

# Order of the President of the People's Republic of China

No. 61

The Law of the People's Republic of China on the Administration of Sea Areas has been passed at the twenty fourth meeting of the Standing Committee of the National People's Congress of the People's Republic of China on October 27, 2001 and is hereby promulgated for implementation as of January 1, 2002.

Jiang Zemin, President of the People's Republic of China  
October 27, 2001

## Law of the People's Republic of China on the Administration of Sea Areas

### Contents

- Chapter I General Principles
- Chapter II Functional Divisions of the Sea
- Chapter III Application and Approval for the Use of Sea Areas
- Chapter IV The Right to Use Sea Areas
- Chapter V Royalties for Using Sea Areas
- Chapter VI Supervision and Inspection
- Chapter VII Legal Liabilities
- Chapter VIII Supplementary Provisions

### Chapter I General Principles

**Article 1** This law has been enacted for the purpose of strengthening the administration of using sea areas, safeguarding the ownership of the state to the sea areas and the lawful rights and interests of the holders of the right to use sea areas and promoting the reasonable development and sustainable utilization of the sea areas.

**Article 2** The term "sea area" as mentioned in this law shall refer to the interior waters, the surface, body, seabed and bottom soil of the territorial seas.

The term "interior waters" as mentioned in this law shall refer to the sea area of the People's Republic of China stretching from the base line on side of the land of the territorial seas to the coastline.

This law shall be applicable to any exclusive continuous use of the seas within specific sea areas of the interior waters or territorial seas for three months or longer.

**Article 3** The sea areas shall belong to the state, and the State Council shall exercise ownership over the sea areas on behalf of the state. No entity or individual may usurp on, buy or sell or by any other means transfer sea areas.

The right to use sea areas shall be lawfully obtained for the use of sea areas by any entity or individual.

**Article 4** The state practices the system of functional division of the sea. The use of sea areas shall be in conformity with the functional divisions of the sea.

The state shall rigidly administer the use of seas that changes the natural quality of sea areas such as filling up the sea or encircling the sea.

**Article 5** The state shall establish a system of information for administering the use of sea areas and shall watch out and monitor the use of sea areas.

**Article 6** The state shall establish a system of registering the right to use sea areas. The lawfully registered rights to use sea areas shall be protected by law.

The state shall establish a statistical system for the use of sea areas, and shall disseminate statistical materials concerning the use of sea areas.

**Article 7** The maritime administrative department of the State Council shall be responsible for the supervision and administration of the use of sea areas within the whole country. The maritime administrative departments of the local people's government on the county level and above within the coastal regions shall, on the basis of authorization, be responsible for the supervision and administration of the use of adjacent sea areas within their respective administrative divisions.

The fishery administrative departments shall, in accordance with the Fishery Law of the People's Republic of China, exercise supervision and administration over the fishing activities on the sea.

The maritime affairs administrations shall, according to the Law of the People's Republic of China on the Security of Maritime Traffic, be responsible for exercising supervision and administration of the security of the maritime traffic.

**Article 8** All entities and individual persons shall bear the obligation of observing the laws and regulations regarding the use of sea areas, and shall be entitled to report and prosecute violations of the laws or regulations regarding the use of sea areas.

**Article 9** Any entity or individual that have made remarkable achievements in the protection or rational use of sea areas or in relevant scientific research shall be granted awards by the people's governments.

## Chapter II Functional Divisions of the Sea

**Article 10** The maritime administrative department of the State Council shall, jointly with other relevant departments of the State Council and the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government, work out the functional divisions of the seas of the whole country.

The maritime administrative department of the local people's governments on the county level and above within the coastal regions shall, jointly with other relevant departments of the people's governments on the same level, work out the local functional divisions of the seas on the basis of the functional divisions of the seas worked out by the next high authorities.

