

Content

Title :	Enforcement Rules of the Fisheries Act <b>Ch</b>
Date :	2019.03.11
Legislative :	<p>The full text enacted and promulgated by the Ministry of Agriculture and Mining on June 28, 1930.</p> <p>Amended and promulgated by the order of the Ministry of Primary Industries on April 4, 1931.</p> <p>Amended and promulgated by the order of the Ministry of Primary Industries on November 1, 1932.</p> <p>Amended and promulgated by the order of the Ministry of Economic Affairs on January 10, 1956.</p> <p>Amended and promulgated by the Ministry of Economic Affairs under Order No. Ching-tai-fa-tzu 38340 on November 30, 1973.</p> <p>Article 28-1 added and promulgated by the Ministry of Economic Affairs under Order No. Ching-nung-tzu 50027 on December 16, 1983.</p> <p>Article 9 amended and promulgated by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 28401 on March 5, 1985.</p> <p>Article 9 amended and promulgated by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 43418 on August 5, 1985.</p> <p>Amended and promulgated by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 0156369A on November 30, 1991.</p> <p>Article 6, 7, 15-17, 27 and 36 amended and promulgated by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 0891201414 on January 31, 2000.</p> <p>Article 6, 7, 13, 18, 19, 21, 28 and 30 amended, and Article 11 deleted and promulgated by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 0991322496 on December 23, 2010.</p> <p>Article 12 amended by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1031325565A on July 21, 2014.</p> <p>Article 28 and 30 amended by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1041329149A on October 5, 2015.</p> <p>Article 28 amended by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1081325670A on March 11, 2019.</p>
Content :	<p><b>Article 1</b> These Rules are hereby enacted pursuant to Article 70 of the Fisheries Act (hereinafter referred to as "the Act").</p> <p><b>Article 2</b> The term "the associated industries of processing, transportation and marketing" referred to in Article 3 of the Act means operation of fish carrier vessels or factory vessels.</p> <p><b>Article 3</b></p>

The term "public waters" referred to in Article 6 of the Act means rivers, natural lakes/ swamps, intertidal zones and oceans. The term "non-public waters adjacent thereto" means ponds, artificial lakes, or reservoirs etcetera which are adjacent to public waters.

#### **Article 4**

The term "fishing vessel(s)" referred to in the Act means boats, sampans and fishing rafts on which fisheries are operated, and fishery patrol boats, fishery research boats and fishery training boats.

#### **Article 5**

The term "modification" referred to in paragraph 1 of Article 8 of the Act means any of the following circumstances:

- (1) Alteration of the length, width and depth of a fishing vessel;
- (2) Reinstallation of the main engine and auxiliary engine, or alteration of the engine model or horsepower; and/or
- (3) Alteration of the structure or equipment of a fishing vessel for the purpose of altering use of fishing vessel or type of fishery.

#### **Article 6**

Any application for building or modification of fishing vessel shall be submitted to the designated competent authority in accordance with the provisions as follows:

- (1) For applicant whose location of fishery registry is within the territory of county (city): The application shall be submitted to the county (city) competent authority if the proposed gross registered tonnage of the fishing vessel concerned is under 20; on the contrary, the application for vessel whose proposed gross registered tonnage is over 20 shall be submitted to the central competent authority.
- (2) For applicant whose location of fishery registry is within the territory of municipality: The application shall be submitted to the municipal competent authority if the proposed gross registered tonnage of the fishing vessel concerned is under 100; on the contrary, the application for vessel whose proposed gross registered tonnage is over 100 shall be submitted to the central competent authority.

For the application aforementioned, the application materials shall include the completed application form and documentation prescribed below:

- (1) Three copies of technical drawing, including the specification of hull, general layout, cross-sectional drawing and line chart and the building manual of the fishing vessel. However, sampans, fishing rafts and wooden-hull fishing boats under 10 gross tonnage exempt from this requirement;
- (2) Other documentation specified by the central competent authority.

