

Act on Ensuring the Proper Domestic Distribution and Importation of Specified Aquatic Animals and Plants

(Act No. 79 of December 11, 2020)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to ensure the proper domestic distribution, import and export of specified aquatic animals and plants, etc. by taking measures such as requiring business operators handling the aquatic animals and plants, etc. to communicate information among them, to make and keep transaction records, and to attach documents at the time of import or export certifying that those specified aquatic animals and plants were caught or gathered legally, so as to prevent the distribution of illegally caught or gathered aquatic animals and plants, and thereby to contribute to the prevention of illegal fishing and to the sustainable utilization of fishery resources as well as to the sound development of the fisheries and the related industries, in view of the fact that there is a risk that domestic fishery resources are decreased due to the distribution of aquatic animals and plants illegally caught or gathered in Japan and that there is an increasing international need to prevent the import of aquatic animals and plants, etc. that are illegally caught or gathered overseas.

(Definitions)

Article 2 (1) The term "class I specified aquatic animals and plants" as used in this Act means aquatic animals and plants that are recognized to be under significant risk of illegal and excessive catching or gathering in Japan (excluding catching or gathering by foreign fishing vessels, meaning non-

Japanese-flagged vessels with fishing equipment or otherwise used for fishing purposes: the same applies in paragraph (4)), and stipulated by Order of the Ministry of Agriculture, Forestry and Fisheries as those to be recognized to be particularly in need for conservation and management.

- (2) The term "class I specified aquatic animals and plants, etc." as used in this Act means class I specified aquatic animals and plants and processed products which are made of or from any of the class I specified aquatic animals and plants, stipulated by Order of the Ministry of Agriculture, Forestry and Fisheries as those to be recognized to be in need to take measures to regulate their domestic distribution.
- (3) The term "business operator handling class I specified aquatic animals and plants, etc." as used in this Act means a person, entity or organization that is engaged in the business of selling, exporting, processing, manufacturing or providing any of the class I specified aquatic animals and plants, etc.
- (4) The term "class II specified aquatic animals and plants" as used in this Act means aquatic animals and plants imported into Japan and those that are stipulated by Order of the Ministry of Agriculture, Forestry and Fisheries to be recognized to be in need to take measures to regulate the import measures by reasons that they are recognized to be illegally caught or gathered with significant risk by foreign fishing vessels under foreign laws or that international conservation and management measures of fisheries resources are necessary.
- (5) The term "class II specified aquatic animals and plants, etc." as used in this Act means class II specified aquatic animals and plants and processed products which are made of or from any of the Class II specified aquatic animals and plants, stipulated by Order of the Ministry of Agriculture, Forestry and Fisheries as those to be recognized to be in need to take measures to regulate their import
- (6) When the Minister of Agriculture, Forestry and Fisheries is going to establish or amend the Order of the Ministry of Agriculture, Forestry and Fisheries referred to in paragraph (1) and (4), the Minister must hear the opinions of the Fisheries Policy Council in advance.

Chapter II Regulations on Class I Specified Aquatic Animals and Plants

(Notification by Persons, Entities or Organizations Engaged in the Business of Catching or Gathering Class I Specified Aquatic Animals and Plants)

Article 3 (1) A person, entity or organization that is engaged in the business of catching or gathering a class I specified aquatic animal and plant and that intends to be engaged in the business of transferring the class I specified aquatic animal and plant caught or gathered by the person, entity or

organization or any class I specified aquatic animal and plant, etc. which are processed products made of or from that class I specified aquatic animal and plant (or, in case the organization to which the person, entity or organization belongs intends to be engaged in the business of transferring these class I specified aquatic animal and plant, etc. on behalf of the person, entity or organization, that organization) must notify the Minister of Agriculture, Forestry and Fisheries, in advance, of the fact that the business of catching or gathering the class I specified aquatic animal and plant is conducted in accordance with the authority granted by the Fishery Act (Act No. 267 of 1949) and other relevant laws and regulations, as well as of other information specified by Order of the Ministry of Agriculture, Forestry and Fisheries.