**Article 11** The functional divisions of the sea shall be worked out under the following principles:

1. Scientifically defining the functions of sea areas according to the natural qualities including the location, natural resources and natural environment, etc;
2. Planning the use of the seas by various trades as whole in accordance with the demand of economic and social development;
3. Protecting and improving the ecological environment, ensuring the sustained utilization of sea areas and promoting the development of the maritime economy;
4. safeguarding the security of maritime traffic;
5. safeguarding the security of national defense, ensuring the use of sea for military purposes.

**Article 12** The functional divisions of the sea shall be subject to the hierarchical examination and approval.

The functional divisions of the seas within the whole country shall be subject to the approval of the State Council.

The functional divisions of the seas under the jurisdictions of the

provinces, autonomous regions and municipalities directly under the Central Government within the coastal regions shall be subject to the approval of the State Council after obtaining the consent of the people's government of the respective province, autonomous region or municipality directly under the Central Government.

The functional divisions of the seas of the counties and cities within the coastal regions shall be subject to the approval of the people's government of their respective province, autonomous region or municipality directly under the Central Government after obtaining the consent of the people's government of the county or city and be submitted to the maritime administrative department of the State Council for archivist purposes.

**Article 13** In terms of the revision of the functional divisions of the sea, the original organ that worked out functional divisions shall, jointly with other relevant departments, propose suggestions of revision and submit to the original approving authority for approval. If the revisions are not approved, the functions of the sea areas defined by the functional divisions of the seas shall not be changed.

Where it is necessary to change the functional divisions of the seas for public interests, national defense or large-scale infrastructure construction including energy, traffic, etc., the functional divisions of the seas may be revised upon the approval of the State Council and in accordance with the approving documents of the State Council.

**Article 14** The functional divisions of the seas shall, after being approved, be publicized to the general public, with the exception of those that relate to the secrets of the state.

**Article 15** The use of sea areas by the trades like aquatics breeding, salt, traffic and tourism based on their industrial plans shall be infirmity with the functional divisions of the seas.

The overall plans, municipal plans and port plans for utilizing coastal land but including the use of sea areas shall be in conformity with the functional divisions of the seas.

### Chapter III Application and Approval for the Use of Sea Areas

**Article 16** The entities and individuals may apply to the maritime administrative department of the people's government on the county level or above for using the sea areas. When applying for using the sea areas, the applicant shall submit the following written materials:

1. an application for using sea areas;
2. materials justifying the use of sea areas;
3. relevant certification materials of credit standing;
4. other written materials as provided by law or regulations.

**Article 17** The maritime administrative department of the people's governments on the county level and above shall, according to the functional divisions of the seas, be responsible for the examination of applications for using sea areas and shall, pursuant to this Law and the provisions of the people's government of the provinces, autonomous regions and municipalities directly under the Central Government, submit the application to the competent people's government for approval.

In the examination of the applications for using sea areas, the maritime administrative departments shall solicit the advice of other relevant departments on the same level.

**Article 18** The use of sea for the purposes as mentioned below shall be subject to

the approval of the State Council:

1. the use of sea for projects of filling up the sea up to 50 hectares or more;
2. the use of sea for projects of encircling the sea up to 100 hectares or more;
3. the use of sea for projects of using the sea up to 700 hectares or more without changing the natural qualities of the sea areas;
4. the use of the sea for key state construction projects;
5. the use of the sea for other projects as provided by the State Council.

The power to examine and approve the use of the sea for purposes not mentioned in the preceding paragraph shall be provided by the people's government of the provinces, autonomous regions and municipalities directly under the Central Government under the authorization of the State Council.

## Chapter IV The Right to Use Sea Areas

**Article 19** After an application for using sea areas is lawfully approved and if the State Council approves the use of the sea, the maritime administrative department of the State Council shall register it in detail lists, and issue a certificate to the applicant indicating the right to use sea areas. If the application for using sea areas is approved by the local people's government, the local people's government shall register it in detailed lists, and issue a certificate to the applicant indicating the right to use sea areas. The applicant for using sea areas shall obtain the right to use sea areas on the day when he obtains the certificate of using sea areas.