The following information shall be recorded on the application form as referred to in the preceding paragraph:

- (1) Name, national identification number and address of the applicant;
- (2) Name of the fishing vessel;
- (3) Type of fishery and intended operating area;
- (4) Proposed gross tonnage;
- (5) Principle dimension of the vessel;
- (6) Building materials of the hull structure;
- (7) Name and location of the shipyard;
- (8) Model and brand of the main and auxiliary engine, maximum continuous horsepower, number of cylinders, cylinder diameter and rate of gyration, etcetera; and
- (9) The scheduled dates for commencement and completion of the vessel building, and the scheduled date for launch of the vessel.

#### **Article 7**

The division of jurisdiction for the competent authorities concerning the approval for fishing license and their fishery management mandate are as follows:

- (1) The central competent authority
  - i. Exclusive fishing right fishery.
  - ii. Set net and demarcated fishing right fisheries whose operating areas are under the jurisdictions of more than two municipalities or counties (cities).
  - iii. Directed and recreational fisheries which are not under the jurisdiction of municipal or county (city) competent authorities.
- (2) Municipal competent authorities
  - i. Set net and demarcated fishing right fisheries whose operating areas are under the jurisdiction of municipalities.
  - ii. Directed and recreational fisheries employing fishing vessels under 100 gross registered tonnage and the locations of fishery registry are within the territory of municipalities.
- (3) County (city) competent authorities
  - i. Set net and demarcated fishing right fisheries whose operating areas are under the jurisdiction of counties (cities).
  - ii. Directed and recreational fisheries employing fishing vessels under 20 gross registered tonnage and the locations of fishery registry are within the territory of counties (cities).

#### **Article 8**

Any application for operating fishing right fishery shall be filed with the municipal or county (city) competent authority where the fishing ground is located.

Any application for operating directed and recreational fisheries shall be filed with the municipal or county (city) competent authority where the approval for vessel registration is concerned.

#### **Article 9**

Only the following can be the applicants to operate fishery:

- (1) The investor 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 state-run organization or fisheries research institute; or
- (5) The statutory representative shall be the applicant in case of a fishermen' s association or fishery production cooperative.

#### **Article 10**

Subject to paragraph 2 of Article 8 of the Act, any person who intends to import fishing vessel shall submit the following documentation to the municipal or county (city) competent authority where the application for vessel registration is concerned for forwarding to the central competent authority for approval:

- (1) Application form;
- (2) Photocopy of the certificate of vessel' s nationality issued by the exporting country of the fishing vessel;
- (3) Valid vessel safety inspection certificate; and
- (4) Drawing of fishing vessel layout.

#### **Article 11**

(Deleted)

#### **Article 12**

Where the administrative disposition of suspending the fishing license, the Certificate of Fishing Vessel Officer or Fishing Vessel Crew Identification is rendered pursuant to Article 10 of the Act, the period of the administrative disposition commencement shall be calculated as followings:

- (1) In the case that the fishing vessel and crew members subject to the administrative disposition are in port, the period of such disposition shall commence on the date of receipt of the notice of such disposition.
- (2) In the case that the fishing vessel and crew members subject to the administrative disposition have left port, the period of such disposition shall commence on the date that the fishing vessel or crew members return to port.

#### **Article 13**

Any competent authority who establishes fisheries advisory committee in accordance with Article 13 of the Act shall seek advices from the committee with regard to the following appeals:

- (1) Integrated planning for the adjustment of fishery structure and the management mechanism;
- (2) Comprehensive utilization of fishing ground;
- (3) Integrated planning for fishing right fishery;
- (4) Order of priority and the relevant dispute regarding the approval of fishing right fishery;
- (5) Alteration of type of fishery and operating area for fishing right fishery;
- (6) Approval and revocation of fishing right and other relevant matters regarding the administrative disposition of fishing right;
- (7) Designation of the type of directed fishery, operating periods,

operating areas, total number of fishing vessels, total tonnage of fishing vessels, and other relevant matters;

(8) Conservation and management of aquatic resources.

#### **Article 14**

The term "fishing gears" referred to in Article 14 of the Act means tools, directly or indirectly, used for the purposes of catching/harvesting or cultivating aquatic organisms.

#### **Article 15**

The programs stipulated in Article 17 of the Act shall include type of fishery, range of fishing ground, fishing period, proposed quantity to be approved, period of public announcement, period of application and other relevant matters.

If deemed as necessary, the central or county (city) competent authority may allocate a budget to commission relevant organizations or academic institutions to study and to be in charge of the drafting or revision of the integrated planning under paragraph 1 of Article 17 of the Act and the programs under the preceding paragraph.

