not fall under the Fishery Incidental Acts.

(4) "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 specified by the Minister of Agriculture, Forestry and Fisheries.
- (ii) Foreign states, public organizations or similar ones in Foreign states, or juridical persons and other organizations established on the basis of foreign laws.

(Application of Laws and Regulations Regarding Fishery, etc. by Foreign Nationals in Exclusive Economic Zone)

Article 3 (1) The Fishery, harvest of aquatic animals and plants (which excludes those falling under Fishery and includes Fishery Incidental Acts; the same shall apply hereinafter) and Surveys engaged in by Foreign Nationals in Japan's Exclusive Economic Zone (hereinafter simply referred to as the

"Exclusive Economic Zone") (hereinafter referred to in this Article as the "Fishery, etc. by Foreign Nationals in Exclusive Economic Zone") shall be governed by this Act.

- (2) Notwithstanding the provision of paragraph 1 of Article 3 of the Act on the Exclusive Economic Zone and Continental Shelf (Act No. 74 of 1996), provisions of Acts provided for in a Cabinet Order (including those of orders based thereon) shall not apply to the Fishery, etc. by Foreign Nationals in the Exclusive Economic Zone.
- (3) Cabinet Order may provide for necessary provisions for the technical replacement relating to the application of laws and regulations regarding Fishery, etc. by Foreign Nationals in the Exclusive Economic Zone.

(Prohibition of Fishery)

Article 4 (1) Foreign Nationals shall not engage in the Fishery or the harvest of aquatic animals and plants in the sea area of the Exclusive Economic Zone (including the sea bed; hereinafter referred to as "Prohibited Sea Area") listed below; provided, however, that this shall not apply in the event that the harvest of aquatic animals and plants in question is a minor one provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries:

- (i) Sea area is the specified sea area 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 area where the distance from the nearest point on the baseline of Japan (which means the baseline set forth in paragraph 1 of Article 2 of said Act; the same shall apply hereinafter in this item) to any point on such line does not exceed 12 nautical miles).
 - (ii) The sea area provided for by the Minister of Agriculture, Forestry and Fisheries as the sea area necessary for the protection of living marine resources or the adjustment of fishery.
- (2) Foreign Nationals shall not transship or load fish catches or products made therefrom in the Prohibited Sea Area (which is limited to the sea area under item (i) of the preceding paragraph) except for cases provided for in a Cabinet Order.

(Permission for Fishery)

Article 5 (1) Foreign Nationals shall not engage in the Fishery or the harvest of aquatic animals and plants in the Exclusive Economic Zone (excluding the Prohibited Sea Area; the same shall apply 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 Fishery or the harvest of aquatic animals and plants as provided for in the

Ordinance of the Ministry of Agriculture, Forestry and Fisheries; provided, however, that this shall not apply in cases falling under any one of the following items:

- (i) The harvest of aquatic animals and plants in question is a minor one provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries under the proviso of paragraph 1 of the preceding Article.
 - (ii) The harvest of aquatic animals and plants in question is engaged in with the authorization under Article 8.
 - (iii) The Fishery Incidental Acts in question is engaged in with the authorization under Article 9.
- (2) In the event that the Minister of Agriculture, Forestry and Fisheries grants the permission set forth in the preceding paragraph, he/she shall issue a certificate of permission to the Foreign Nationals in question as provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.
- (3) Foreign Nationals who have obtained permission under paragraph 1 shall display the fact in a prominent manner on their vessels that are engaging in the Fishery or the harvest of aquatic animals and plants, and shall keep the certificate of permission set forth in the preceding paragraph in such vessels, as provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(Standard for Permission)

Article 6 (1) In the event that an application for the permission under paragraph 1 of the preceding Article is made, the Minister of Agriculture, Forestry and Fisheries shall not grant permission pertaining to such application unless the Fishery or the harvest of aquatic animals and plants pertaining to such application is conducted in a reliable manner on the basis of international agreement or other arrangements, the Fishery or the harvest of aquatic animals and plants engaged in by the Foreign Nationals in the Exclusive Economic Zone does not exceed the limit for the quantity of fish catches provided for by the Minister of Agriculture, Forestry and Fisheries for respective classifications provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries and conforms to other standards provided for in a Cabinet Order.

