

# PUBLIC WATERS RECLAMATION ACT

Wholly Amended by Act No. 5911, Feb. 8, 1999

Amended by Act No. 6654, Feb. 4, 2002

Act No. 6656, Feb. 4, 2002

Act No. 6841, Dec. 30, 2002

Act No. 6842, Dec. 30, 2002

Act No. 7482, Mar. 31, 2005

Act No. 7678, Aug. 4, 2005

Act No. 8343, Apr. 11, 2007

Act No. 8351, Apr. 11, 2007

Act No. 8352, Apr. 11, 2007

Act No. 8377, Apr. 11, 2007

## Article 1 (Purpose)

The purpose of this Act is to promote public interests and contribute to the development of national economy by reclaiming public waters in an environment-friendly manner and using them rationally.

## Article 2 (Definitions)

For the purpose of this Act,

1. the term "public waters" means public waters referred to in subparagraph 1 of Article 2 of the Public Waters Management Act;
2. the term "seashores" means seashores referred to in subparagraph 2 of Article 2 of the Public Waters Management Act; and
3. the term "reclamation" means any creation of land (including any reclamation of tideland) by dumping earth and sands, earth and rocks or other things artificially on public waters.

## Article 3 (Exclusion of Application)

(1) This Act shall apply mutatis mutandis to:

1. Construction of fisheries farms;
2. Establishment of shipbuilding facilities;
3. Construction of installations relating to the exploitation of tidal power; and
4. Construction of permanent establishment operated by subdividing public waters into parts.

(2) This Act shall not apply:

1. Where a reclamation is made to change a ditch or a reservoir pursuant to other Acts and subordinate statutes; and
2. Where public waters are reclaimed pursuant to Article 5 (1) 4 of the Public Waters Management Act.

#### **Article 4 (Establishment of Basic Plan for Reclamation)**

(1) The Minister of Maritime Affairs and Fisheries shall establish a basic plan for reclamation of public waters (hereinafter referred to as "basic plan for reclamation") after deliberation by the National Coastal Management Council referred to in Article 22 of the Coast Management Act (hereinafter referred to as the "Council") every ten years in order to use and manage public waters so that they can serve the overall functions and uses of the national land and are environment-friendly.

(2) Where the Minister of Maritime Affairs and Fisheries intends to establish a basic plan for reclamation pursuant to paragraph (1), he shall consult with the head of the related central administrative agency and seek opinions from the related Special Metropolitan City Mayor, Metropolitan City Mayor or Do governor (hereinafter referred to as the "Mayor/Do governor").

(3) Opinions presented by the Mayor/Do governor for paragraph (2) shall be accompanied by opinions on a basic plan for reclamation from the head of Si/Gun/Gu (referring to the head of autonomous Si/Gun/Gu; hereinafter the same shall apply) and the local council established in the Si/Gun/Gu.

#### **Article 5 (Request, etc. for Reflection in Basic Plan for Reclamation)**

(1) The head of any administrative agency or any other person who intends to reclaim public waters may request the Minister of Maritime Affairs and Fisheries to reflect any public waters, if they are not contained in a basic plan for reclamation but need reclaiming, on such terms and conditions as the Presidential Decree may determine.

(2) The Minister of Maritime Affairs and Fisheries may demand data necessary for the establishment of a basic plan for reclamation from the head of the related administrative agency, and the head of the related administrative agency required shall cooperate in this demand unless there exists any justifiable cause.

#### **Article 6 (Contents of Basic Plan for Reclamation)**

A basic plan for reclamation shall be established to secure that it is feasible for a comprehensive coastal management plan under the Coast Management Act, a comprehensive plan for construction of national land under the Framework Act on the National Land and an urban management planning under the National Land Planning and Utilization Act and it is environment-friendly, and it shall specify the following matters by predesignated land to be reclaimed. <Amended by Act No. 6654, Feb. 4, 2002; Act No. 7482, Mar. 31, 2005>

1. Location and size of a predesignated land to be reclaimed;
2. Land use plan for a predesignated land to be reclaimed;
3. Matters on the necessity of reclamation and how to reclaim;
4. Matters on those as determined by the Presidential Decree among changes in the environment and ecosystem due to reclamation and countermeasures against them;

5. Matters on the comparison of economic efficiency before and after a reclamation relating to the land use plan of a predesignated land to be reclaimed; and
6. Other matters deemed necessary by the Minister of Maritime Affairs and Fisheries.

#### **Article 7 (Public Notice, etc. of Basic Plan for Reclamation)**

- (1) Where the Minister of Maritime Affairs and Fisheries establishes a basic plan for reclamation, he shall give a public notice of it promptly in the Official Gazette and notify it to the head of the related central administrative agency and the related Mayor/Do governor.
- (2) The Mayor/Do governor who has received a notification referred to in paragraph (1) shall have the head of Si/Gun/Gu secure that the public gain access to a basic plan for reclamation for fourteen days or more.
- (3) A basic plan for reclamation established pursuant to Article 4 (1) shall not restrict any right already created for the use of public waters scheduled for a predesignated land to be reclaimed.
- (4) The head of the related administrative agency shall not create any right newly in a predesignated land to be reclaimed according to a basic plan for reclamation established pursuant to Article 4 (1) except as otherwise provided in the Presidential Decree.

