

Content

Title :	Enforcement Rules Of The Fisheries Act <b>Ch</b>
Date :	2010.12.23
Legislative :	<ol style="list-style-type: none"><li>1.Promulgated on June 28, 1930</li><li>2.Amended on April 4, 1931</li><li>3.Amended on November 1, 1932</li><li>4.Amended on January 10, 1956</li><li>5.Amended on November 30, 1973</li><li>6.Addition of Article 28-1 promulgated on December 16, 1983</li><li>7.Amendment to Article 9 promulgated on March 5, 1985</li><li>8.Amendment to Article 9 promulgated on August 5, 1985</li><li>9. Amendment to all Articles promulgated on November 30, 1991</li><li>10. Amendment to Article 6, 7,15,16,17, 17, 36 promulgated on January 31, 2000</li><li>11. Amendment to Article 6, 7,13,18,19, 21,28, 30, and deletion of Article 11 promulgated on December 23, 2010</li></ol>
Content :	<p><b>Article 1</b> These Rules are enacted in accordance with Article 70 of the Fisheries Act (hereinafter called the "Act").</p> <p><b>Article 2</b> The term "processing", "transportation" and "distribution" in incidental sense referred to in Article 3 of the Act shall denote operation of fish catch transport vessels or fishery processing vessels.</p> <p><b>Article 3</b> The term "public waters" referred to in Article 6 of the Act shall denote rivers, natural lakes, tidal belts and oceans. The term "non-public waters adjacent to public waters" shall denote ponds, low-lying ponds, or reservoirs etc. which are adjacent to public waters.</p> <p><b>Article 4</b> The term "fishing vessel(s)" referred to in the Act shall denote boats, sampans and fishing rafts on which fisheries are operated, and fishery patrol boats, fishery research vessels and fishery training boats.</p> <p><b>Article 5</b> The term "modification" referred to "alteration" in the first paragraph of Article 8 of the Act shall denote any of the following circumstances:</p> <ol style="list-style-type: none"><li>1. Alteration of the length, width and depth of a fishing vessels;</li><li>2. Installation of the major and donkey engines, or alter the model or power output rate of such engines; and/or</li></ol>

3. Alteration of the structure or equipment of a fishing vessel for different utilizations or purposes of the vessel or of the type of fishery being operated.

#### **Article 6**

An application for building/modification of fishing vessels shall be accepted by competent authorities accordingly and proceeded as the following:

1. The applications are accepted in accordance with the tonnage of the fishing vessel if the fishing base is located and subject to jurisdiction of county/city, thus to competent authorities at county/city level if the vessel concerned is measured by volume less than 20 tons; or to the competent authority of central government should the tonnage exceeds 20 tons.
2. The applications are accepted in accordance with the tonnage of the fishing vessel if the fishing base is located and subject to jurisdiction of municipality, thus to competent authorities at municipality if the vessel concerned is measured by volume less than 100 tons; or to the competent authority of central government should the tonnage exceeds 100 tons.

The applications aforesaid ought to be included with application form, references and documentation as following:

1. Three copies of technical drawing (including specification of hull, central cross-section and line chart) with the building manual (not required for sampans, fishing rafts and fishing boats with a wooden hull measured less than 10 tons).
2. Other references demanded by the competent authorities of central government.

The following information and details are also required as essential with the submission of the application form aforesaid:

1. Name, ID number and address of the applicant;
2. Name of the fishing vessel;
3. Type of fishery and areas/regions where the vessel sails ;
4. Proposed gross tonnage;
5. Main dimension of the vessel;
6. Building materials of the hull structure;
7. Name and location of the shipyard;
8. Model and specification of major and donkey engine, maximum power output, number of cylinders, radius and rate of gyration of the cylinders; and
9. The dates in schedule to initial and complete the building, and launching of the vessel.

#### **Article 7**

The jurisdiction of competent authorities in terms of certification and approval pertaining to fishery affairs, may be vary as the follows:

1. Competent authorities at central government

- (1) Fishery based on exclusive fishing right.
- (2) Set-net activities or sectional fishery which located at hence requires fishing rights permitted from multiple jurisdictions of more than two municipalities, and counties/cities.
- (3) Directed and recreational fisheries which are permitted by competent authorities other than municipality and county/city.

#### 2 Competent authorities of municipality

- (1) Set-net activities or sectional fishery which located at hence requires fishing rights permitted from the jurisdiction of municipality.
- (2) Directed and recreational fisheries resorting to fishing vessels with gross tonnage of less than 100 tons and the bases are located within the territory of municipality.

#### 3. Competent authorities of county/city

- (1) Set-net activities or sectional fishery which located at hence requires fishing rights permitted from the jurisdiction of county/city.
- (2) Directed and recreational fisheries resorting to fishing vessels with gross tonnage of less than 20 tons and the bases are located within the territory of county/city.

### **Article 8**

An application for operating fishery based on fishing right shall be filed with the competent authority of municipality or county/city at the location where the fishing ground accordingly.

An application for operating directed and recreational fisheries shall be filed with the competent authority of municipality or county/city where the port/place of registration of the vessel is concerned.