- (2) The limit for the quantity of fish catches pursuant to the provision set forth in the preceding paragraph shall be decided, as provided for in a Cabinet Order, on the basis of trends, having scientific grounds, regarding living marine resources and the actual situation of fish catches by Japan's fishery operators in the Exclusive Economic Zone, taking the situation of the Fishery by the Foreign Nationals in the Exclusive Economic Zone and Japan's Fishery in the surrounding waters of foreign states or others comprehensively into

consideration.

- (3) The decision on the limit for the quantity of fish catches pursuant to the provision of paragraph 1 with regard to the first category of specific living marine resources set forth in paragraph 6 of Article 2 of the Act on the Preservation and Control of the Living Marine Resources (Act No. 77 of 1996) that sets forth the maximum quantities for fish catches specified in paragraph 2 of said Article shall be made on the basis of such maximum quantities for fish catches in addition to what is provided for in the preceding paragraph.

(Fishing Fee)

Article 7 (1) Foreign Nationals shall pay the fishing fee in the amount provided for in a Cabinet Order to the national government at the time when they receive the issuance of the certificate of permission pursuant to the provision of paragraph 2 of Article 5.

- (2) In the event that any special circumstance exists, the fishing fee set forth in the preceding paragraph may be reduced in its amount or exempted as provided for in a Cabinet Order.
- (3) In addition to what is provided for in the preceding two paragraphs, matters necessary for the fishing fee shall be prescribed by a Cabinet Order.

(Authorization for the Harvest of Aquatic Animals and Plants for Test and Research)

Article 8 In the event that Foreign Nationals intend to carry out the harvest of aquatic animals and plants in the Exclusive Economic Zone for test and research or other purposes provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, they shall obtain the authorization of the Minister of Agriculture, Forestry and Fisheries for each vessel engaging in the harvest of aquatic animals and plants as provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries; provided, however, that this shall not apply in cases where the harvest of aquatic animals and plants in question is a minor one provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries under the proviso of paragraph 1 of Article 4, or in cases where the Fishery Incidental Acts in question are engaged in with the authorization under the following Article.

(Authorization for Fishery Incidental Acts Pertaining to Fishery by Persons Other Than Foreign Nationals)

Article 9 In the event that Foreign Nationals intend to engage in Fishery Incidental Acts, in the Exclusive Economic Zone, pertaining to the Fishery or the harvest of aquatic animals and plants that are engaged in by persons other than the Foreign Nationals in said Water Area, they shall obtain the

authorization of the Minister of Agriculture, Forestry and Fisheries for each vessel engaging in the Fishery Incidental Acts as provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries

(Authorization for Surveys)

Article 10 In the event that Foreign Nationals intend to engage in a Survey in the Exclusive Economic Zone, they shall obtain the authorization of the Minister of Agriculture, Forestry and Fisheries for each vessel engaging in the Survey as provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(Fees)

Article 11 (1) Foreign Nationals who apply for authorization under the preceding three Articles shall pay the fee, the amount of which shall be provided for in a Cabinet Order taking the actual costs into consideration.

(2) The provisions of paragraphs 2 and 3 of Article 5 shall apply mutatis mutandis to the authorization under the preceding three Articles, and the provision of paragraph 2 of Article 7 shall apply mutatis mutandis to the fee in the preceding paragraph.

(Restrictions or Conditions)

Article 12 Restrictions or conditions may be attached to the permission under paragraph 1 of Article 5 or the authorization under Article 8 through to Article 10, or they may be changed.