#### **Article 8 (Change, etc. in Basic Plan for Reclamation)**

- (1) The Minister of Maritime Affairs and Fisheries shall review any basic plan for reclamation established and publicly notified every five years whether it is feasible and shall take necessary measures such as any change or abolition of the basic plan for reclamation.
- (2) The Minister of Maritime Affairs and Fisheries may change or abolish a basic plan for reclamation as deems necessary.
- (3) The provisions of Articles 4 through 7 shall apply mutatis mutandis to the change in or abolition of a basic plan for reclamation referred to in paragraphs (1) and (2).

#### **Article 9 (License)**

- (1) Anyone who intends to reclaim public waters shall obtain a license from the administrative agency according to the following classifications after filing an application explicitly indicating the purposes of reclaiming such public waters under the conditions as prescribed by the Presidential Decree: *<Amended by Act No. 7482, Mar. 31, 2005>*

1. The reclamation of public waters in the designated harbor area provided for in the provisions of subparagraph 2 of Article 2 of the Harbor Act: The Minister of Maritime Affairs and Fisheries and
2. The reclamation of public waters other than the public waters referred to in subparagraph 1: The Mayor/Do governor.

- (2) Where the reclamation area spans the public waters provided for in the provisions of paragraph (1) 1 and the public waters provided for in the provisions of paragraph (1) 2, a reclamation licence shall be obtained from the Minister of Maritime Affairs and Fisheries. *<Newly Inserted by Act No. 7482, Mar. 31, 2005>*

(3) Where the reclamation area provided for in the provisions of paragraph (1) 2 spans not less than two Cities/Dos, a reclamation license shall be obtained from the Mayor/Do governor who is resolved through the consultations of the Mayors/Do governors concerned: Provided, That where no agreement is reached in the consultations, such reclamation license shall be obtained from the Mayor/Do governor who is designated by the Minister of Maritime Affairs and Fisheries. *<Newly Inserted by Act No. 7482, Mar. 31, 2005>*

(4) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall, when he intends to grant the reclamation license pursuant to the provisions of paragraphs (1) through (3), consult beforehand with the heads of central administrative agencies concerned and the Mayor/ Do governor concerned thereabout. *<Amended by Act No. 7482, Mar. 31, 2005>*

(5) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall grant a license referred to in paragraphs (1) through (3) to the extent applicable of a basic plan for reclamation. *<Amended by Act No. 7482, Mar. 31, 2005>*

(6) Public waters in the urban area referred to in the provisions of subparagraph 1 of Article 6 of the National Land Planning and Utilization Act and public waters in the harbor zone of any designated harbor referred to in subparagraph 2 of Article 2 of the Harbor Act shall be reclaimed by the State, local government or government-invested institutions as determined by the Presidential Decree from among governmentinvested institutions referred to in Article 2 of the Framework Act on the Management of Government-Invested Institutions (hereinafter referred to as "government-invested institutions"): Provided, That an individual, etc. may reclaim them, taking into account the purpose and size of reclamation or conditions of location where the Presidential Decree may determine. *<Amended by Act No. 7482, Mar. 31, 2005>*

(7) Where applications compete for a reclamation license for public waters in the same location, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may grant a license according to priority as determined by the Presidential Decree. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 10 (Additional Clauses to License)**

The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may set additional clauses to matters necessary for the protection of interested parties or for public interests or other matters as determined by the Presidential Decree in granting a license pursuant to Article 9. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 11 (Licensing Standards)**

(1) Where there are persons who have rights to any public waters in a predesignated land to be reclaimed and a neighboring zone expected to suffer injury due to a reclamation, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall not grant any reclamation license except any case falling under any of the following subparagraphs: *<Amended by Act No. 7482, Mar. 31, 2005>*

1. Where the person who has a right to public waters gives his consent to a reclamation and it is deemed that such reclamation is made in adequate consideration of changes in the environment and ecosystem;

2. Where profits accruing from a reclamation exceed considerably its losses;
  3. Where a reclamation is necessary for a project capable of expropriating or using land pursuant to Acts and subordinate statutes; and
  4. Where it is otherwise necessary for public interests, which is determined by the Presidential Decree.
- (2) The scope of a neighboring zone expected to suffer injury due to a reclamation referred to in paragraph (1) shall be determined by the Presidential Decree.

#### **Article 12 (Scope of Persons who Have Rights)**

The term "person who has rights to public waters" in Article 11 (1) means a person falling under any of the following subparagraphs: *<Amended by Act No. 8377, Apr. 11, 2007>*

1. A person who has obtained occupancy or use permission of public waters pursuant to Acts and subordinate statutes;
2. A fishery holder or a common of piscary fisher referred to in subparagraph 10 of Article 2 of the Fisheries Act;
3. A person who draws water from or drains water to any public waters on permission pursuant to Acts and subordinate statutes; and
4. A person who draws water from or drains water to any public water according to custom.

#### **Article 13 (Public Notice for License)**

Where the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor grants a reclamation license pursuant to Article 9 (1) through (3), he shall give a public notice of it on such terms and conditions as the Presidential Decree may determine. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 14 (License Fees)**

Where the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor grants a reclamation license pursuant to Article 9 (1) through (3), he may collect license fees on such terms and conditions as the Presidential Decree may determine: Provided, That he may exempt license fees in a case falling under any of the following subparagraphs: *<Amended by Act No. 7482, Mar. 31, 2005>*

1. A reclamation which is carried out by a public-service corporation or a public organization determined by the Presidential Decree; and
2. Construction of fisheries farms referred to in Article 3 (1) 1.

