

SUBMARINE MINERAL RESOURCES DEVELOPMENT ACT

Act No. 2184, Jan. 1, 1970
Amended by Act No. 3011, Dec. 16, 1977
Act No. 3067, Dec. 31, 1977
Act No. 4128, Jun. 16, 1989
Act No. 4280, Dec. 31, 1990
Act No. 4541, Mar. 6, 1993
Act No. 4667, Dec. 31, 1993
Act No. 5453, Dec. 13, 1997
Act No. 5454, Dec. 13, 1997
Act No. 5781, Feb. 5, 1999
Act No. 6656, Feb. 4, 2002
Act No. 6756, Dec. 5, 2002
Act No. 8464, May 17, 2007
Act No. 8852, Feb. 29, 2008
Act No. 10596, Apr. 14, 2011
Act No. 11690, Mar. 23, 2013

Article 1 (Purpose)

The purpose of this Act is to rationally exploit the sea areas adjacent to the coasts of the Korean Peninsula and island annexed thereto, that are the territory of the Republic of Korea, or the continental shelves over which the Republic of Korea may extend all of her sovereignty, which are blessed with submarine minerals, hence contributing to the industrial development.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "submarine minerals" means petroleum, natural gas, etc. from among the natural resources which are rich in the continental shelves of the Republic of Korea;
2. The term "submarine mining" means the exploration and gathering of submarine minerals and any business affiliated thereto (referring to processing, transport and storage);
3. The term "submarine mineral exploitation area" means the submarine area prescribed by Presidential Decree;

4. The term "submarine mining right" means the right to explore, gather and acquire submarine minerals in a specific submarine area which has been registered within the submarine mineral exploitation area (hereinafter referred to as "submarine mining area");
5. The term "submarine mining concession right" means the right to explore, gather and acquire submarine minerals in the State-owned submarine mining area pursuant to an act of establishment;
6. The term "submarine mining concession area" means the area wherein the submarine mining concession right has been established from among the submarine mining areas.

Article 2-2 (Establishment of Master Plans for Development of Submarine Mineral Resources)

(1) The Minister of Trade, Industry and Energy shall establish and execute the master plans for development of submarine mineral resources (hereinafter referred to as "master plans") for the efficient and reasonable development of submarine mineral resources. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) The master plans shall include the matters falling under each of the following subparagraphs:

1. Matters concerning the objective and direction of the development policy for submarine mineral resources;
2. Matters concerning the execution system for the development of submarine mineral resources;
3. Matters concerning the collection and management of information on geological features, mining area, etc. and technological researches necessary for the development of submarine mineral resources;
4. Matters concerning the financing and investment plan necessary for the development of submarine mineral resources;
5. Matters concerning the training of professional human resources and international cooperation necessary for the development of submarine mineral resources;
6. Other matters prescribed by Presidential Decree concerning the use, management, development and promotion of submarine mineral resources.

(3) Where the Minister of Trade, Industry and Energy intends to establish or change the master plans, he/she shall consult with the head of the central administration agency concerned and undergo deliberation by the deliberative committee for the development of submarine mineral resources under Article 2-3. *<Amended by Act No. 11690, Mar. 23, 2013>*

(4) Matters necessary for the establishment, change and execution of the master plans other than those referred to in paragraphs (1) through (3) shall be prescribed by Presidential Decree.

Article 2-3 (Deliberative Committee for Development of Submarine Mineral Resources)

(1) The deliberative committee for development of submarine mineral resources (hereinafter referred to as the "Committee") shall be established under the Minister of Trade, Industry and Energy, in order to deliberate on the following matters concerning the development of submarine mineral resources: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. Establishment and change of the master plans;
2. Establishment of submarine mining areas;

