

ENFORCEMENT DECREE OF THE MARINE SCIENTIFIC RESEARCH ACT

Presidential Decree No. 14733, Jul. 13, 1995
Amended by Presidential Decree No. 15135, Aug. 8, 1996
Presidential Decree No. 17115, Jan. 29, 2001
Presidential Decree No. 20722, Feb. 29, 2008
Presidential Decree No. 24443, Mar. 23, 2013
Presidential Decree No. 24840, Nov. 13, 2013
Presidential Decree No. 25751, Nov. 19, 2014

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters entrusted by the Marine Scientific Research Act (hereinafter referred to as the "Act") and matters necessary for the enforcement thereof.

Article 2 (Procedures, etc. for Permission to Conduct Research within Territorial Sea of Republic of Korea)

(1) Matters to be included in a research plan pursuant to Article 6 (2) of the Act shall be as specified in attached Table 1. *<Amended by Presidential Decree No. 24840, Nov. 13, 2013>*

(2) Any foreigner defined in subparagraph 2 (a) or (b) of Article 2 of the Act who intends to obtain permission to conduct marine scientific research pursuant to Article 6 (1) and (2) of the Act (hereinafter referred to as "permission") shall submit an application for permission and a research plan via the government of the country to which he/she belongs. *<Amended by Presidential Decree No. 24840, Nov. 13, 2013>*

(3) Upon receipt of an application for permission, the Minister of Oceans and Fisheries shall send the relevant application for permission and research plan to the Minister of Science, ICT and Future Planning, Minister of Foreign Affairs, Minister of Justice, Minister of National Defense, Minister of Trade, Industry and Energy, Minister of Environment, Minister of Land, Infrastructure and Transport, The Minister of Public Safety and Security, Administrator of Korea Meteorological Administration, Administrator of Cultural Heritage Administration, and Director of National Oceanographic Research Institute, and heads of other related central administrative agencies, and shall consult whether to grant permission with the head of each agency. *<Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 17115, Jan. 29, 2001; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013; Presidential Decree No. 25751, Nov. 19, 2014>*

(4) Where the Minister of Oceans and Fisheries grants permission pursuant to Article 6 (3) of the Act, he/she shall issue a permit stating the following matters to the relevant applicant for permission, and notify the heads of related central administrative agencies referred to in paragraph (3) of such fact: *<Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013; Presidential Decree No. 24840, Nov. 13, 2013>*

1. The name of the research organization and the name of the research person in charge;
2. The name of the research vessel;
3. The sea area for research;
4. The research period;
5. Conditions or burdens imposed under Article 9 of the Act;
6. The name and telephone number of the department of the agency which has issued the permit.

Article 3 (Procedures, etc. for Consent to Research in Exclusive Economic Zone or Continental Shelf)

(1) Article 2 shall apply mutatis mutandis to procedures for consent to marine scientific research in the exclusive economic zone or continental shelf of the Republic of Korea under Article 7 (2) and (3) of the Act. In such cases, "permission" shall be construed as "consent". *<Amended by Presidential Decree No. 24840, Nov. 13, 2013>*

(2) The head of a related central administrative agency in receipt of an application for consent and a research plan submitted under paragraph (1) shall inform the Minister of Oceans and Fisheries of his/her opinion on whether to grant consent within two months. *<Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013; Presidential Decree No. 24840, Nov. 13, 2013>*

(3) Where the Minister of Oceans and Fisheries refuses consent pursuant to Article 7 (3) of the Act, he/she shall inform the relevant applicant for consent of his/her refusal, specifying grounds for refusal. *<Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013; Presidential Decree No. 24840, Nov. 13, 2013>*

Article 4 (Procedures for Permission for or Consent to Joint-Research, etc.)

(1) With respect to the permission or consent to the joint-research under Article 8 (1) of the Act, paragraph (2) or (3) of this Decree shall apply mutatis mutandis respectively.

(2) Where the foreigner, etc., or the national, etc., who participate in the joint-research under Article 8 (2) of the Act submits a joint research plan, he/she shall append a written agreement which contains matters such as those concerning the distribution of research data and disposal of research results.

Article 5 (Display of Permit or Written Consent, etc.)

The foreigner, etc. who has received the permit or written consent under Articles 2 through 4 of this Decree shall display the permit or written consent in the research vessel, and at all times present it at the request of the public officials concerned.

Article 6 (Reporting on Findings of Participation)

A national of the Republic of Korea who participates in marine scientific research conducted by a foreigner, etc. after he/she is designated by the Minister of Oceans and Fisheries pursuant to Article 10 (1) 1 of the Act (hereinafter referred to as "designated participant in research") shall conduct the following affairs, and report the findings thereof, as prescribed by the Ordinance of the Ministry of Oceans and Fisheries: <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013; Presidential Decree No. 24840, Nov. 13, 2013>

1. Acquiring and collecting technologies and information concerning the marine scientific research;
2. Checking the progress of the marine scientific research;
3. Verifying the obtained research data;
4. Verifying whether the marine scientific research is being performed in accordance with the research plan to which permission or consent has been granted;
5. Verifying whether a suspension or termination order is being obeyed;
6. Verifying whether obligations provided for in Article 10 (1) 6 through 9 of the Act are performed;
7. Other matters prescribed by the Minister of Oceans and Fisheries.