#### **Article 15 (Authorization of Implementation Plan)**

(1) A reclamation licensee shall prepare an implementation plan and obtain authorization thereof from the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor before starting reclamation work on such terms and conditions as the Presidential Decree may determine. The same shall apply to a case where he intends to alter such authorized implementation plan. *<Amended by Act No. 7482, Mar. 31, 2005>*

(2) When there is any person who has a right referred to in Article 12 for the former sentence of paragraph (1), the reclamation licensee shall not apply for authorization of an implementation plan until he obtains consent on the starting of a reclamation work from the right holder or makes a compensation or installs facilities referred to in Article 20.

(3) When the Minister of Maritime Affairs and Fisheries or the Mayor/ Do governor grants authorization or authorization of alteration to an implementation plan pursuant to paragraph (1), he shall give a public notice of it on such terms and conditions as the Presidential Decree may determine. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 16 (Relationship with Other Acts)**

(1) A reclamation licensee shall, if an implementation plan is authorized pursuant to the former sentence of Article 15 (1), be deemed to have obtained the following authorization, permission, approval, cancellation, consultation, report (hereinafter referred to as "authorization or permission, etc."), and if authorization of an implementation plan is given a notice of, it shall be deemed that a public notice or announcement of authorization or permission, etc. under related Acts is given or made: *<Amended by Act No. 6841, Dec. 30, 2002; Act No. 7482, Mar. 31, 2005; Act No. 7678, Aug. 4, 2005; Act Nos. 8351, 8352 & 8377, Apr. 11, 2007>*

1. Permission on farmland conversion referred to in Article 34 of the Farmland Act;
2. Approval on use other than purposes of agricultural infrastructure referred to in Article 22 of the Rearrangement of Agricultural and Fishing Villages Act;
3. Permission on deforestation, etc. in an erosion control area referred to in Article 14 of the Work against Land Erosion or Collapse Act and any cancellation of designation as an erosion control area referred to in Article 20 of the said Act;
4. Permission and report on conversion of mountainous districts referred to in Articles 14 and 15 of the Management of Mountainous Districts Act, permission and report on deforestation, etc. referred to in Articles 36 (1) and (4) and 45 (1) and (2) of the Creation and Management of Forest Resources Act, and cancellation of designation as a forest reserve referred to in Article 46 (1) of the same Act;
5. Permission on changes in form and quality of land referred to in Article 21-2 of the Grassland Act and permission, report or consultation on grassland conversion referred to in Article 23 of the said Act;
6. Approval on the execution of work in a protected water zone referred to in Article 69 of the Fisheries Act;
7. Authorization or report on construction scheme of private electric equipment referred to in Article 62 of the Electric Utility Act;
8. Permission for performing the act in the park area referred to in Article 23 of the Natural Parks Act, permission for performing the act in the park protection area referred to in Article 25 of the same Act, and consultation with the park management agency referred to in Article 71 of the same Act;
9. Permission for performing the development act referred to in Article 56 of the National Land Planning and Utilization Act, designation of the undertaker of the urban planning facility project referred to in Article 86 of the same Act, and authorization for the plan for undertaking the urban planning facility project referred to in Article 88 of the same Act;
10. Permission on occupancy or use of public sewerage referred to in Article 20 of the Sewerage Act;

11. Consultation with or approval by the road management agency referred to in Article 8 of the Road Act, permission on the execution of road work referred to in Article 34 of the said Act, and permission on occupancy or use of roads referred to in Article 40 of the said Act;
12. Permission on the opening of private roads referred to in Article 4 of the Private Road Act;
13. Consultations with or approval by the management agency referred to in Article 6 of the River Act, permission on the execution of river work referred to in Article 30 of the said Act, and permission on occupancy or use of rivers referred to in Article 33 of the said Act;
14. Permission on occupancy or use of public waters referred to in Article 5 of the Public Waters Management Act and authorization on an implementation plan referred to in Article 8 of the said Act (excluding any predesignated land to be reclaimed which has obtained a reclamation license);
15. Permission on the execution of small river work referred to in Article 10 of the Small River Maintenance Act;
16. Permission on aggregate picking referred to in Article 22 of the Aggregate Picking Act; and
17. Permission for burying again deserted graves referred to in Article 23 of the Funeral Services, etc. Act.

(2) Where the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor intends to grant authorization to an implementation plan pursuant to the former sentence of Article 15 (1), he shall get related documents presented by the reclamation licensee and consult with the head of the related administrative agency in advance if the project plan includes the matters listed in any of subparagraphs of paragraph (1). *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 17 (Execution of Reclamation Work)**

A reclamation licensee shall execute reclamation work according to the implementation plan.

#### **Article 18 (Entry, etc. to Land, etc.)**

Where any person who intends to obtain or has obtained a reclamation license intends to perform an act hereunder for an investigation and survey on reclamation or reclamation work, etc., he shall obtain consent in advance from the owner, occupant or manager: Provided, That this shall not apply in cases where there is no knowing the owner, occupant or manager:

1. Where he intends to enter another's land or public waters (hereinafter referred to as "land, etc.");
2. Where he intends to alter bamboos, earth and rocks or other obstacles on such land, etc.; and
3. Where he intends to use temporarily land, etc. as a materials yard or a temporary road.