(Rescission of Permission)

Article 13 (1) In the event that the Foreign Nationals who have received the permission under paragraph 1 of Article 5 or the authorization under Article 9 violate laws and regulations or restrictions or conditions under the preceding Article, the Minister of Agriculture, Forestry and Fisheries may establish a period and order them to suspend the Fishery or the harvest of aquatic animals and plants in the Exclusive Economic Zone, or may rescind the permission under paragraph 1 of Article 5 or the authorization under Article 9.

(2) In the event that the Foreign Nationals who have received the authorization under Article 8 or 10 violate laws and regulations or restrictions or conditions under the preceding Article, the Minister of Agriculture, Forestry and Fisheries may rescind the authorization under Article 8 or 10.

(Mutatis Mutandis Application to Fishery, etc. Pertaining to Fixative Species on the Continental Shelf)

Article 14 (1) The provisions of Article 3 through to the preceding Article shall

apply mutatis mutandis to the Fishery, the harvest of aquatic animals and plants and the Survey pertaining to fixative species (which means living creatures belonging to the fixative species set forth in 4 of Article 77 of the United Nations Convention on the Law of the Sea; the same shall apply in the following paragraph) in the area which is on the continental shelf (which means 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 shall be provided for in a Cabinet Order.

(2) Fixative species under paragraph 1 of Article 4, paragraph 1 of Article 5 and Article 8 through to Article 10 that are replaced and apply mutatis mutandis in the preceding paragraph shall be announced publicly by the Minister of Agriculture, Forestry and Fisheries.

(Preservation and Control of Anadromous Resources)

Article 15 Japan shall have the primary interest and responsibility under 1 of Article 66 of the United Nations Convention on the Law of the Sea even in the sea area outside the Exclusive Economic Zone with regard to anadromous resources that lay eggs in Japan's inland water.

(Exclusion from Application of Administrative Procedure Act)

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

(Delegation to Cabinet Order)

Article 17 (1) In cases where a Cabinet Order or an Ordinance of the Ministry of Agriculture, Forestry and Fisheries is established, revised or abolished on the basis of the provisions of this Act, necessary transitional measures (including transitional measures on penal provisions) may be provided by such Cabinet Order or Ordinance of the Ministry of Agriculture, Forestry and Fisheries within the scope reasonably considered necessary as a result of such establishment, revision or abolition.

(2) In addition to matters separately provided for in this Act, procedures necessary to implement provisions of Article 24 through to Article 26 and other matters necessary to enforce such provisions shall be provided for in an ordinance of the competent ministry, and other procedures necessary to implement this Act and other matters necessary to enforce it shall be provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(Penal Provisions)

Article 18 Any person who falls under any one of the following items shall be

punished by fine of no more than ten million yen:

- (i) Persons who violate the provision of paragraph 1 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14) or paragraph 2 of Article 4, paragraph 1 of Article 5 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14; the same shall apply in the following item) or Article 10 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14; the same shall apply in the following Article);
- (ii) Persons who violate the restrictions or conditions (including those changed pursuant to the provision of Article 12) attached to the permission under paragraph 1 of Article 5 pursuant to the provision of Article 12 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14; the same shall apply in this item and the following Article);
- (iii) Persons who violate the order pursuant to the provision of paragraph 1 of Article 13 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14).

Article 19 Any person who violates the restrictions or conditions (including those changed pursuant to the provision of Article 12) attached to the authorization under Article 8 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14), Article 9 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14) or Article 10 pursuant to the provision of Article 12 shall be punished by fine of no more than five hundred thousand yen.

Article 20 In the cases of the preceding two Articles, fish catches or products made therefrom, vessels or fishing equipment or other articles used for the Fishery, the harvest of aquatic animals and plants or the Survey owned or possessed by offenders may be confiscated; provided, however, that in the event that it is impossible to confiscate these articles owned by the offenders, in whole or in part, the value of them may be collected.