Article 7 (Research Reports)

(1) Research reports provided for in Article 10 (1) 2 of the Act shall be classified into a preliminary report and a final report.

(2) A foreigner, etc. shall submit five copies of a preliminary report, each written in Korean and English, to the Minister of Oceans and Fisheries, within three months after the completion of research. <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

(3) A preliminary report provided for in paragraph (2) shall contain:

1. A report (including navigation charts) on the marine research in the form determined by the Inter-Governmental Oceanography Committee;
2. Matters carried out differently from the research plan submitted pursuant to Article 6 (2), 7 (2), or 8 (1) of the Act;
3. A copy of the vessel logbook and research diary.

(4) A foreigner, etc., shall submit five copies of a final report, each written in Korean or English, to the Minister of Oceans and Fisheries, within two years after the completion of research. <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

(5) Upon receipt of a preliminary report and a final report under paragraphs (2) and (4), the Minister of Oceans and Fisheries shall transfer them to a management agency designated under Article 22 (1) of the Act (hereinafter referred to as "management agency") without delay. <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

Article 8 (Submission of Research Data)

(1) A foreigner, etc. shall submit the research data under Article 10 (1) 3 of the Act within two years after the completion of research, as determined by the Minister of Oceans and Fisheries. <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

(2) The Minister of Oceans and Fisheries shall transfer the research data submitted under paragraph (1) to the management agency. <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

Article 9 (Significant Changes in Research Plan)

"Where any significant matter prescribed by Presidential Decree is changed" in Article 10 (1) 5 of the Act means changes provided for in subparagraphs 1 (b) through (e), 2 (b), (d) and (e), 3 (a), 5 (a), and 8 of attached Table 1: Provided, That any change provided for in the subparagraphs of Article 10 shall be excluded.

Article 10 (Significant Changes in Marine Scientific Research)

"Significant grounds prescribed by Presidential Decree" in Article 12 (2) 1 of the Act means engaging in the following activities beyond the scope of permission or consent obtained: <Amended by Presidential Decree No. 24840, Nov. 13, 2013>

1. An activity which has a direct effect on the exploration and development of natural resources;
2. Excavating the continental shelf, using explosives, or injecting materials harmful to the marine environment;
3. Constructing, using, or operating an artificial island, facility, or structure;
4. Conducting maritime scientific research in the sea area outside of the permitted or consented research sea area;
5. Participation by a research organization or support organization which fails to fulfill its duties to the Republic of Korea in connection with its previous performance of marine scientific research.

Article 11 (Notification of Suspension, etc.)

(1) When the Minister of Oceans and Fisheries directs a foreigner, etc. to suspend, discontinue, or revoke the suspension of, marine scientific research (hereafter referred to as "suspension, etc." in this Article) under Article 12 of the Act, he/she shall immediately inform the head of the related central administrative agency and the designated research participant of such fact. In such cases, the head of the related central administrative agency shall immediately inform the head of the related agency of the suspension, etc. <Amended by Presidential Decree No. 15135, Aug. 8, 1996; Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

(2) The head of the related agency who is informed of the suspension, etc. under the latter part of paragraph (1) shall verify whether the suspension or discontinuance order is being obeyed, and when the suspension or discontinuance order is not being carried out, he/she shall take appropriate action pursuant to the Acts and subordinate statutes related thereto.

Article 11-2 (Permitting Marine Scientific Research Vessel to Make Calls at Ports)

(1) "Emergency situations prescribed by Presidential Decree, such as a typhoon" in the main sentence of Article 15-2 (1) of the Act means:

1. Harsh weather conditions, such as a typhoon;
2. Where a marine scientific research vessel intends to make a call at a port to avoid a marine accident;
3. Other cases deemed emergency situations equivalent to those referred to in subparagraph 1 or 2.

(2) Matters to be included in a plan for a marine scientific research vessel to make a call at a port pursuant to Article 15-2 (2) of the Act shall be as specified in attached Table 2.

Article 12 (Management and Publication of Research Data)

The term "the juristic person prescribed by the Presidential Decree" under Article 21 (1) of the Act means one under any of the following subparagraphs:

1. Any research institute being governed by the Specific Research Institutes Support Act;
2. Any university under the Education Act;
3. Any other non-profit juristic person in the field of marine scientific established by the Civil Act or other Acts.