### **Article 9**

Only the following can be the applicants to operate fishery:

1. The capital contributor shall be the applicant in case of a sole proprietorship;
2. One of the representatives shall be the applicant in case of a partnership;
3. The statutory representative of the legal entity shall be the applicant in case of a company or business firm;
4. The statutory representative shall be the applicant in case of a public institution or fisheries research institute; or
5. The statutory representative shall be the applicant in case of a fishermen association or fishery production cooperative.

### **Article 10**

An application to import a fishing vessel shall be attached with the following documents thus to be filed with the competent authority of central government for approval through the authority of municipality or county/city where the place/port of registration of the vessel is concerned:

1. Application form;
2. Photocopy of the certificate of nationality issued by the exporting

country of the fishing vessel;

3.Valid certificate proving the vessel safety inspection has been duly passed; and

4.Drawing of fishing vessel layout.

#### **Article 11**

Deleted

#### **Article 12**

The sanctions by way of recalling a fishing permit or license or fishing crew manual of the officers and crew pursuant to the Article 10 of the Act shall be valid for a period as follows:

1. If the fishing vessel and crew subject to the sanction are still in the port and if the above permit, license or manual is surrendered within the time limit prescribed in the notice of sanction, the sanction shall be valid from the date of receipt of such notice; otherwise, the sanction shall become valid from the date when the permit, license or manual is surrendered.
2. If the fishing vessel and crew subject to the sanction have departed from the port, the sanction shall become valid from the date of the above surrendering upon their return to the port.

#### **Article 13**

A competent authority may establish fishery advisory committee in accordance with Article 13 of the Act, therefore to seek advices from the committee with regard to the following appeals:

- 1.Overall planning for structural adjustment and management system of fishery;
- 2.Ulterlization of fishing ground;
- 3.Overall planning of fishery based on fishing right;
- 4.Priority and dispute resolving over applications of fishery based on fishing right;
- 5.The proceeding in changes and updates of type of fishery and fishing areas;
- 6.The proceeding of approval and revocation and administrative prescriptions all pertaining to fishing right;
7. Consideration to Determine the type of directed fishery, operating duration, fishing areas, total tonnage of fishing vessels, and other relevant matters;
- 8.Conservation and management of fishery resources.

#### **Article 14**

The term "fishing gear" referred to in Article 14 of the Act shall denote tools directly or indirectly used for catching and aquaculture purposes.

#### **Article 15**

The plan to be drafted in accordance with Article 17 of the Act shall include the type of fishery, range of fishing ground, fishing period,

anticipated quantity of catch to be approved, period of public notice, period of application and other relevant matters.

When deemed as necessary, the competent authority of central or county/city government may allocate a budget to the relevant organizations or academic institutions, to be commissioned to study and in charge of the drafting or adjustment of the overall plan under the first paragraph of Article 17 of the Act and the plan under the preceding paragraph.

#### **Article 16**

The plan drafted or adjusted by the competent authority of central or county/city government in accordance with the preceding article shall be exhibited for 30 days to the public, which ought to be taken place at the relevant village/township/city/district and fishermen's association where the fishing ground is located.

During the above period of public circulation, interested ones, or parties concerned may submit their comments to the competent authority in writing, with name, address and occupation stated on. After the plan has been duly publicly displayed hence approved, the competent authority will forward such comments to the superior authority to be placed on file for future reference.

#### **Article 17**

After approving the plan in accordance with the preceding article, the competent authority of central or county/city government shall publish a public notice with respect to the acceptance of applications of fishing right permits at the village/township/city/district and fishermen's association where the fishing ground is located prior to July of each year.

The period of the above public notice shall be lasting more than 30 days.

#### **Article 18**

An application to operate fishery activities based on fishing right requires three copies of application form and submission of the following items:

1. Three copies of fishing ground map (provided with relevancies of cardinal points of the fishing ground including information of distance, bearing from the land, size of the nets and specification of equipment);
2. Three copies of business plan;
3. The partnership contract for the applicant who is under partnership or one photocopy of the certificate of registration for the applicant who is happened to be a company, or three copies of resolutions from assembly/meeting of member, to be submitted by fishermen's association or fishery production cooperative.
4. Three copies of letter in proving consent if the zone or waters of the fishing ground within which fishery is to be operated, owned or occupied by another party.
5. An application of exclusive fishery right shall be accompanied by three copies of draft fishing rules and regulations specifying the following:
  - (1) Qualifications of the person who is allowed to seek permission for fishing activities in specific waters;
  - (2) Area and duration of which to conduct fishing activities in specific

- waters;
- (3) Fishing methods or techniques used in fishing activities in specific waters; and
  - (4) Other requirements to be met.

The following information and details are also required as essential with the submission of the application form aforesaid:

1. Name, address, ID number and occupation of the applicant;
2. Type and name of fishery activity to be operated;
3. Location, region, calculation of square in area and range of fishing ground (the figure or calculation of square in area is not required for set-net fishery);
4. Type and quantity of fishing gear;
5. Target species;
6. Fishing period.