3. Designation and publication of a promising mining area and the provision of subsidies therefor under Article 3 (4);
 4. Permission for the establishment of the submarine mining concession right and the extension of the period of existence thereof;
 5. Expropriation or use of land;
 6. Cancellation of the submarine mining concession right;
 7. Other matters deemed necessary for the deliberation by the Minister of Trade, Industry and Energy related to the development of submarine mineral resources.
- (2) The Committee shall be comprised of not more than 15 members, including one chairperson.
- (3) The Vice Minister of Trade, Industry and Energy who is in charge of business related to energy and resources shall be the chairperson of the Committee. *<Amended by Act No. 11690, Mar. 23, 2013>*
- (4) The members of the Committee shall be those falling under any of the following subparagraphs:
1. Public officials appointed by the heads of their agencies, from among those who belong to the Senior Civil Service Corps of the relevant central administration agencies prescribed by Presidential Decree;
 2. Persons commissioned by the chairperson from among those with sufficient expertise and experience in marine and submarine mineral resources.
- (5) Each member commissioned under paragraph (4) 2 shall hold office for a term of two years, and may be commissioned consecutively for further terms.
- (6) The Committee shall have a working committee in order to efficiently perform affairs of the Committee.
- (7) Matters necessary for the formation and operation of the Committee and the working committee other than those referred to in paragraphs (1) through (6) shall be prescribed by Presidential Decree.

Article 3 (Submarine Mining Area, etc.)

- (1) Boundaries of a submarine mining area or a submarine mining concession area shall be set in straight lines, and its margin shall be right below the submarine boundary lines.
- (2) Location and form of a submarine mining area shall be prescribed by Presidential Decree, on the basis of longitude and latitude.
- (3) The Minister of Trade, Industry and Energy may establish the submarine mining concession right by dividing a submarine mining area into two or more areas. *<Amended by Act No. 11690, Mar. 23, 2013>*
- (4) Where a submarine mining area in which gathering submarine minerals of economic value is highly expected, the Minister of Trade, Industry and Energy may designate such submarine mining area as a promising mining area and publicly announce such fact. *<Amended by Act No. 11690, Mar. 23, 2013>*
- (5) The Minister of Trade, Industry and Energy may preferentially subsidize those who are granted with the license of the establishment of the submarine mining concession right in a promising mining area under paragraph (4). *<Amended by Act No. 11690, Mar. 23, 2013>*
- (6) Matters necessary for the designation and announcement of promising mining areas under paragraph (4) shall be prescribed by Presidential Decree.

Article 4 (Vesting of Submarine Mining Right)

- (1) The submarine mining right shall be held only by the State.
- (2) Any application for establishment of the submarine mining right and its registration shall be prescribed by Presidential Decree.

Article 5 (Types of Submarine Mining Concession Rights)

The submarine mining concession rights shall be classified into two types: the exploration right and the gathering right.

Article 6 (Transfer of Submarine Mining Concession Right)

- (1) The submarine mining concession right shall not be an object of other rights, except for transfer through obtaining authorization from the Minister of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*
- (2) When the Minister of Trade, Industry and Energy grants authorization for transfer of the submarine mining concession right under paragraph (1), he/she may grant it only in cases which meet the qualifications and standards under Articles 11, 13 and 15 (1). In such cases, he/she shall consult with the Minister of Strategy and Finance and the Minister of Foreign Affairs. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 7 (Succession to Rights and Duties)

Rights and duties of a holder of the submarine mining concession right stipulated in this Act shall be succeeded by a universal title.

Article 8 (Succession of Effect Resulting from Conduct)

Conduct under this Act shall also be effective against a successor to a person who desires to become a submarine mining concession right holder, a submarine mining concession right holder, a landowner, or stakeholders.

Article 9 (Period of Existence of Exploration Right)

- (1) The period of existence of the exploration right shall not exceed ten years from the date of the establishment of exploration right: Provided, That when any exploration of submarine minerals has been impossible due to force majeure, the period of existence may be extended for the period equivalent to that during which exploration was impossible, upon obtaining permission from the Minister of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*
- (2) The Minister of Trade, Industry and Energy may permit the extension of the period of existence of the exploration right within three times according to standards prescribed by Presidential Decree. In such cases, the entire period of existence, including the extended period of existence, may not exceed the limit of the period of existence under the main sentence of paragraph (1). *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 10 (Period of Existence of Gathering Rights)

- (1) The period of existence of the gathering right shall not exceed 30 years from the date of the establishment of gathering right.

