

Fishing Port Act

Legislative History:

- 1.The whole text of 29 articles were enacted and promulgated by President Order (81) Hua-Tsung-(1)-Yi-Tzu No.0592 on January 31, 1992
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2. Articles 8 to 12, 15 to 17, 19, 24, 25, 27 were amended and promulgated, and articles 13, 23 deleted by President Order (87) Hua-Tsung-(1)-Yi-Tzu No.870010060 on May 20, 1988
3. Articles 2, 4 to 6, 14, 15 were amended and promulgated by President Order (89) Hua-Tsung-(1)-Yi-Tzu No.8900275030 on November 15, 2000
4. Articles 9, 15 were amended and promulgated by President Order (93) Hua-Tsung-(1)-Yi-Tzu No.09300064001 on April 7, 2004
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Chapter1 General Provisions

Article 1

The planning, construction, operation, management and maintenance of fishing ports shall be governed by the provisions of this Act.

Article 2

The term 「competent authority」 referred to in this Act means the Council of Agriculture, Executive Yuan at the central government level; the municipal government at the municipality level; and the county/city government at the county/city level.

Article 3

For the purpose of this Act, the terms and their definitions are as follows:

- 1.Fishing Port: means the base used by fishing vessels.
- 2.Fishing port area: means in accordance with Article 5, the designated waters within the fishing port boundary and the land areas necessary for construction, development of fishing ports as well as for fishing port facilities.
- 3.Fishing port planning: means the planning and the layout drawn out by the competent authorities on considerations of fishing activities, construction purposes and land use for the fishing port area.
4. Fishing port facilities: means the following facilities located within the fishing port area:
 - (1) Primary facilities: Facilities used for entrance/departure, anchoring, safety maintenance and management.

(2) Public facilities: Related facilities used for non-profit purposes such as the auctioning of fish catches and leisure activities for fishermen.

(3) General facilities: such as utility facilities, facilities for associated industries and other facilities of necessity to support the functioning of the fishing port.

Article 4

Fishing ports are divided into the First Category and Second Category. First Category is managed by the central competent authority. Second Category is managed by municipal and county (city) governments. Based on fishery development needs and the purpose of use of a fishing port, the category of fishing port is subject to the designation by the central competent authority together with the municipal/county (city) government where the fishing port is located.

Article 5

The area of First Category fishing port is jointly decided by the central competent authority and the authorities concerned. The decision is then submitted to the Executive Yuan for approval and is promulgated by the central competent authority.

The area of Second Category fishing port is jointly decided and promulgated by the municipal/county (city) government and authorities concerned and is reported to the central competent authority for records.

The fishing port plan must be followed to map out zones for specific business uses within the fishing port area. The competent authority of each business takes up the responsibility of development and management by following related rules and regulations.

Chapter 2 Planning and Construction

Article 6

The planning and construction of First Category fishing port decided by the central competent authority and submitted to the Executive Yuan for approval and implementation.

The planning and construction of Second Category fishing port is decided, promulgated and implemented by the municipal/county (city) government and is submitted to the central competent authority for records.

If the above two plans are involved with land use zoning or land use changes, the Enforcement Rules for the Regional Planning Act, the Urban Planning Act or the National Park Act shall govern.

Article 7

The primary and the public facilities of the fishing port shall be budgeted and established by various levels of competent authority in accordance with the plan. But facilities used by any specific business, the authority concerned shall set the budget for establishments.

Article 8

Pursuant to Land Compulsory Purchase Act and relevant ones, the competent authority may condemn the land needed to set up the primary and the public facilities.

Proper jurisdiction shall be assigned to the reclaimed land of fishing port plan pursuant to related acts. Upon completion of construction, such reclaimed land shall be registered and managed as described in the plan.

Article 9

The construction of buildings and the establishment, addition and reconstruction of facilities in the fishing port area are subject to the approval of the competent authority prior to the approval of the local construction authority. The competent authority may notify the local construction authority to tear down buildings and facilities erected without permission.

Article 10

Pursuant to Construction Act, the competent authority and the local construction authority may notify the owners or users of buildings and impediments obstructing the fishing port project in the fishing port area to reconstruct, remove or disassemble such buildings and impediments before a specified deadline.

The competent authority shall compensate the direct loss resulted from reconstruction, removal or disassembly of the aforementioned buildings and impediments proportionally. If disputes regarding compensation arise, the competent authority shall report such disputes to its supervisory agency for final decision.

Chapter 3 Operation, management and maintenance

Article 11

The central competent authority or the municipal/county (city) competent authorities shall respectively have a full-time staff oversee the administration and maintenance of First Category and Second Category fishing ports.

Article 12

The competent authorities shall allocate annual budgets to administer and maintain the primary facilities of fishing ports, and collect administrative fees from the users. Fishing vessels with domestic flags, vessels on public affair errands or vessels taking refuge are exempt from the fees.

The items and rates of the administrative fees referred to in the preceding paragraph shall be prescribed by the central competent authority.

Article 13

The competent authority shall allocate budgets to administer and maintain the public facilities of fishing ports. It may entrust the local fisherman's association, other legal entity or group to administer and maintain the facilities.

Article 14

For general facility of the fishing port, the local fishermen's association, in accordance with the tasks and fishing port plan stipulated in Article 4 of Fishermen's Association Act, has the first priority to purchase the land or to lease the land from the competent authority for construction, operation, and acquire the ownership of the facility.