#### **Article 19**

The waters to be approved for operating exclusive fishery right shall be limited to waters subject to the jurisdiction of the fishery association or fishery production cooperative concerned.

#### **Article 20**

In regard to the approved fishing right fishery, the competent authority may delimit an area of waters to restrict other persons from operating fishery.

#### **Article 21**

The following information and details ought to be stated on fishing right permit issued by the competent authority:

1. Name, address and ID number of the fishing right holder;
2. Serial number and date of expiration;
3. Type and name of fishery activity to be conducted;
4. Location, region, calculation of square in area and range of fishing ground;
5. Target species;
6. Fishing period;
7. Valid period of the fishing right; and
8. Conditions or restrictions on the permit concerned.

#### **Article 22**

If operation is to continue upon the expiration of the fishing right permit, an application for new permit shall be filed within six months prior to the expiration.

When the above permit becomes null and void, it shall apply to the fishing right *mutatis mutandis*.

**Article 23**

Any one waiving fishing right shall apply to the original issuing authority for cancellation. If other rights are registered in relation to said fishing right, a written approval shall be submitted.

**Article 24**

A fishing right holder shall, within three months of the acquisition of a fishing right permit, complete set-up of markings of datum points on land for surveying the fishing ground.

After completion of the establishment of a fishing ground for fishery based on fishing right, an application shall be filed with the competent authority for inspection and for a map of the fishing ground.

If with respect to the markings set up under the first paragraph, new markings need to be set up or re-set up, an application, with reasons stated, shall be filed with the competent authority concerned for approval.

Upon the extinguishment of the fishing right, the fishing right holder shall remove the markings and facilities from the fishing ground.

**Article 25**

The competent authority shall publish a public notice with respect to the approval it has granted for the acquisition, combination, separation, change and loss of fishing right, and the revocation of the approval of operation under the first paragraph of Article 10 and the first paragraph of Article 11 of the Act.

**Article 26**

Applicants for the permission under Article 35 of the Act shall specify the following material facts:

- 1.Name and address of land owner or user
- 2.Location and range
- 3.Purposes of use
- 4.Period of use
5. Reasons for denying
- 6.Other necessary material facts

**Article 27**

The designation of and restrictions on the directed fishery, and the change thereof, under Articles 36 and 37 of the Law shall be published in a public notice by the competent authority of municipality or county/city after being approved by the authority central government.

**Article 28**

When applying for permit of directed fishery from the competent authority, an completed application form and references or documentation listed below are required:

1. Photocopies or transcripts of vessel inspection record book, ship registration certificate, certificate of vessel' s nationality, small boat license or raft license.
2. Registration certificate and business plan shall be provided if apply as a firm or enterprise.
3. Other references demanded by the competent authority

The following information and details are also required to be stated on the application form as essential:

1. Name, address, ID Number and date of birth of the fishing right holder;
2. Type of fishery;
3. Name of the fishing vessel, hull length, length overall, gross tonnage, net tonnage, and uniform number of the vessel ;
4. Model and power output of the engine;
5. Type and quantity of fishing gears;
6. Target species;
7. Fishing base and port where to load and unload catches;
8. Certificate of origin of the fishing vessel;
9. Communication equipment and international radio call sign.

**Article 29**

The approval granted based upon directed fishery shall be valid for a period of five years maximally. If operation is to continue, application for renewal of the fishing permit shall be filed within three months prior to the expiration.

**Article 30**

The following information and details ought to be stated on the permit for directed fishery issued by the competent authority:

- 1.Name, address and ID number of the fisher;
- 2.Serial number and the date for the issuance;
- 3.Type of fishery;
4. Location and region of the fishing ground;
5. Name of the fishing vessel, gross tonnage, net tonnage, hull length, length overall, uniform number, and number of fishing crew;
- 6.Model and power output of the engine, capacity of oil tank, and hourly speed;
- 7.Type and quantity of fishing gears;
- 8.Target species;
- 9.Fishing period;
10. Fishing base and port where to load and unload catches;
- 11.Viable period of fishing permit;
12. Communication equipment and international radio call sign; and
13. Conditions or restrictions on the permit concerned.

**Article 31**

No fishery person shall allow a third person to use his/her fishing

permit.

**Article 32**

Fishery persons shall bring their fishing permits when fishing or operating at the sea.

**Article 33**

Neither fishery persons nor fishing professionals may perform any of the following conducts when fishing or operating:

- 1.Non-fishery activities or outlaw actions;
- 2.Breach of the restriction which has imposed by the competent authority in terms of operation period and number of crew on the vessel;
- 3.Selling or using fishing power oil for other purposes; or
- 4.Entering foreign waters illegally.

**Article 34**

When a fishing operation is happened to obstacle or block fish migrations of anadromous, a one-fifth of the waterway at the least must be remained clear hence to be reserved for ecological protection.

**Article 35**

Both fishery persons and fishing professionals shall fill in fishery reports and other relevant materials in accordance with regulations set forth by the competent authority.

**Article 36**

The authority of central government may authorize the competent authority of municipality or county/city, to be commissioned for all affairs and applications concerned.

**Article 37**

These Enforcement Rules shall become effective from the date of being promulgated.