#### **Article 16**

The programs drafted or revised by the central or county (city) competent authority in accordance with the preceding Article shall be exhibited for 30 days at the township/town/city/district and fishermen' s association where the fishing ground is located for public circulation.

During the above period of public circulation, persons of interest may submit written comments on the program, with name, address and occupation recorded on, to the competent authority as reference for revising the program. The competent authority shall then approve the final program and submit it to the central competent authority for recordation.

#### **Article 17**

After approving the program in accordance with the preceding Article, the central or county (city) competent authority shall publish a public announcement with respect to the acceptance of applications of fishing right fishery license at the township/town/city/district and fishermen' s association where the fishing ground is located prior to July of each year.

The period of the public announcement under the preceding paragraph shall be lasting more than 30 days.

#### **Article 18**

When applying for the operation of fishing right fishery, the application materials shall include three copies of completed application form and documentation prescribed below:

- (1) Three copies of fishing ground map, with relevancies of the relative bearings and distances among datum points of the fishing ground and the land and size of the nets, etc);
- (2) Three copies of business plan;
- (3) Three copies of the partnership contract for the applicant who is under partnership; or three copies of business registration certificate for whom is happened to be a company;

or three copies of resolutions adopted by general members (representative) meeting for whom is a fishermen' s association or fishery production cooperative.

- (4) Three copies of written consent in the case that the zones or waters of the intended fishing ground are owned or occupied by another party.
- (5) Any application for exclusive fishery right shall be accompanied by three copies of draft rules of fisheries access in which specify the following:
  - i. Qualifications of the candidates for the operation of fisheries access;
  - ii. Area and period for the operation of fisheries access ;
  - iii. Fishing methods used for the operation of fisheries access; and
  - iv. Other requirements to be met.

The following information shall be recorded on the aforementioned application form:

- (1) Name, address, national identification number and occupation of the applicant;
- (2) Type and name of fishery;
- (3) Location, area, and calculation of square or range of the fishing ground. The calculation of square in area is not required for set-net fishing right fishery;
- (4) Type and quantity of fishing gears;
- (5) Target species;
- (6) Fishing season.

#### **Article 19**

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

#### **Article 20**

In regard to the approved fishing right fishery, the competent authority may delimit a water domain to restrict the third party from operating fishery.

#### **Article 21**

When the competent authority approves the issuance of fishing license for fishing right fishery, the following information shall be recorded on the license:

- (1) Name, address and national identification number of the fishing right holder;
- (2) License number and date of issue;
- (3) Type and name of fishery;
- (4) Location, area, and calculation of square in area or range of the fishing ground;
- (5) Species authorized to fish;
- (6) Fishing season;
- (7) Authorized period of the fishing right; and
- (8) Conditions or restrictions attached to the approval of license.

#### **Article 22**

Fishing right license shall be invalid simultaneously upon the

expiration of its authorized period. If there is any intention to continue the fishery operation, the renewal of fishing right license shall be applied within six months prior to its expiration. When the aforementioned license becomes invalid, such effect shall apply to the corresponding fishing right fishery simultaneously.

#### **Article 23**

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

#### **Article 24**

A fishing right holder shall, within three months from the acquirement of a fishing right license, complete the set-up of datum point markings on land for surveying the fishing ground.

After completing the establishment of a fishing ground for fishing right fishery, an application shall be filed with the competent authority for inspection and for issuance of fishing ground map. Where a fishing right holder requires any additional set-up or re set-up other than the original markings established under Paragraph 1, an application, with reasons stated on, shall be filed with the competent authority for approval. Upon the extinguishment of the fishing right, the fishing right holder shall voluntarily remove the markings and facilities from the fishing ground.

#### **Article 25**

The competent authority shall publish a public announcement with respect to its approval for the acquirement, mergence, subdivision, alteration and loss of fishing right, and its revocation of the approval of fishery operation under paragraph 1 of Article 10 and paragraph 1 of Article 11 of the Act.

#### **Article 26**

Any applicant for the approval under Article 35 of the Act shall specify the following information:

- (1) Name and address of the land owner or land user;
- (2) Location and range of the land;
- (3) Purposes of use;
- (4) Period of use;
- (5) Facts for failing to obtain consent; and
- (6) Any other necessary material facts.