#### **Article 19 (Conveyance, etc. of Disused State and Public Land)**

(1) Any State or public road, bank, ditch, reservoir or other public facilities, if gone out of use due to any execution of reclamation work, may be conveyed or sold to the reclamation licensee according to the following classification notwithstanding the provisions of the State Properties Act and the Local Finance Act:

1. Conveyance for the establishment of any road, bank ditch, reservoir or other public facilities which fall into the hands of the State or local government pursuant to Article 26 (1) 1 in lieu of any public

facilities going out of use; and

2. Sale except subparagraph 1.

(2) Public facilities referred to in paragraph (1) shall include stateowned water surface and water stream.

(3) Where any seashores are used as site for facilities for public use or public facilities newly established due to the execution of reclamation work, the State may, notwithstanding the provisions of the State Properties Act, convey the seashores to the management agency which will manage such facilities for public use or public facilities.

#### **Article 20 (Prevention of Losses and Compensation)**

(1) A reclamation licensee for public waters to which a person has a right referred to in Article 12 shall compensate for losses which he causes to the person who has the right or install facilities for preventing such losses on such terms and conditions as prescribed by the Presidential Decree.

(2) A reclamation licensee shall consult with the compensation recipient about compensation referred to in paragraph (1).

(3) Where an agreement referred to in paragraph (2) is not reached or cannot be reached, a reclamation licensee or a person who has a right referred to in Article 12 may apply for a ruling to the competent land tribunal on such terms and conditions as prescribed by the Presidential Decree.

(4) The provisions of Articles 83 through 86 of the Act on the Acquisition of Land, etc. for Public Works and the Compensation Therefor shall apply mutatis mutandis to the objections against the ruling by the land tribunal. <Amended by Act No. 6656, Feb. 4, 2002>

(5) The provisions of Articles 20 (2), 28 (2) and 58 (3) the Act on the Acquisition of Land, etc. for Public Works and the Compensation Therefor shall apply mutatis mutandis to the expenses such as fees in connection with a ruling referred to in paragraphs (3) and (4). <Amended by Act No. 6656, Feb. 4, 2002>

#### **Article 21 (Exception of Compensation for Losses)**

The provisions of Article 20 (1) shall not apply to any person who acquires a right falling under Article 12 after the date of public notice for a reclamation license referred to in Article 13. The same shall apply to facilities, etc. which the person who has a right referred to in Article 12 installs after the date of public notice for a reclamation license.

#### **Article 22 (Compensation for Entry, etc. to Land, etc.)**

Any person who intends to obtain a reclamation license or who has obtained a reclamation license shall compensate for losses arising from the entry to or use of land, etc. referred to in Article 18.

#### **Article 23 (Succession to Rights and Duties)**

(1) A reclamation licensee may transfer his right arising from the reclamation license.

(2) Where a reclamation licensee dies or any corporation which has obtained a reclamation license merges, the successor or a corporation which continues to exist after a merger or a corporation established due to a merger shall succeed to rights and duties derived from such reclamation license.

(3) Any person who succeeds to the rights and duties of a reclamation licensee pursuant to paragraphs (1) and (2) shall be deemed a reclamation licensee in the application of this Act.



#### **Article 24 (Use of Reclaimed Land)**

A reclamation licensee may use reclaimed land temporarily or install structures on reclaimed land to the extent not creating obstacles to the accomplishment of the purpose for reclamation before authorization on its completion pursuant to Article 25.

#### **Article 25 (Authorization on Completion)**

Where a reclamation licensee completes his reclamation work, he shall, as prescribed by the Presidential Decree, apply for authorization on completion promptly to the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor by fixing the location of reclaimed land whose ownership he likes to acquire and the land category referred to in Article 5 of the Cadastral Act. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 26 (Acquisition, etc. of Reclaimed Land's Ownership)**

(1) The State, a local government or a reclamation licensee shall acquire a reclaimed land's ownership on the date of receipt of authorization on completion referred to in Article 25, respectively, according to the following classification:

1. Reclaimed land necessary for public or public use as determined by the Presidential Decree goes to the State or a local government;
2. Reclaimed land subdivided by putting together an area (excluding seashores included in site for facilities for public use or public facilities newly installed due to the execution of reclamation work from among reclaimed seashores) equivalent to reclaimed seashores goes to the State. In this case, the location of reclaimed land whose ownership the State acquires shall be a place other than reclaimed land as determined by the reclamation licensee pursuant to Article 25;
3. Reclaimed land equivalent to the overhead expenses (referring to an amount of investigation, design, net construction compensation expenses or other expenses taken together) cost for such reclamation work as determined by the Presidential Decree from among reclaimed land except reclaimed land whose ownership the State or a local government acquires pursuant to subparagraphs 1 and 2 goes to the reclamation licensee; and
4. Remaining reclaimed land except reclaimed land whose ownership the State, a local government or the reclamation licensee acquires pursuant to subparagraphs 1 through 3 (hereinafter referred to as "remaining reclaimed land") goes to the State.

(2) Where a person or the State which has acquired any reclaimed land's ownership pursuant to paragraph (1) 3 and 4 applies for registration for maintenance of ownership for such reclaimed land, he or it shall enter matters as determined by the Presidential Decree in respect of any restrictions on the exercise of ownership in the application and the registration official shall write in addition, *ex officio*, matters on any restrictions on the exercise of ownership in effecting a registration for maintenance of ownership.