(2) Upon receipt of the notification given under the provisions of the preceding paragraph, when the Minister of Agriculture, Forestry and Fisheries acknowledges that the person, entity or organization that gave the notification has the authority prescribed for in the same paragraph (or, in cases where the notifier is the organization prescribed for in the same paragraph, when the Minister acknowledges that the person, entity or organization that belongs to the organization has that authority), the Minister gives the person, entity or organization the notice of the number associated with that notification pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.

(3) In the event of any changes in the information notified under paragraph (1) (including discontinuation of the business of catching or gathering the class I specified aquatic animal and plant in respect of which the notification was given), the person, entity or organization that received the notice under the provisions of the preceding paragraph (hereinafter referred to as the "notifying catcher or gatherer ") must notify the Minister of Agriculture, Forestry and Fisheries of the change within two weeks after the date of the change.

(Communication of Information by Notifying Catcher or Gatherer)

Article 4 When a notifying catcher or gatherer transfers the class I specified aquatic animal and plant caught or gathered by themselves (or, in case a notifying catcher or gatherer is an organization prescribed for in paragraph (1) of the preceding Article, the person, entity, or organization that belongs to that organization) or any class I specified aquatic animal and plant, etc. which are processed products made of or from that class I aquatic animal and plant to another business operator handling class I specified aquatic animals and plants, etc., the notifying catcher or gatherer must inform the other business operator of the name of the class I specified aquatic animal and plant, etc., the number associated with the relevant catch or gather, including the number notified by the notice given under paragraph (2) of the same Article

(hereinafter referred to as the "catch number"), and other information specified by Order of the Ministry of Agriculture, Forestry and Fisheries, by indicating the information on the packaging, containers or invoice of the class I specified aquatic animal and plant, etc. or by other means pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.

(Communication of Information between Business Operators Handling Class I Specified Aquatic Animals and Plants)

- Article 5 (1) In case a business operator handling class I specified aquatic animals and plants, etc., to whom a class I specified aquatic animal and plant, etc. has been transferred from another business operator, transfers or delivers the class I aquatic animal and plant, etc. to another business operator handling class I specified aquatic animals and plants, etc., the transferor must inform the transferee of the name of the class I specified aquatic animal and plant, etc., the catch number, and other information specified by Order of the Ministry of Agriculture, Forestry and Fisheries, by indicating the information on the packaging, containers or invoice of the class I specified aquatic animal and plant, etc. or by other means pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.
- (2) In the case referred to in the preceding paragraph, the business operator handling class I specified aquatic animals and plants, etc. may inform a lot number (meaning a number or code which is not the catch number but corresponds to the catch number; the same applies hereinafter) instead of the catch number, pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.
- (3) In case a business operator handling class I specified aquatic animals and plants, etc. is entrusted by another handling business operator to deliver a class I specified aquatic animal and plant, etc. and inform a lot number at the time of delivery pursuant to the provisions of the preceding paragraph, the entrusted business operator handling class I specified aquatic animals and plants, etc. must inform the lot number to the entrusting business operator handling class I specified aquatic animals and plants, etc. pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.
- (4) When applying the provisions of paragraph (1) to a class I specified aquatic animal and plant that has been imported or cultured (excluding a class I specified aquatic animal and plant caught or gathered and cultured in Japan) or to a class I specified aquatic animal and plant, etc. which are processed products made of or from that class I specified aquatic animal and plant (hereinafter collectively referred to as "imported or cultured aquatic animals and plants, etc."), the term "catch number" in the same paragraph is replaced with "the fact that the class I specified aquatic animal and plant, etc. are

imported or cultured aquatic animals and plants, etc. prescribed for in paragraph (4)."