(2) The period of existence under paragraph (1) may be extended only twice by five years each time upon obtaining permission from the Minister of Trade, Industry and Energy, as prescribed by Presidential Decree: Provided, That when any production of submarine minerals has been impossible due to force majeure, the period of existence may be extended for the period equivalent to that during which exploration was impossible, by obtaining permission from the Minister of Trade, Industry and Energy.

<Amended by Act No. 11690, Mar. 23, 2013>

Article 11 (Qualification of Submarine Mining Concession Right Holders)

Any submarine mining concession right may be only enjoyed by a juristic person.

Article 12 (Establishment of Exploration Rights)

(1) Any person who intends to establish an exploration right shall file an application therefor with the Minister of Trade, Industry and Energy and obtain permission therefor from him/her. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) When filing an application under paragraph (1), it shall be accompanied by the following documents:

1. Submarine area map clarifying the area to be explored;
2. Exploration and financial plans;
3. Specification of major equipment required for exploration;
4. Other documents prescribed by Presidential Decree.

(3) When the Minister of Trade, Industry and Energy intends to grant permission for exploration right under paragraphs (1) and (2), he/she shall consult with the Minister of Strategy and Finance and the Minister of Foreign Affairs. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 13 (Criteria for Permission of Exploration Rights)

When an application is filed under Article 12, the Minister of Trade, Industry and Energy may grant permission to such applicant who falls under each of the following subparagraphs and who is deemed suitable for exploration of submarine minerals, following deliberation by the Committee: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. A person who is deemed to possess sufficient financial and technical capability and equipment to perform exploration business;
2. A person who is deemed capable of rationally exploring submarine minerals.

Article 14 (Establishment of Gathering Rights)

(1) When any holder of an exploration right has discovered submarine minerals of economic value as a result of exploration of a submarine mining concession area, he/she shall report such fact to the Minister of Trade, Industry and Energy within seven days and file an application for the establishment of a gathering right with the Minister of Trade, Industry and Energy by not later than three months prior to the expiration of the period of existence of exploration right and obtain his/her permission therefor. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) In filing an application under paragraph (1), the following documents shall be attached thereto:

1. Map of the submarine area desired for the establishment of the gathering right;
2. Written report on exploration of submarine minerals, and the closing statement of expenses required for such exploration;
3. Written plans for gathering submarine minerals, and financial plan;
4. Other documents prescribed by Presidential Decree.

Article 15 (Permission for Establishment of Gathering Rights)

(1) When any application is filed under Article 14, the Minister of Trade, Industry and Energy shall grant permission therefor, only where it is deemed that the applicant has faithfully performed his/her exploration business during the exploration period, that the discovered submarine minerals are of economic value, and that the business of gathering them is to be sufficiently performed. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) When the Minister of Trade, Industry and Energy grants permission for the establishment of the gathering right under paragraph (1), he/she shall consult with the Minister of Strategy and Finance, the Minister of Foreign Affairs, and the Minister of Oceans and Fisheries. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 16 (Conditional Permission)

The Minister of Trade, Industry and Energy may attach conditions and obligation to the permission for the establishment of the exploration right or for that of the gathering right. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 17 (Report on Change)

(1) Those who has obtained permission for the establishment of the exploration right shall, where they have changed the details of the documents falling under any provision of Article 12 (2) 2 through 4, report such fact to the Minister of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) Those who has obtained permission for the establishment of the gathering right shall, where they have changed the details of the documents falling under any provision of Article 14 (2) 2 through 4, report such fact to the Minister of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*

(3) Matters necessary for the report under paragraphs (1) and (2) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 17-2 (Attribution of Ownership of Data, etc. on Geological Survey)

Any data related to the exploration and gathering acquired by the holder of a submarine mining concession right while conducting submarine mining activities or surveys on geological features shall belong to the State.

Article 18 (Fees for Mining)

(1) When any holder of a submarine mining concession right has gathered submarine minerals in a submarine mining concession area, he/she shall pay mining fees to the Minister of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) Criteria for imposition and time of payment of the mining fees under paragraph (1) shall be prescribed by Presidential Decree.