(3) Where a limitation period for changes in the purpose for reclamation referred to in the main sentence of Article 28 (1) expires, a person or the State which has acquired any reclaimed land's ownership pursuant to paragraph (1) 3 and 4 may apply for a registration of erasure on the matters on restrictions on the exercise of ownership written in addition in the registration for maintenance of ownership pursuant to

paragraph (2) to the competent registry office. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 27 (Request, etc. for Purchase of Remaining Reclaimed Land)**

(1) A reclamation licensee may make a request for his purchase of remaining reclaimed land whose ownership the State acquired within one year from the date of receipt of authorization on completion pursuant to Article 26 (1) 4, and the State shall not refuse such request without any justifiable reason if the requester is an actual consumer. In this case, if the requester is the operator of an industrial complex development project under the Industrial Sites and Development Act, the selling price of such remaining reclaimed land may, notwithstanding the provisions of Article 34 of the State Properties Act, be determined by the Presidential Decree.

(2) Where the State leases reclaimed land whose ownership it acquired pursuant to Article 26 (1) 2 and remaining reclaimed land whose ownership it acquired pursuant to Article 26 (1) 4 as sites for facilities hereunder according to the purpose of its reclamation, it may have establish permanent installations thereon notwithstanding the provisions of the State Properties Act: Provided, That if the time limit for purchase request referred to in paragraph (1) has not expired for remained reclaimed land, the State shall obtain consent from the reclamation licensee: *<Amended by Act No. 6842, Dec. 30, 2002; Act No. 7482, Mar. 31, 2005; Act No. 8343, Apr. 11, 2007>*

1. Factories referred to in subparagraph 1 of Article 2 of the Industrial Cluster Development and Factory Establishment Act;
2. Facilities for knowledge industry referred to in subparagraph 2 of Article 2 of the Industrial Sites and Development Act;
3. Information and communications-related facilities and resources storage facilities referred to in subparagraphs 3 and 4 of Article 2 of the Industrial Sites and Development Act; and
4. Facilities for tourist accommodation business referred to in Article 3 (1) 2 of the Tourism Promotion Act and recreation facilities in agricultural and fishery communities for professional recreation business, folk villages, museums and art galleries from among tourist-using facility business referred to in subparagraph 3 of the said paragraph of the said Article.

(3) Where the State leases reclaimed land and remaining reclaimed land referred to in paragraph (2), it may, notwithstanding the provisions of Articles 33, 36 and 38 of the State Properties Act, provide for the leasing method, period and rent of reclaimed land and remaining reclaimed land by the Presidential Decree.

#### **Article 28 (Restrictions on Changes in Purpose of Reclamation)**

(1) A reclamation licensee, a person who has acquired any reclaimed land's ownership and his successor shall not use a predesignated land to be reclaimed or reclaimed land for which he has obtained a reclamation license or a reclaimed land for which he has obtained authorization on its completion by changing the purpose of his reclamation during the period prior to authorization on its completion and within twenty years from the date of authorization on its completion: Provided, That this shall not apply to any minor changes in the purpose of reclamation as determined by the Presidential Decree.

(2) A person who intends to make a minor change in the reclamation purpose pursuant to the provisions of the proviso of paragraph (1) shall have his intention of making a minor change in the reclamation purpose confirmed beforehand by the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor whether it is consistent with the provisions of the proviso of paragraph (1) under the conditions as prescribed by the Presidential Decree. *<Newly Inserted by Act No. 7482, Mar. 31, 2005>*

(3) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall, when he makes the confirmation pursuant to the provisions of paragraph (2), publish the contents of such confirmation under the conditions as prescribed by the Presidential Decree. *<Newly Inserted by Act No. 7482, Mar. 31, 2005>*

#### **Article 29 (Exception of Restrictions on Changes in Purpose of Reclamation)**

(1) Notwithstanding the provisions of the main sentence of Article 28 (1), where a predesignated land to be reclaimed or a reclamation land which has obtained a reclamation license or a reclaimed land which has obtained authorization on its completion falls under any of the following subparagraphs, a reclamation licensee, a person who has acquired a reclaimed land's ownership and his successor may change the purpose of his reclamation after obtaining an authorization therefor from the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor under the conditions as prescribed by the Presidential Decree: *<Amended by Act No. 7482, Mar. 31, 2005>*

1. Where it is impossible to use the rest for serving the purpose of its reclamation by changing part of reclaimed land into that for public or public use;
2. Where it is impossible to use a reclaimed land for serving the purpose of its reclamation due to any change in the national plan under the provisions of related Acts and subordinate statutes; and
3. Where any change in the purpose of reclamation is inevitable due to industrial development or changes in circumstances.

(2) Where a person who has acquired a reclaimed land's ownership or his successor intends to change the purpose of reclamation, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may grant the authorization referred to in paragraph (1) only where the former makes an application to revert reclaimed land except a reclaimed land equivalent to required expenses (an amount of capital expenses multiplying the consumer price index by taxes and dues, appraisal and evaluation cost, acquisition value for the reclaimed land on authorization on its completion, and other expenses taken together) as determined by the Presidential Decree (hereinafter referred to as "revaluated reclaimed land") to the State among reclaimed land equivalent to an increase in prices of reclaimed land revaluated on the basis of the purpose of reclamation which he wants to change. *<Amended by Act No. 7482, Mar. 31, 2005>*

(3) In case where an application is filed for changing the reclamation purpose pursuant to the provisions of paragraph (1), the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall go through the deliberation thereof of the Council after consulting with the heads of central administrative agencies concerned and the Mayor/Do governor concerned thereabout. *<Amended by Act No. 7482, Mar. 31, 2005>*

(4) The revaluation methods of reclaimed land referred to in paragraph (2) or other necessary matters shall be determined by the Presidential Decree.