(Preparation and Preservation of Transaction Records)

Article 6 (1) When a business operator handling class I specified aquatic animals and plants, etc. carries out a transfer etc. (meaning a transfer, acceptance thereof, a delivery and acceptance thereof; the same applies hereinafter) of a class I aquatic animal and plant, etc. with another business operator handling class I specified aquatic animals and plants, etc. (including any persons, entities or organizations specified by Order of the Ministry of Agriculture, Forestry and Fisheries as similar to a business operator handling class I specified aquatic animals and plants, etc.) or disposes of or loses a class I specified aquatic animal and plant, etc., the first-mentioned business operator handling class I specified aquatic animals and plants, etc. must prepare a record of the following information on the class I specified aquatic animal and plant, etc. pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries and must keep the record for the period specified by Order of the Ministry of Agriculture, Forestry and Fisheries from the date of the transfer etc. or the disposal or loss; provided, however, that this does not apply to cases where the notifying catcher or gatherer is the organization prescribed for in Article 3, paragraph (1) and where the person, entity or organization that belongs to the organization carried out the transferring, etc. of the class I specified aquatic animal and plant, etc. in respect of which the notification was given; cases where a small amount of the class I specified aquatic animal and plant, etc. was disposed of or lost; or other cases specified by Order of the Ministry of Agriculture, Forestry and Fisheries:

- (i) name;
- (ii) weight or quantity;
- (iii) date (or, in the case of a loss, its approximate date if the date is unknown) of the transferring etc. or the disposal or loss;
- (iv) in the case of transferring etc. , the name of the other party thereto;
- (v) catch number or lot number; and
- (vi) any other information specified by Order of the Ministry of Agriculture, Forestry and Fisheries.

(2) In case a business operator handling class I specified aquatic animals and plants, etc. informs a lot number pursuant to paragraph (2) of the preceding Article, the business operator must prepare and keep a record of the catch number corresponding to the lot number.

(3) When applying the provisions of paragraph (1) to an imported or cultured aquatic animal and plant, etc., the term "catch number or lot number" in item (v) of the same paragraph is replaced with "the fact that the class I specified

aquatic animal and plant, etc. are imported or cultured aquatic animals and plants, etc."

(Recommendations and Orders)

Article 7 (1) In case the Minister of Agriculture, Forestry and Fisheries finds that a notifying catcher or gatherer is not in compliance with the provisions of Article 4, the Minister may recommend to the notifying catcher or gatherer to take necessary measures.

(2) In case the Minister of Agriculture, Forestry and Fisheries finds that a business operator handling class I specified aquatic animals and plants, etc. is not in compliance with the provisions of either of the preceding two Articles, the Minister may make a recommendation to the business operator handling class I specified aquatic animals and plants, etc. to take necessary measures.

(3) In case a notifying catcher or gatherer who received a recommendation prescribed for in paragraph (1) or a business operator handling class I specified aquatic animals and plants, etc. who received a recommendation prescribed for in the preceding paragraph fails to take the measures based on the recommendation without reasonable grounds, the Minister of Agriculture, Forestry and Fisheries may order the notifying catcher or gatherer or the business operator handling class I specified aquatic animals and plants, etc., as the case may be, to take the measures based on the recommendation.

(Notification by Business Operator Handling Class I Specified Aquatic Animals and Plants)

Article 8 (1) A business operator handling class I specified aquatic animals and plants, etc. must notify the Minister of Agriculture, Forestry and Fisheries of the following information pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries within two weeks after the date of starting its business; provided, however, that this does not apply to cases where the notifying catcher or gatherer (if the notifying catcher or gatherer is the organization prescribed for in Article 3, paragraph (1), including the person, entity or organization that belongs to the organization) is engaged in the business of selling, exporting, processing, manufacturing or providing the class I specified aquatic animal and plant, etc. in respect of which the notification was given or to other cases specified by Order of the Ministry of Agriculture, Forestry and Fisheries:

- (i) name and address of the business operator and, if a corporation, its representative's name;
- (ii) address of its office or place of business;
- (iii) types of class I specified aquatic animals and plants, etc. handled; and
- (iv) any other information specified by Order of the Ministry of Agriculture,

Forestry and Fisheries.