If the local fishermen's association is not able to administer the above-mentioned investment due to shortage in manpower and resources, a public tender is put out to seek investors for the investment based on the fishing port plan. The investor may purchase the land or to lease the land from the competent authority for construction, operation and acquire the ownership of the facility. The competent authority may provide the required land without charge for the investor to build and operate the afore-mentioned facilities and transfer them to the competent authority after a specific period of time.

The leased land of the two preceding paragraphs shall not create superficieses.

Article 15

According to the scale and the designated waters of the fishing port, the competent authority shall promulgate the total tonnages of the fishing vessels registered with the fishing port and the number of the registered fishing vessels.

According to the fishing port area actually in use, the competent authority may restrict vessels not registered with the fishing port from entering the port for anchoring. Vessels taking refuge out of an emergency are not bound by this restriction.

Article 16

All vessels entering into and departing from fishing ports are subject to inspection pursuant to the related acts and regulations. The vessels other than the registered fishing vessels shall obtain permission from the competent authority prior to their entrance or departure. The competent authority may, at its discretion, move the vessels entering into the fishing port without permission and the vessels entering into the fishing port with permission but anchoring outside the designated area. The charge of such moving shall be borne by the vessel owner or the captain.

Article 17

If sunken ships, objects, flotsam, pollutants and rafts within the fishing port area endanger voyage and anchoring of vessels entering or departing, or may contaminate the fishing port area, the competent authority may take the following actions:

(1) To notify owners of the sunken ships, objects, flotsam, pollutants and rafts to remove them within a set time frame; whatever left un-removed within the set time frame is considered waste and will be removed without further notification.

(2) In times of emergency, they will be removed without issuing a notification.

If the owners referred to in the preceding paragraph are unknown or incapable of being notified, the sunken ships, objects, flotsam, pollutants and rafts shall be published by the competent authority.

The removal charges of Item (1) shall be borne by the owners.

Article 18

Following conducts are strictly forbidden in the fishing port area:

1. Conducts that jeopardize safety and voyage of vessels.
2. Discharge of toxic materials, hazardous materials and waste oil.
3. Discharge of wastewater and other wastes.
4. Catching or raising marine products.
5. Other conducts announced by the competent authority as strictly forbidden.

Any violation against the above, the coastal patrol authority shall take proper measures to put it to stop.

The fishing competent authority shall designate areas and enact related measures that allow public fishing under the circumstances of no impeding business operations, safety and no polluting the port area. This is not bound by the restriction of the Subparagraph 4.

Article 19

Those who are engaged in following conducts shall apply for permission from the competent authority:

1. Salvage sunken ships, objects and flotsam.
2. Set up buoys and anchor buoys.
3. Tie ropes or vessels on the buoys, anchor buoys and other route marks.
4. Explore mines or collect soil and rocks.
5. Disassemble vessels.
6. Trial run of vessel.
7. Place vessels and other objects on the shore of fishing port area.
8. Install, change or remove the pipelines and equipment for water supply, oil supply, drainage, electricity, telecommunication and gas.
9. Dredging and explosion operation.
10. Build/repair roads.
11. Explosion operations.
12. Other conducts requiring permission in compliance with competent authority's announcement made based on the concern of the fishing port security, environmental protection and vessel navigation.

The permission referred to in the preceding paragraph may be changed or revoked by the competent authority when the construction of the fishing port is required or situations threatening the security and management of the fishing port arise.

Chapter 4 Penal provisions

Article 20

A person or his employee who violates Subparagraph 1 or 2 of Paragraph One of Article 18 will be subject to a fine up to NTD500,000 from NTD100,000. The offender or his employee will be ordered to remove the impediments within a specified period. Failure to comply with such order, a continuous fine on a daily basis will be imposed.

Article 21

A person or his employee who violates the Subparagraphs 3 to 5 of Paragraph One of Article 18 or any subparagraph of paragraph 1 of Article 19 shall be subject to a fine up to NTD150,000 from NTD30,000. The offender or his employee shall be ordered to restore the original state, suspend construction or disassemble the erection within a specified period. Failure to comply with such order, a continuous fine on a daily basis will be imposed.

Article 22

The owner or the captain of the vessel other than the registered fishing vessels entering the fishing port without permission or vessels that have entered but do not anchor in the designated area will be fined from NTD30,000 up to NTD150,000 and will be ordered to leave the fishing port within a specified period. The owner or the captain will be fined from NTD12,000 up to NTD60,000 per day if his vessel fails to leave the port before the deadline.

Article 23

A person who occupies the fishing port area without permission or destroy or damage the fishing port facility shall be subject to criminal penalty. Additionally, the offender or his/her employee will be ordered to restore its original state.

Article 24

The penalty stated in this Act shall be enforced by the competent authority.

Article 25

A person who is fined pursuant to the provisions of this Act and shall pay the fine pursuant to Article 12 or Paragraph 2 of Article 16 but fails to do so before the deadline shall be suspended to use the fishing port facilities or such offender's vessel shall be prohibited from leaving the port, unless sufficient pledge can be submitted.

Chapter 5 Supplementary provisions

Article 26

If the fishing port is used by other vessels besides the fishing vessels, the competent authority of the vessels or the authority concerned shall allocate a budget as subsidy for the construction and maintenance of the fishing port.

Article 27

The enforcement rules of this Act shall be prescribed by the central competent authority.

Article 28

This Act shall become effective as of the date of its promulgation.