(5) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall, on granting authorization to any changes in the purpose of reclamation pursuant to paragraphs (1) and (2), give a public notice of it on such terms and conditions as the Presidential Decree may determine. *<Amended by Act No. 7482, Mar. 31, 2005>*

(6) Any person who has obtained authorization to change the purpose of reclamation pursuant to paragraphs (1) and (2) may make an application for registration of such change to the competent registry office accompanied by a written authorization to change the purpose of reclamation.

#### **Article 30 (Acquisition of Revaluated Reclaimed Land's Ownership)**

(1) The State shall acquire a revaluated reclaimed land's ownership on the date on which the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor authorizes to change the purpose of reclamation pursuant to Article 29 (1). *<Amended by Act No. 7482, Mar. 31, 2005>*

(2) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall promptly take measures necessary for the registration, registry or the protection of rights in respect of the revaluated reclaimed land's ownership acquired by the State pursuant to paragraph (1). *<Amended by Act No. 7482, Mar. 31, 2005>*

(3) Any person who has obtained authorization to change the purpose of reclamation pursuant to Article 29 (1) may make a request for his purchase of the revaluated reclaimed land whose ownership the State acquired within one year from the date of authorization on change, and the State shall not refuse such request unless there exists any justifiable cause.

(4) The provisions of Article 29 (6) shall apply mutatis mutandis to a case where a person who has obtained authorization to change the purpose of reclamation applies for registration on ownership by purchasing a revaluated reclaimed land pursuant to paragraph (3).

#### **Article 31 (Confirmation of Reclaimed Land Use)**

The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may confirm whether a person who has acquired a reclaimed land's ownership pursuant to Article 26 (1) 3 and his successor use such reclaimed land for the same purpose as the purpose of reclamation at the time of authorizing its completion referred to in Article 25 on such terms and conditions as the Presidential Decree may determine. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 32 (Cancellation, etc. of License)**

Where there exists any cause falling under any of the following subparagraphs before granting authorization to completion of reclamation work, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may cancel or change a license or authorization, etc. under this Act, or reconstruct, remove or restitute any structure or other things or take other necessary measures: *<Amended by Act No. 7482, Mar. 31, 2005>*

1. Where a reclamation license or other disposition is granted by false or other illegal means;
2. Where reclamation work falls considerably short of the scheduled construction progress due to causes attributable to the reclamation licensee;

3. Where it is particularly necessary for public interests due to unexpected changes in circumstances such as changes in conditions on public waters;
4. Where it is necessary for a project capable of expropriating or using land under other Acts and subordinate statutes; and
5. Where it violates this Act or an order or a disposition under this Act.

#### **Article 33 (Compensation for Losses in Public-Service Dispositions)**

Where there is any person who suffers losses due to a disposition referred to in subparagraph 3 or 4 of Article 32, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall compensate for such losses on such terms and conditions as the Presidential Decree may determine. *<Amended by Act No. 7482, Mar. 31, 2005>*

#### **Article 34 (Loss of License Effect)**

(1) A reclamation license falling under any of the following subparagraphs shall lose effect: Provided, That where there exists no cause attributable to the reclamation licensee such as natural disaster and force majeure, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may reinstate such effect retroactive only within three months from the date of loss of effect of reclamation license: *<Amended by Act No. 7482, Mar. 31, 2005>*

1. Where authorization on an implementation plan for work is required to be applied for by reclamation license, but it is not applied for within the designated date;
2. Where reclamation work fails to start within the specified period in the implementation plan; and
3. Where reclamation work fails to be completed within the specific period in the implementation plan.

(2) Where reclamation license has lost its effect under paragraph (1) 3 and a reclamation licensee has executed reclamation work more than the construction progress as determined by the Presidential Decree, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may, notwithstanding the provisions of paragraph (1), reinstate such effect retroactive only within one year from the date of loss of effect of reclamation license. *<Amended by Act No. 7482, Mar. 31, 2005>*

(3) Where the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor reinstates any reclamation license's effect pursuant to the proviso of paragraph (1) and paragraph (2), he may change additional clauses to or set new additional clauses to such reclamation license.

#### **Article 35 (Restitution)**

(1) Where a reclamation license has lost its effect due to any cause attributable to the reclamation licensee, he shall restitute public waters in the execution zone of reclamation work: Provided, That where it is impossible to restitute them or there exists any cause as determined by the Presidential Decree, the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may, on the application of the reclamation licensee, exempt such obligation. *<Amended by Act No. 7482, Mar. 31, 2005>*

(2) Where the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor exempts any obligation pursuant to the proviso of paragraph (1), he may revert facilities or other things on public waters in the execution zone of reclamation work without consideration to the State. *<Amended by Act No.*

7482, Mar. 31, 2005>

(3) The provisions of paragraph (2) shall apply mutatis mutandis to a case where any public waters were reclaimed without a reclamation license or application for obligation exemption referred to in the proviso of paragraph (1) is not made within one year after the lose of effect of reclamation license.