- (2) In the event of any changes in the information notified under the provisions of the preceding paragraph (including discontinuation of the business in respect of which the notification was given), the person, entity or organization that gave the notification must notify the Minister of Agriculture, Forestry and Fisheries of the change within two weeks after the date of the change.

(Reporting on Class I Specified Aquatic Animals and Plants)

Article 9 In case a business operator handling class I specified aquatic animals and plants, etc. suspects that any class I specified aquatic animal and plant, etc. (or, in case of processed products, the class I specified aquatic animal and plant of or from which the class I specified aquatic animal and plant, etc. were made) transferred from another business operator handling class I specified aquatic animals and plants, etc. have been caught or gathered in violation of the Fishery Act or any other relevant laws or regulations, the first-mentioned business operator handling class I specified aquatic animals and plants, etc. must endeavor to promptly report the suspicion to the Minister of Agriculture, Forestry and Fisheries.

(Regulations on Exportation)

- Article 10 (1) A business operator handling class I specified aquatic animals and plants, etc. must not export any class I specified aquatic animal and plant, etc. unless a certificate issued by the Minister of Agriculture, Forestry and Fisheries is attached certifying that the class I specified aquatic animal and plant, etc. (or, in case of processed products, the class I specified aquatic animal and plant of or from which the class I specified aquatic animal and plant, etc. were made) meets either of the requirements set forth in the following items (hereinafter referred to as a "legal harvest certificate"):
- (i) the class I specified aquatic animal and plant, etc. were not caught or gathered in violation of the Fishery Act or any other relevant laws or regulations; or
 - (ii) the class I specified aquatic animal and plant, etc. are an imported or cultured aquatic animals and plants, etc.
- (2) A person, entity or organization who intends to receive a legal harvest certificate must file an application with the Minister of Agriculture, Forestry and Fisheries pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.
- (3) In case the Minister of Agriculture, Forestry and Fisheries finds that the class I specified aquatic animal and plant, etc. (or, in case of processed products, the class I specified aquatic animal and plant of or from which the class I specified aquatic animal and plant, etc. were made) in respect of which

an application has been filed under the preceding paragraph falls under either of the items of paragraph (1), the Minister must issue a legal harvest certificate pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.

- (4) In the event of loss or destruction of a legal harvest certificate issued to a person, entity or organization (referred to as the "certificate recipient" in the following paragraph and paragraph (6)), the person, entity or organization may receive a legal harvest certificate reissued by filing an application with the Minister of Agriculture, Forestry and Fisheries pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.
- (5) In any of the events set forth in the following items, the certificate recipient must return its legal harvest certificate (or, in the case of item (ii), the legal harvest certificate found or recovered) to the Minister of Agriculture, Forestry and Fisheries pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries:
- (i) the legal harvest certificate is invalidated pursuant to the provisions of the following paragraph; or
 - (ii) the legal harvest certificate lost or destroyed is found or recovered after receipt of the legal harvest certificate reissued pursuant to the provisions of the preceding paragraph.
- (6) In case a certificate recipient violates any provisions of this Act or of an order issued under this Act or violates any disposition rendered under this Act, the Minister of Agriculture, Forestry and Fisheries may invalidate the legal harvest certificate.

Chapter III Regulations on Class II Specified Aquatic Animals and Plants

Article 11 A class II specified aquatic animal and plant, etc. must not be imported into Japan without a catch certificate issued by a foreign government agency and other documents provided for by Order of the Ministry of Agriculture, Forestry and Fisheries. The catch certificate and the other documents certify that the class II specified aquatic animal and plant, etc. (in case of processed products, the class II specified aquatic animal and plant of or from which the class II specified aquatic animal and plant, etc. were made) were legally caught or gathered

Chapter IV Miscellaneous Provisions

(On-site Inspections)