#### **Article 27**

Where the municipal or county(city) competent authority intends to impose designation, restriction or change on the directed fishery in accordance with Article 36 and 37 of the Act, such designation, restriction or change shall be approved by the central competent authority and be published in a public announcement prior to its implementation.

#### **Article 28**

When applying for a fishing license for the operation of directed fishery, an completed application form and documents prescribed below shall be submitted to the competent authority:

- (1) Photocopies or transcripts of ship inspection record book, ship

inspection certificate, ship registration certificate, certificate of vessel's nationality, small boat license or raft license.

- (2) Business registration certificate and business plan shall be provided if the applicant is a company or business firm.
- (3) Photographs of the fishing vessel, as well as the electronic files thereof. The Photographs shall be in full color and no older than three years.
- (4) Any other documentation specified by the competent authority.

The following information shall be recorded on the aforementioned application form:

- (1) Name, address, national identification number and date of birth of the applicant;
- (2) Type of fishery;
- (3) Name of the fishing vessel, hull length, length overall, gross registered tonnage, net tonnage, and registration number;
- (4) Engine model and horse power;
- (5) Type and quantity of fishing gears;
- (6) Target species;
- (7) Location of fishery registry and port of landing;
- (8) Certificate of the origin of the fishing vessel;
- (9) Communication facilities and international radio call sign;
- (10) International Maritime Organization (IMO) ship identification number for fishing vessels of 100 gross tonnages and above.

The photograph of the fishing vessel submitted pursuant to paragraph 1, sub-paragraph (3) of this Article shall show a stem-to-stern side view of the vessel and clearly and legibly display the vessel name and International Radio Call Sign (WIN). The size of the photograph shall be 6 by 8 inches with a resolution of at least 150 pixels per inch and the size of the electronic file shall be no greater than 500 kilobytes (kB).

Paragraph 1 shall, mutatis mutandis, apply in case of application for the renewal of the fishing license upon expiration. However, the documents prescribed in subparagraph (1) of paragraph 1 shall be waived.

#### **Article 29**

The approval granted for the directed fishery shall be valid for a term not exceeding five years. If operation is to continue, application for the renewal of the fishing license shall be filed within three months prior to its expiration.

#### **Article 30**

When the competent authority approves the issuance of fishing license for directed fishery, the following information shall be recorded on the license:

- (1) Name, address and national identification number of the fishery operator;
- (2) License number and date of issue;
- (3) Type of fishery;
- (4) Location and region of the fishing ground;
- (5) Name of the fishing vessel, gross registered tonnage, net tonnage, hull length, length overall, registration number, and maximum number of crew member;

- (6) Engine model and horsepower, capacity of oil tank, and speed per hour;
- (7) Type and quantity of fishing gears;
- (8) Species authorized to fish;
- (9) Fishing season;
- (10) Location of fishery registry and port of landing;
- (11) Authorized period of the fishing license;
- (12) Communication facilities and international radio call sign;
- (13) IMO ship identification number for fishing vessels of 100 gross tonnages and above; and
- (14) Conditions or restrictions attached to the approval of license.

**Article 31**

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

**Article 32**

Fishery operator shall carry his/her fishing license when navigating at sea or operating.

**Article 33**

Neither fishery operator nor fishery employee may perform any of the following conducts when navigating at sea or operating:

- (1) Illegally engaging in non-fishery activities;
- (2) Breaching the restriction imposed by the competent authority on operation period and maximum number of crew member;
- (3) Selling or employing fuel used in fisheries for other purposes ; or
- (4) Illegally entering into foreign waters.

**Article 34**

Any fishery operator who obstructs the migratory routes of anadromous fish for the purpose of operation shall preserve at least one-fifth of the stream face for the free passage of anadromous fish.

**Article 35**

Both fishery operator and fishery employee shall fill in and submit fishery reports and other relevant materials in accordance with regulations set forth by the competent authority.

**Article 36**

The central competent authority may commission the municipal or county (city) competent authorities to execute affairs under its jurisdiction.

**Article 37**

These Enforcement Rules shall become effective on the date of promulgation.

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Attachments : 108.3.11條文.doc