Article 21 Any person who violates the provisions of paragraph 3 of Article 5 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14) or paragraph 3 of Article 5 as applied mutatis mutandis pursuant to paragraph 2 of Article 11 (including the cases where it is applied mutatis mutandis pursuant to paragraph 1 of Article 14) shall be punished by fine of no more than two hundred thousand yen.

Article 22 In the event that a representative person of a juridical person, or agents, employees or other workers of a juridical person or an individual

commits acts of violation under Article 18, Article 19 or the preceding Article in connection with the business or property of such juridical person or individual, the punishment under the respective Articles in question shall be imposed on not only the person who commits such acts but also the juridical person or individual.

(Special Exception to Jurisdiction of First Instance)

Article 23 The jurisdiction of the first instance of a suit pertaining to crimes as a result of the violation of the provisions of this Act shall also reside with a district court.

(Release by Offer of Cash Collateral)

Article 24 (1) In the event that a seizure (which means to seize vessels or to arrest the master of a vessel or other crew members; the same shall apply hereinafter) is executed in connection with a crime that violates the provisions of this Act or an incident falling under other crimes provided for in a Cabinet Order (hereinafter referred to as "Incident"), a person who is a judicial police officer and is provided for in a Cabinet Order (hereinafter referred to as "Law-enforcement Officer") shall notify the master of the vessel (including a person who takes the duty on behalf of the master of the vessel) involved in such seizure and the offender of the points listed below without delay; provided, however, that this shall not apply in the event that the Incident relates to the Fishery, the harvest of aquatic animals and plants or the Survey that are provided for in a Cabinet Order and are conducted by the Foreign Nationals.

(i) The offender is released and the vessel and other seized articles (hereinafter referred to as "Seized Articles") will be returned without delay in the event that the cash collateral or a document that certifies such cash collateral will be provided is presented to the competent minister as provided for in a Cabinet Order under paragraph 1 of the following Article;

(ii) The amount of cash collateral to be provided.

(2) The amount of cash collateral under item (ii) of the preceding paragraph shall 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 in a Cabinet Order.

Article 25 (1) In the event that the cash collateral to the amount announced pursuant to the provision 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 in a Cabinet Order, the competent minister shall notify the Law-enforcement Officer or the public prosecutor of such fact without delay.

(2) In the event that the Law-enforcement Officer is notified pursuant to the

provision set forth in the preceding paragraph, he/she shall release the offender and return the Seized Articles without delay.

- (3) In the event that the public prosecutor is notified pursuant to the provision of paragraph 1, he/she shall take necessary measures for the release of the offender and the return of the Seized Articles without delay.

Article 26 (1) The cash collateral shall be retained by the competent minister.

- (2) In the event that the offender fails to show up in person, 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 cash collateral shall belong to the national treasury from the date when one month has elapsed counting from the following day of such date; provided, however, that this shall not apply in the event that an application is made, no later than the date on which one month has elapsed counting from the following day of such date, to the effect that the offender will show up in person, or such Seized Articles will be submitted on a specific date earlier than the date on which three months will have elapsed counting from the following day of such date.

- (3) In the case of the proviso of the preceding paragraph and in the event that the offender fails to show up in person, or the Seized Articles are not submitted, on the specific date pertaining to such application, the cash collateral shall belong to the national treasury from the following day after such date.

- (4) The cash collateral shall be returned in the event that 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 in the preceding three Articles and the ordinance of the competent ministry under paragraph 2 of Article 17 shall be provided for in a Cabinet Order.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall come 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 Water Area)

Article 1-2 For the time being, with respect to the application of the provision of paragraph 1 of Article 3, "Exclusive Economic Zone (" and "the harvest of aquatic animals and plants (which excludes those falling under Fishery and includes Fishery Incidental Acts; the same shall apply hereinafter)" in said

paragraph shall be replaced with "Exclusive Economic Zone (in the event that the water area in which Japan exercises its sovereign right for the Fishery, the harvest of aquatic animals and plants (which excludes those falling under Fishery and includes Fishery Incidental Acts; the same shall apply hereinafter) and the Survey is adjusted pursuant to the provision of the treaty under Article 4 of the Act on the Exclusive Economic Zone and Continental Shelf (Act No. 74 of 1996), the water area after such adjustment;" and with "the harvest of aquatic animals and plants" respectively.