Article 19 (Waiver and Extinguishment, etc. of Submarine Mining Concession Right)

(1) Where any holder of a submarine mining concession right intends to waive his/her submarine mining concession right on the whole or part of a submarine mining concession area for which a submarine mining concession right has been established, he/she shall submit a written waiver of the submarine mining concession right clarifying the date of waiver and waived districts to the Minister of Trade, Industry and Energy. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) When a written waiver of a submarine mining concession right under paragraph (1) has been submitted, the submarine mining concession right on the waived districts shall be extinguished on the waiver date entered in the written waiver of submarine mining concession right.

(3) When the submarine mining concession right has been extinguished under paragraph (2), the Minister of Trade, Industry and Energy shall eliminate the registration of the submarine mining concession right, as prescribed by Presidential Decree. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 19-2 (Restoration)

(1) The holder of a submarine mining concession right shall, where the effect of the submarine mining concession right expires, remove structures, facilities and other equipment (hereinafter referred to as "structure, etc.") installed in the submarine mining area and restore the submarine mining area to its original state: Provided, That this shall not apply where the approval from the Minister of Trade, Industry and Energy is obtained in cases falling under any of the following subparagraphs: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. Where the relevant structure, etc. is transferred to the holder of new submarine mining concession right with respect to the relevant submarine mining area;
2. Where it is necessary to continue using the installed structure, etc., and the relevant structure, etc. is intended to belong to the State, as prescribed by Presidential Decree.

(2) Where the holder of submarine mining concession right fails to restore the structure, etc. to its original state under paragraph (1), the Minister of Trade, Industry and Energy may order the restoration to the original state by fix the period within one year. *<Amended by Act No. 11690, Mar. 23, 2013>*

(3) Where any person who an order of restoration has been given under paragraph (2) fails to perform such order, the Minister of Trade, Industry and Energy may take necessary measures for the restoration under the Administrative Vicarious Execution Act. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 20 (Registration)

(1) Any person who has obtained permission under Articles 9, 10 (2), 12 (1) or 14 (1) shall file registration with the Minister of Trade, Industry and Energy within 30 days from the date of receiving such permission. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) Matters necessary for the registration under paragraph (1) shall be prescribed by Presidential Decree.

Article 21 (Effect of Registration)

(1) Establishment, alteration, and transfer of the exploration right or gathering right, or any extension of the period of its existence shall become effective by registering them in the original register of submarine mining.

(2) Any registration under paragraph (1) shall substitute for a court-registration.

Articles 22 through 25 Deleted. <by Act No. 5781, Feb. 5, 1999>

Article 26 (Report and Examination)

(1) The holder of a submarine mining concession right shall report the current status of the acquisition of data under Article 17-2 and the status of progress of submarine mining activity to the Minister of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013>

(2) The Minister of Trade, Industry and Energy may have the public officials under his/her command perform an on-site examination, in order to confirm the current status of the acquisition of data and submarine mining activities under paragraph (1). In such cases, if deemed necessary, he/she may have experts in the field participate in the on-site examination. <Amended by Act No. 11690, Mar. 23, 2013>

(3) The Minister of Trade, Industry and Energy shall, where performing the on-site examination under paragraph (2), give notice to those who are subject to the examination about the examination plan, including the date, reason and details of the examination by not later than seven days prior to the examination: Provided, That this shall not apply where there is an emergency or it is deemed impracticable to attain the objective of the examination if prior notice is given because it is likely that the relevant data may be destroyed. <Amended by Act No. 11690, Mar. 23, 2013>

(4) Matters necessary for reports under paragraph (1) and examination under paragraph (2) shall be prescribed by Presidential Decree.

(5) Any public official who performs the examination under paragraph (2) shall carry certification indicating his/her authority and produce it to the interested parties.

Articles 27 through 29 Deleted. <by Act No. 5781, Feb. 5, 1999>

Article 30 (Land Expropriation, etc.)