(4) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may have an amount equivalent to expenses required for restitution be deposited in order to guarantee the fulfillment of restitution obligation on such terms and conditions as the Presidential Decree may determine: Provided, That this shall not apply in case where a reclamation licensee is the State, a local government, a government-invested institution or other person as determined by the Presidential Decree. <Amended by Act No. 7482, Mar. 31, 2005>

(5) Depositing an amount for guaranteeing the fulfillment of restitution obligation referred to in the main sentence of paragraph (4) and other necessary matters shall be determined by the Presidential Decree.

#### **Article 36 (Report and Inspection, etc.)**

(1) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor may, if deemed necessary for the guidance and supervision of reclamation work, have a reclamation licensee present or report necessary data on such terms and conditions as the Presidential Decree may determine, and have any related public officials enter the office, business place of the reclamation licensee or any other place and inspect books, documents or other things or ask questions of interested persons. <Amended by Act No. 7482, Mar. 31, 2005>

(2) Any public official who enters and inspects pursuant to paragraph (1) shall produce a certificate indicating his powers to interested persons on such terms and conditions as the Ordinance of the Ministry of Maritime Affairs and Fisheries may determined.

#### **Article 37 (Hearings)**

Where the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor intends to cancel a license pursuant to Article 32, he shall hold a hearing. <Amended by Act No. 7482, Mar. 31, 2005>

#### **Article 38 (Reclamation Executed by State, etc.)**

(1) Where the State, a local government or a government-invested institution intends to reclaim, it shall consult with or obtain approval from the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor in advance. <Amended by Act No. 7482, Mar. 31, 2005>

(2) The institution that consults its reclamation or obtains approval for its reclamation pursuant to the provisions of paragraph (1) shall be prohibited from relinquishing his reclamation right before it obtains an authorization for the work completion pursuant to the provisions of paragraph (3): Provided, That the same shall not apply to a case where the right on reclamation is relinquished to the State, a local government or a government-invested institution. <Amended by Act No. 7482, Mar. 31, 2005>

(3) The institution which has executed reclamation work pursuant to paragraph (1) shall, on completion of such reclamation work, apply for authorization on completion promptly to the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor by determining land category referred to in Article 5 of

the Cadastral Act. <Amended by Act No. 7482, Mar. 31, 2005>

(4) The institution which has executed reclamation work pursuant to paragraph (1) shall acquire such reclaimed land's ownership on the date of receipt of authorization on completion under paragraph (3).

<Amended by Act No. 7482, Mar. 31, 2005>

(5) The provisions of Articles 9 (1) through (5) and (7), 10 through 13, 15 through 22, 23 (2) and (3), 24, 26 (1) 1 and 2, (2) and (3), 28, 29 (1), (3), (5) and (6), 31 through 37 shall apply mutatis mutandis to reclamation referred to in paragraph (1). <Amended by Act No. 7482, Mar. 31, 2005>

#### **Article 38-2 (Small-Scale Reclamation Executed by State, etc.)**

(1) When the State or any local government intends to undertake a small-scale reclamation of not more than 1,000 square meters in its area (hereinafter referred to as the "small-scale reclamation") for official or public purposes that are prescribed by the Presidential Decree, even if such small-scale reclamation is not included in the basic plan for reclamation, the State or the local government may undertake such smallscale reclamation pursuant to the provisions of Article 38 (excluding the provisions of Article 9 (4) and (5) that are applied mutatis mutandis under the provisions of Article 38 (5)).

(2) The Minister of Maritime Affairs and Fisheries or the Mayor/Do governor shall, when he intends to hold consultations about or grant approval for the small-scale reclamation pursuant to the provisions of paragraph (1), consult in advance with the heads of administrative agencies concerned thereabout.

#### **Article 39 (Transfer of Control over Reclaimed Land)**

Where the Minister of Maritime Affairs and Fisheries completes reclamation work executed as government project, he shall transfer promptly the reclaimed land to the head of the central administrative agency according to the purpose of reclamation on such terms and conditions as the Presidential Decree may determine. In this case, where any flood control or seawall institution work in reclamation work having agriculture for its principal purpose is completed, he shall transfer promptly it to the Minister of Agriculture and Forestry.

#### **Article 40 (Delegation of Authority)**

(1) The Minister of Maritime Affairs and Fisheries may delegate part of his authority provided for in this Act to agencies that belong to the Ministry of Maritime Affairs and Fisheries or the Mayor/Do governor under the conditions as prescribed by the Presidential Decree. In this case, the Mayor/Do governor may delegate again part of his delegated authority to the head of Si/Gun/Gu after obtaining approval therefor from the Minister of Maritime Affairs and Fisheries.

(2) The authority of the Mayor/Do governor on the small-scale reclamation in the public waters provided for in the provisions of Article 9 (1) 2 may be delegated to the head of Si/Gun/Gu under the conditions as prescribed by the Presidential Decree.

#### **Article 41 (Penal Provisions)**

Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than one year or a fine not exceeding ten million won: <Amended by Act No. 7482, Mar. 31, 2005>

1. A person who executes reclamation work without any reclamation license;
2. A person who obtains a reclamation license or other disposition by fraud or other illegal means; and
3. A person who violates the main sentence of Article 28 (1).