Article 1-3 With respect to the application of the provision of Article 3 of the Act on the Exclusive Economic Zone and Continental Shelf relating to the sovereign right set forth in paragraph 1 of Article 3 in the event of the adjustment set forth in said paragraph as replaced and applied mutatis mutandis pursuant to the provision of the preceding Article, the "Exclusive Economic Zone" under item (i) of paragraph 1 of said Article shall be replaced with the "Exclusive Economic Zone (which means the Exclusive Economic Zone under paragraph 1 of Article 3 of Act on the Exercise of the Sovereign Right for Fishery, etc. in the Exclusive Economic Zone (Act No. 76 of June 14, 1996) as replaced and applied mutatis mutandis pursuant to the provision of Article 1-2 of the Supplementary Provisions of said Act; the same shall apply in this Article)"

(Special Exception for Application)

Article 2 With respect to the provisions of Article 4 through to Article 13 (including cases in which said provisions are applied mutatis mutandis pursuant to the provision of paragraph 1 of Article 14) and of paragraph 2 of Article 14, it may be provided for in a Cabinet Order that these provisions are not applicable by designating the Foreign National and the sea area in each relevant provision; provided, however, that in the event that the period is provided for in a Cabinet Order, such exclusion of application shall only be valid until the expiration of such period.

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

Article 3 The Act on Temporary Measures Concerning Fishery Waters (Act No. 31 of 1977) shall be abolished.

(Validity of Disposition or Procedure Based on Former Act)

Article 4 Permission, authorization and other dispositions or application and other procedures made on the basis of the provisions of the Act on Temporary Measures Concerning Fishery Waters prior to the repeal by this Act (hereinafter referred to as "Former Act") or orders based on the Former Act

shall be deemed as the permission, authorization and other dispositions or application and other procedures made on the basis of the corresponding provision of this Act or of orders based on this Act, unless otherwise specifically provided for in these Supplementary Provisions.

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

Article 5 Certificates of permission or certificates of authorization that are actually issued pursuant to the provisions of the Former Act at the time of the enforcement of this Act shall be deemed as certificates of permission or certificates of authorization that are issued pursuant to the corresponding provision of this Act.

(Transitional Measures for Application of Penal Provisions)

Article 6 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

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

Article 7 With regard to the application of provisions of the Former Act on the special exceptions to the jurisdiction of the first instance of a suit pertaining to crimes as a result of the violation of the provisions of the Former Act, the provisions then in force shall remain applicable.

(Transitional Measures for Release by Offer of Cash Collateral, etc.)

Article 8 With regard to the application of provisions of Article 23 through to Article 26 of the Former Act pertaining to the Incident set forth in paragraph 1 of Article 23 of said Act, the provisions then in force shall remain applicable.

(Delegation to Cabinet Order)

Article 9 In addition to what is provided for in Article 4 through to the preceding Article of the Supplementary Provisions, necessary transitional measures for the enforcement of this Act shall be prescribed by a Cabinet Order.

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

(Effective Date)

Article 1 This Act shall come into effect as from the date on which the Agreement between Japan and the Republic of Korea Pertaining to the Fishery comes into effect.

(Repeal of the Act on the Establishment of the Sea Area Pertaining to the Fishery under 1 of Article 1 of the Agreement between Japan and the Republic of Korea Pertaining to Fishery as a Result of the Enforcement of said Agreement)

Article 2 The Act on the Establishment of the Sea Area Pertaining to Fishery under 1 of Article 1 of the Agreement between Japan and the Republic of Korea Pertaining to the Fishery as a Result of the Enforcement of said Agreement (Act No. 145 of 1965) shall be abolished.

(Transitional Measures for Application of Penal Provisions)

Article 3 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

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

(Effective Date)

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