Article 12 (1) To the extent necessary for the enforcement of this Act, the Minister of Agriculture, Forestry and Fisheries may request a business

operator handling class I specified aquatic animals and plants, etc., a person, entity or organization that is engaged in the import business of any of the class II specified aquatic animals and plants, etc., or a business operator that has a business relationship with either of the above to submit necessary reports or books, documents or other materials related to its business operations, and have employees of the Ministry of Agriculture, Forestry and Fisheries: enter factories, stores, offices, places of business, vessels, vehicles, warehouses or other places of the business operator or the person entity or organization , and inspect the conditions of its operations, the relevant class I or class II specified aquatic animal and plant, etc., books, documents or other materials; or ask questions for its employees or other relevant persons.

- (2) An employee of the Ministry of Agriculture, Forestry and Fisheries who conducts an on-site inspection pursuant to the provisions of the preceding paragraph must carry identification and present it to relevant persons.
- (3) The authority to conduct an on-site inspection under paragraph (1) must not be interpreted as being granted for the purpose of criminal investigation.

(Delegation of Authority)

Article 13 (1) A part of the authority of the Minister of Agriculture, Forestry and Fisheries prescribed for in this Act may be delegated to the heads of local branch offices pursuant to the provisions by Order of the Ministry of Agriculture, Forestry and Fisheries.

- (2) A part of the duties that are under the authority of the Minister of Agriculture, Forestry and Fisheries prescribed for in this Act may be undertaken by prefectural governors pursuant to the provisions of the Cabinet Order.

(Transitional Measures)

Article 14 If an order is established, revised or abolished under this Act, the order may specify necessary transitional measures (including transitional measures concerning penal provisions) to the extent reasonably found necessary for the establishment, revision or abolition of the order.

Chapter V Penal Provisions

Article 15 If the provisions of Article 11 are violated, the person, entity or organization that commits the violation is punished by imprisonment of not more than one year or a fine of not more than one million yen.

Article 16 In any of the events set forth in the following items, the person, entity or organization that commits the violation is punished by a fine of not more

than five hundred thousand yen:

- (i) a person, entity or organization transfers any class I specified aquatic animal and plant, etc. without giving the notification required under, or gives a false notification in violation of, the provisions of Article 3, paragraph (1);
- (ii) a person, entity or organization violates an order issued under the provisions of Article 7, paragraph (3);
- (iii) a person, entity or organization fails to give the notification required under, or gives a false notification in violation of, the provisions of Article 8, paragraph (1);
- (iv) a person, entity or organization violates the provisions of Article 10, paragraph (1); or
- (v) a person, entity or organization fails to submit reports or materials under, or submits false reports or materials in violation of, the provisions of Article 12, paragraph (1), or refuses, interferes with, or evades inspection conducted under the provisions of the same paragraph, or fails to answer or gives false answers to questions asked under the provisions of the same paragraph.

Article 17 If a person, entity or organization commits a violation by failing to make the notification required under, or by giving a false notification in violation of, the provisions of Article 3, paragraph (3) or Article 8, paragraph (2), that person, entity or organization is punished by a fine of not more than three hundred thousand yen.

Article 18 If a corporation's representative or a corporation's or individual's agent, employee or other worker commits any of the violations set forth in the preceding three Articles in connection with the business of the corporation or individual, the corporation or individual is subject to the fine referred to in the relevant Article, in addition to the offender being subject to punishment.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect as of the date specified by the Cabinet Order within a period not exceeding two years from the date of promulgation; provided, however, that the provisions of the following Article and Articles 3, 6, and 7 of the Supplementary Provisions comes into effect as of the date of promulgation.

(Transitional Measures)

Article 2 When establishing by Order of the Ministry of Agriculture, Forestry

and Fisheries referred to in Article 2, paragraphs 1 and 4, the Fisheries Policy Council may be consulted prior to as well as after the date of enforcement of this Act (hereinafter referred to as the "date of enforcement").