**Article 20** The right to use sea areas may not only be obtained in the way as mentioned in Article 19 of this Law, it may also be obtained by way of tenders or auctions. The plans of tenders and auctions shall be formulated by the maritime administrative departments and shall be submitted to the competent people's government for approval and implementation. The maritime administrative departments shall, when working out plans for tenders or auctions, solicit the advice of other relevant departments on the same level.

When the tender or auction finishes, the bid-winner or auction winner shall be issued a certificate of right to use sea areas. The bid winner or auction winner shall obtain the right to use sea areas on the day when he obtains the certificate.

**Article 21** Any certificate of rights to use sea areas granted shall be publicized to the general public.

No fees other than the royalty for using sea areas may be lawfully charged for the granting of certificates of right to use sea areas.

The measures for the issuance and administration of certificates of right to use sea areas shall be formulated by the State Council.

**Article 22** If any sea area has already used for aquatic breeding under the management and administration of rural collective economic organizations or villagers' committee prior to the implementation of this Law, and if it is in conformity with the functional divisions of the sea and approval of the local people's government on the county level has been obtained, the right to use sea areas may remain with the rural collective economic organization or villagers' committee so that the sea areas may be contracted by the members of the collective economic organizations for aquatic breeding.

**Article 23** The right of holder of the right to lawfully use sea areas and obtain proceeds shall be protected by law, and may not be infringed upon by any entity or individual.

The holder of the right to use sea areas shall bear the obligation of

protecting and rationally using sea areas; the holder of the right to use sea areas may not hinder the non-exclusive use of the sea so that it does not hamper its use of the sea areas.

**Article 24** The holder of the right to use sea areas may not, during the term of using the sea areas, engage in the basic mapping of the sea without being approved by law.

If the holder of the right to use the natural resources or the natural conditions of the sea areas under his use are undergoing remarkable changes, he shall report to the maritime administrative department in a timely way.

**Article 25** The maximum term for using sea areas shall be defined according to the following purposes:

1. 15 years for aquatic breeding;
2. 20 years for ship breaking;
3. 25 years for tourism and entertainment;
4. 30 years for salt production and mineral exploitation;
5. 40 years for public interests;
6. 50 years for construction projects including ports, shipbuilding factories, etc.

**Article 26** When the term for using the sea area expires, the right holder may, if he needs to continue the use of the sea area, apply to the people's government that approved the use of the sea for renewal no later than 2 months prior to the expiration. Unless for public interest or the security of the state which necessitates the withdrawal of the right to use the sea areas, the people's government that made the approval shall approve the renewal. Where renewal is approved, the holder of the right to use the sea areas shall pay, as pursuant to the provisions of law, corresponding royalties for the renewed use of the sea areas.

**Article 27** If it is necessary to alter the holder of the right to use sea areas due to corporate merger, separation or setting up equity joint ventures or cooperative enterprises, approval of the people's government that made the approval shall be obtained.

The right to use sea areas may be lawfully transferred. The specific measures for the transfer of the right to use sea areas shall be formulated by the State Council.

The right to use the sea areas may be inherited.

**Article 28** The holder of the right to use the sea areas shall not change the approved uses of the sea areas without authorization. Where it is necessary to change, the change shall be in conformity with the functional divisions of the sea and approval of the people's government that made the approval shall be obtained.

**Article 29** Where the right to use sea areas expires and no application for renewal is made or the application for renewal is not approved, the right to use sea areas shall be terminated.

After the termination of the right to use sea areas, the original right holder shall dismantle all facilities and buildings for the use of the sea that may cause environmental pollution or affect the use of the sea in other projects.

**Article 30** For the purpose of public interest or the security of the state, the people's government shall made the approval may lawfully take back the right to use sea areas.