(1) Any holder of a submarine mining concession right may use or expropriate another person's land when it is necessary to explore or gather submarine minerals. In such cases, however, he/she shall obtain authorization therefor from the Minister of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013>

(2) Authorization from the Minister of Trade, Industry and Energy under paragraph (1) shall be deemed as approval for a project under Article 20 (1) of the Act on Acquisition of and Compensation for Land, etc. for Public Works Projects and the use or expropriation of land owned by other persons shall be governed by the Act on Acquisition of and Compensation for Land, etc. for Public Works Projects. <Amended by Act No. 11690, Mar. 23, 2013>

Article 31 (Sale of Natural Gas)

Where submarine minerals gathered by the holder of a gathering right after obtaining permission under Article 15 is natural gas, the holder may sell such natural gas to those who install gas supply facilities (limited to those who import natural gas for the purpose of self-consumption) other than gas wholesalers or urban gas business operators under the Urban Gas Business Act. In such cases, Article 3 (1) of the Urban Gas Business Act shall not apply.

Article 32 (Revocation of Exploration Rights or Gathering Rights)

When any holder of an exploration right or gathering right falls under any of the following subparagraphs, the Minister of Trade, Industry and Energy may revoke such exploration or gathering right: *<Amended by Act No. 11690, Mar. 23, 2013>*

1. When he/she fails to file an application for the establishment of a gathering right, in violation of Article 14 (1);
2. When he/she fails to fulfill the conditions and obligation under Article 16;
3. When he/she fails to pay mining fees for one year or more under Article 18;

Article 32-2 (Hearings)

When the Minister of Trade, Industry and Energy intends to revoke an exploration right or gathering right under Article 32, he/she shall hold a hearing. *<Amended by Act No. 11690, Mar. 23, 2013>*

Article 33 (Relationship with other Acts)

The Mining Safety Act shall apply mutatis mutandis to the exploration and gathering of submarine minerals, except as otherwise provided for in this Act.

Article 33 (Relationship with other Acts)

The Mining Safety Act shall apply mutatis mutandis to the exploration and gathering of submarine minerals, except as otherwise provided for in this Act.

Article 34 (Exclusion from Application)

This Act shall not apply to any person prescribed by Presidential Decree, who performs the exploration or gathering of submarine minerals without seeking any profit-making.

Article 35 (Penalty Provisions)

Any person who gathers submarine minerals without obtaining permission for the establishment of a gathering right under Article 15 shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding 30 million won.

Article 36 (Penalty Provisions)

Any person who explores submarine minerals without obtaining permission for the establishment of exploration right under Article 13 shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 10 million won.

Article 37 Deleted. *<by Act No. 5781, Feb. 5, 1999>*

Article 38 (Penalty Provisions)

Any person who falls under any of the following subparagraphs shall be punished by a fine not exceeding 10 million won:

1. Any person who has failed to make a report under Article 17 or has made a false report;
2. Any person who has failed to perform an order for the restoration to the original state under Article 19-2 (2);
3. Any person who has refused, obstructed or evaded reports and examination under Article 26, or who has made a false report.

ADDENDUM

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

ADDENDUM <Act No. 3011, Dec. 16, 1977>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDUM <Act No. 3067, Dec. 31, 1977>

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

ADDENDA <Act No. 4128, Jun. 16, 1989>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1990.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 4280, Dec. 31, 1990>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1991.

Articles 2 through 4 Omitted.

ADDENDA <Act No. 4541, Mar. 6, 1993>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 4667, Dec. 31, 1993>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1994.

Articles 2 through 10 Omitted.

ADDENDA <Act No. 5453, Dec. 13, 1997>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

Article 2 Omitted.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <Act No. 5781, Feb. 5, 1999>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Transitional Measures for Penal Provisions) In applying the penal provisions to any acts committed before this Act enters into force, the previous provisions shall govern.

ADDENDA <Act No. 6656, Feb. 4, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2003.

Articles 2 through 12 Omitted.

ADDENDUM <Act No. 6756, Dec. 5, 2002>

This Act shall enter into force six months after the date of its promulgation.

ADDENDA <Act No. 8464, May 17, 2007>

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Applicability to Report on Changes of Exploration Right and Gathering Right) The amended provisions of Article 17 shall apply beginning from the change of the details of documents falling under any of subparagraphs 2 through 4 of Article 12 or Article 14 (2) 2 through 4 after this Act enters into force.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDA <Act No. 10596, Apr. 14, 2011>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

ADDENDA <Act No. 11690, Mar. 23, 2013>

Article 1 (Enforcement Date)

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

Articles 2 through 7 Omitted.