Article 3 (1) A person, entity or organization that is engaged in the business of catching or gathering a class I specified aquatic animal and plant and that intends to, after the date of enforcement, be engaged in the business of transferring the class I specified aquatic animal and plant caught or gathered by the person, entity or organization or any class I specified aquatic animal and plant, etc. which are processed products made of or from that class I specified aquatic animal and plant (or, in case the organization to which the person, entity or organization belongs intends to be engaged in the business of transferring these class I specified aquatic animal and plant, etc. on behalf of the person, entity or organization, that organization) may give notification to the Minister of Agriculture, Forestry and Fisheries at any time during the period beginning on the date six months prior to the date of enforcement and ending on the date preceding the date of enforcement, as if pursuant to the provisions of Article 3, paragraph (1). In this case, the person, entity or organization who gave the notification is deemed to have given the notification under the provisions of the same paragraph on the date of enforcement.

(2) Upon receipt of the notification given under the provisions of the preceding paragraph, the Minister of Agriculture, Forestry and Fisheries, prior to the date of enforcement, may give the person, entity or organization who gave the notification notice of the number associated with the notification as if pursuant to the provisions of Article 3, paragraph (2). In this case, the person, entity or organization that received the notice is deemed to have received the notice under the provisions of the same paragraph on the date of enforcement.

Article 4 The provisions of Articles 4 through 6 apply to all class I specified aquatic animals and plants caught or gathered on and after the date of enforcement and all class I specified aquatic animals and plants, etc. which are processed products made of or from those class I specified aquatic animals and plants.

Article 5 When applying the provisions of Article 8, paragraph (1) to a person, entity or organization that is actually engaged in the business of selling, exporting, processing, manufacturing or providing any of the class I specified aquatic animals and plants, etc. at the time of enforcement, the phrase "within two weeks after the date of starting its business" in the same paragraph is deemed to be replaced with "within one month after the date of enforcement of this Act."

Article 6 (1) A person, entity or organization intending to receive a legal harvest certificate may submit an application prior to the date of enforcement, as if pursuant to the provisions of Article 10, paragraph (2).

(2) Upon receipt of the application filed under the preceding paragraph, the Minister of Agriculture, Forestry and Fisheries may issue a legal harvest certificate prior to as well as after the date of enforcement, as if pursuant to the provisions of Article 10, paragraph (3). In this case, the person, entity or organization to whom the certificate was issued is deemed to have been issued the same under the provisions of the same paragraph on the date of enforcement.

(Delegation to Cabinet Order)

Article 7 Beyond what is provided for in Article 2 through the preceding Article of the Supplementary Provisions and all transitional measures (including transitional measures concerning penal provisions) necessary for the enforcement of this Act are specified by Cabinet Order.

(Review)

Article 8 The government is to review the status of implementation of this Act when five years have passed since the date of enforcement, and upon finding it necessary, take the necessary measures based on the results of the review..

(Partial Amendment of the Fisheries Basic Act)

Article 9 The Fisheries Basic Act (Act No. 89 of 2001) is partially amended as follows:

The phrase "and the Act on the Promotion of Inland Fisheries (Act No. 103 of 2014)" in Article 36, paragraph (3) is amended to read, "the Act on the Promotion of Inland Fisheries (Act No. 103 of 2014), and the Act on Ensuring the Proper Domestic Distribution and Importation of Specified Aquatic Animals and Plants (Act No.79 of 2020)."

(Partial Amendment of the Act for Establishment of the Ministry of Agriculture, Forestry and Fisheries)

Article 10 The Act for Establishment of the Ministry of Agriculture, Forestry and Fisheries (Act No. 98 of 1999) is partially amended as follows:

In Article 18, paragraph (1), item (i), the phrase "(limited to particulars related to veterinary medicine)" is deleted and the phrase "item (lxxiv) (limited to particulars related to improvement of the distribution of fisheries products)" is inserted after "item (liv)."

In Article 20, paragraph (1), item (i), the phrase "item (lxxiv) (limited to

particulars related to improvement of the distribution of fisheries products)" is inserted after "item (liv)."