#### **Article 42 (Joint Penal Provisions)**

Where the representative of a corporation or the agent, servant or any other employee of a corporation or any individual commits an offense referred to in Article 41 in connection with the business of such corporation or individual, fines in the said Article shall be imposed on the corporation or individual in addition to punishing the offender.

#### **Article 43 (Fine for Negligence)**

(1) Any person who fails to make a report or makes a false report or any person who refuses, interferes with or evades an inspection by related public officials referred to in Article 36 (1) shall be punished by a fine for negligence not exceeding two hundred won.

(2) The fine for negligence referred to in the provisions of paragraph (1) shall be imposed and collected by the Minister of Maritime Affairs and Fisheries or the Mayor/Do governor (referring to the agency to which the authority is delegated or re-delegated in case where the authority is delegated and re-delegated; hereinafter referred to as the "imposition authority") under the conditions as prescribed by the Presidential Decree. *<Amended by Act No. 7482, Mar. 31, 2005>*

(3) Any person who is dissatisfied with a disposition of fine for negligence under paragraph (2) may make an objection with the imposition authority within thirty days from the date of receipt of notice for such disposition. *<Amended by Act No. 7482, Mar. 31, 2005>*

(4) Where any person who has been subject to a disposition of fine for negligence referred to in paragraph (2) makes an objection pursuant to paragraph (3), the imposition authority shall notify promptly such fact to the competent court, and the court which has received such notification shall bring fine for negligence to trial under the Non-Contentious Case Litigation Procedure Act. *<Amended by Act No. 7482, Mar. 31, 2005>*

(5) Where no objection is made or no fine for negligence is paid within the period referred to in paragraph (3), it shall be collected pursuant to the examples of disposition on national or local taxes in arrears.

### **ADDENDA**

#### **Article 1 (Enforcement Date)**

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

#### **Article 2 (Transitional Measures on Previous Dispositions, etc.)**

Any dispositions or other procedures done pursuant to the previous provisions at the time of enforcement of this Act shall be deemed to have been taken or undertaken pursuant to the provisions of this Act.

#### **Article 3 (Transitional Measures on Changes in Purpose of Reclamation)**



(1) Where a reclamation licensee pursuant to the previous provisions at the time of enforcement of this Act (including a person who has acquired a reclaimed land's ownership and his successor; hereinafter the same shall apply) intends to change the purpose of reclamation, the previous provisions of Article 21-2, not the amendments to Articles 28 through 30, shall apply.

(2) Where a reclamation licensee pursuant to the previous provisions at the time of enforcement of this Act violates the previous provisions of Article 21-2, the previous provisions of Article 32 shall apply.

#### **Article 4 (Transitional Measures on Registration for Maintenance of Ownership)**

Where a reclamation licensee pursuant to the previous provisions at the time of enforcement of this Act intends to make a registration for maintenance of ownership for reclaimed land acquired by reclamation, the amendments to Article 26 (2) shall not apply.

#### **Article 5 (Transitional Measures on Violation, etc. of Corrective Order)**

(1) Where a reclamation licensee pursuant to the previous provisions at the time of enforcement of this Act violates the restrictions on changes in the purpose of reclamation or violates any condition set at the license or other disposition referred to in the previous provisions of Article 21-2 after authorization on completion, the Minister of Maritime Affairs and Fisheries may take dispositions or give orders necessary for correcting the violation by applying the previous provisions of Article 28.

(2) The previous provisions of Article 33 shall apply to any person who violates a disposition or order referred to in paragraph (1).

#### **Article 6 (Transitional Measures on Penal Provisions)**

The application of penal provisions to acts committed prior to the enforcement of this Act shall be governed by the previous provisions.

#### **Article 7 Omitted.**

#### **Article 8 (Relationship with Other Acts and Subordinate Statutes)**

Where other Acts and subordinate statutes cite the provisions of the previous Public Waters Reclamation Act at the time of enforcement of this Act and this Act includes the provisions corresponding to them, it shall be deemed to cite the corresponding provisions of this Act in lieu of the previous provisions.

ADDENDA <Act No. 6654, Feb. 4, 2002>

#### **Article 1 (Enforcement Date)**

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

#### **Articles 2 through 7 Omitted.**

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.**

ADDENDA <Act No. 6841, Dec. 30, 2002>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 12 Omitted.**

ADDENDA <Act No. 6842, Dec. 30, 2002>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 8 Omitted.**

ADDENDA <Act No. 7482, Mar. 31, 2005>

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

(2) (General Application Example) This Act shall apply, starting with the case of the reclamation license (including a case where an agreement is reached on the reclamation license in consultations and approval is granted for the reclamation license) that is first granted after the enforcement of this Act: Provided, That the amended provisions of Article 28 shall apply to a case where a reclamation licensee (including anyone who acquires the ownership of the reclaimed land and the succession right holder of the ownership of such reclaimed land) pursuant to the previous provisions at the time of enforcement of this Act intends to change a minor reclamation purpose provided for in the previous provisions of the proviso of Article 28.

ADDENDA <Act No. 7678, Aug. 4, 2005>

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

**Articles 2 through 12 Omitted.**

ADDENDA <Act No. 8343, Apr. 11, 2007>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 12 Omitted.**

ADDENDA <Act No. 8351, Apr. 11, 2007>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 15 Omitted.**

ADDENDA <Act No. 8352, Apr. 11, 2007>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 16 Omitted.**

ADDENDA <Act No. 8377, Apr. 11, 2007>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 16 Omitted.**