Article 13 (Scope of Management of Research Data)

(1) The scope of management of research data under Article 21 (3) of the Act shall be as specified in attached Table 3. *<Amended by Presidential Decree No. 24840, Nov. 13, 2013>*

(2) The head of a State agency, etc., and the representative of a corporation set forth in Article 21 (1) of the Act (hereinafter referred to as "head of a State agency etc., and the representative of a corporation") shall maintain the research data in the following manners:

1. The basic data shall be computerized and preserved permanently, but especially, in precaution against natural disasters or man-made accidents, it shall be preserved in a safe place: Provided, That the basic data inappropriate for computerization by its nature need not be computerized;
2. Testing materials shall be maintained as classified into things which are high in their natural or reusable value and those which are not: Provided, That the same shall not apply where any other Act expressly prescribes otherwise.

Article 14 (Management on Consignment)

(1) When the head of a government agency, etc., or the representative of a juristic person intends to consign the research data to a management agency, a consignment note which contains the following items should be attached thereto:

1. The name of the consignor;
2. A list of the data of the consigned materials;
3. Information related to the consigned data.

(2) A management agency which is consigned to manage the research data under paragraph (1) of this Article shall do so research data fairly, and if requested by the head of a consignment agency, it shall take necessary measures for preferential use of consigned data and reduction of expenses for disseminating said

data, etc..

Article 15 (Publication of Research Data, etc.)

(1) The publication of the research data and dissemination of basic data under Article 21 (2) of the Act shall be subject to the research data under Article 13 (1): Provided, That in cases coming under any one of the following subparagraphs, the research data shall not be made public:

1. Where the publication of the research data is restricted by other Acts;
2. Where the head of a government agency, etc., and the representative of a juristic person restricts the publication of the research data thereof within a three year period after the completion of an annual project;
3. Where the head of an other ministry and agency concerned considers the publication of the research data inappropriate for national security and accordingly restricts the publication thereof for a specified period.

(2) The head of a government agency and the representative of a juristic person shall prescribe matters concerning publication of the research data and procedures for said data's access provision by taking into account the convenience of its users and preferential use by the participant in the marine scientific research.

Article 16 (Designation of Management Agency)

(1) The organ to be designated as the management agency by the head of the ministry or agency concerned pursuant to Article 22 (1) of the Act shall be that coming under any one of the following subparagraphs which performs a marine scientific research:

1. A government agency;
2. Research institutes being governed by the Act on the Support of Specific Research Institutions.

(2) When the head of the ministry or agency concerned designates a management agency pursuant to Article 22 (1) of the Act, he/she shall make a public notification.

Article 17 (List of Research Data)

(1) A request to provide a list of research data under Article 22 (3) of the Act shall be made regarding the research data gained from the completion of an annual project that includes marine scientific research, and the number of requests shall not exceed four times per year.

(2) In receipt of a request to provide a list of research data under paragraph (1), the head of a State agency, etc. or the representative of a corporation shall submit it to the relevant management agency within two months after the receipt thereof: Provided, That he/she may put the submission on hold where ten months have not yet passed since the completion of an annual project.

(3) The content and form of the list of research data shall be determined by the Minister of Science, ICT and Future Planning in consultation with the heads of the relevant ministries and agencies. <Amended by Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

(4) The head of a management agency shall distribute a list of research data provided under paragraph (2) to other management agencies without delay.

Article 18 (Advice on Performance)

When the Minister of Science, ICT and Future Planning intends to give advice on performance of obligations under Article 23 of the Act, he/she shall first investigate the current status of management of research data, and recording of research data published or provided, and consider the findings thereof.

<Amended by Presidential Decree No. 20722, Feb. 29, 2008; Presidential Decree No. 24443, Mar. 23, 2013>

ADDENDUM

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

ADDENDA <Presidential Decree No. 15135, Aug. 8, 1996>

Article 1 (Enforcement Date)

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

Articles 2 through 8 Omitted.

ADDENDA <Presidential Decree No. 17115, Jan. 29, 2001>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 20722, Feb. 29, 2008>

Article 1 (Enforcement Date)

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

Articles 2 through 6 Omitted.

ADDENDA <Presidential Decree No. 24443, Mar. 23, 2013>

Article 1 (Enforcement Date)

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

Articles 2 through 6 Omitted.

ADDENDA <Presidential Decree No. 24840, Nov. 13, 2013>

Article 1 (Enforcement Date)

This Decree shall enter into force on November 14, 2013.

Article 2 (Applicability to Reporting on Findings of Participation)

The amended provisions of subparagraph 6 of Article 6 shall apply from a national of the Republic of Korea who participates in marine scientific research conducted by a foreigner, etc. after he/she is designated by the Minister of Oceans and Fisheries after this Decree enters into force.

ADDENDA <Presidential Decree No. 25751, Nov. 19, 2014>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation: Provided, That among Presidential Decrees amended pursuant to Article 5 of Addenda, amendments to any Presidential Decree, which was promulgated before this Act enters into force but the enforcement date of which has not yet arrived, shall enter into force on the enforcement date of the relevant Presidential Decree.

Articles 2 through 5 Omitted.