If the right to use sea areas is withdrawn pursuant to the provisions of the preceding paragraph prior to the expiration of the term of use, appropriate compensations shall be made to the right holder.

**Article 31** Any dispute arising from the use of sea areas that could not be settled

through negotiations shall be settled through mediation by the maritime administrative department of the people's government on the county level or above. The parties to the dispute may also institute directly a suit at the people's court.

Before the dispute over the use of sea areas is settled, no party may change the status quo of using the sea areas.

**Article 32** The land emerged after the project of filling up the sea finishes shall belong to the state.

The holder of the right to use sea areas shall, within three months after the completion of the project of filling up the sea, apply, by presenting the certificate of the right to use the sea areas, to the land administrative department of the people's government on the county level or above for registration. The people's government on the county level or above shall register the land in detailed lists, reissue a certificate of the right to use state-owned land and confirm the right to use the land.

## Chapter V Royalties for Using Sea Areas

**Article 33** The state practices the system of using sea areas on the paid basis.

Any entity or individual that uses a sea area shall pay royalties for the use according to the rates as provided by the State Council. The royalties for using sea areas shall, pursuant to the provisions of the State Council, be turned over to the state treasury.

The concrete steps and measures for charging royalties for the use of sea areas by fishermen for breeding aquatics shall be separately formulated by the State Council.

**Article 34** The royalties for using sea areas may, according to the nature or circumstance of using the sea, be paid once for all or be paid on the yearly basis as pursuant to relevant provisions.

**Article 35** The use of the sea for the following purposes shall be exempted from paying royalties:

1. military purposes;
2. quays specifically used by official vessels;
3. traffic infrastructure facilities such as non-commercial sea routes and anchorage ground;
4. non-business use of the sea for public interests including teaching, research, prevention and relief of disasters, search and salvage of shipwreck, etc.

**Article 36** The royalties for the use of the sea for the following purposes may, pursuant to the provisions of the public fiscal department of the State Council and the maritime administrative department of the State Council, and upon the approval of the public fiscal department and the maritime administrative department of competent people's governments, be paid at reduced rates or be exempted:

1. for public facilities;
2. for key construction projects of the state;
3. for aquatic breeding.

## Chapter VI Supervision and Inspection

**Article 37** The maritime administrative department of the people's government on the county level and above shall strengthen the supervision and inspection of the

use of sea areas.

The public fiscal department of the people's government on the county level and above shall strengthen the supervision and inspection of the payment of royalties for using sea areas.

**Article 38** The maritime administrative department shall lay emphasis on building a good team and raise the political and professional qualities of the people responsible for supervising and inspecting the use of sea areas. The people responsible for supervising and inspecting the use of sea areas shall be impartial, devoted, upright and clean in the enforcement of laws, show good manners in providing services, and shall accept the lawful supervision of other people.

The maritime administrative department and the staff members thereof shall not engage in the production or management relating to the use of sea areas.

**Article 39** The maritime administrative department of the people's government on the county level and above shall be entitled to take the following measures when discharging their duties of supervision and inspection:

1. requesting the entity or individual subject to inspection to submit relevant documents and materials to justify the use of sea areas;
2. requesting the entity or individual subject to inspection to make statements about relevant issues with regard to the use of sea areas;
3. entering the sea area under the use of an entity or individual subject to inspection for perambulation;
4. ordering the parties concerned to stop the lawbreaking acts in process.

**Article 40** The persons responsible for supervising and inspecting the use of sea areas shall, in discharging their supervision and inspection duties, show valid certificates of law enforcement.

The relevant entities and individuals shall facilitate the supervision and inspection of the maritime administrative departments, and shall not refuse or hinder the law enforcement of the supervising and inspecting people.

**Article 41** The competent departments that exercises the power of supervision and inspection as pursuant to the provisions of law shall, in their enforcement on the sea, cooperate closely with each other and give mutual support so as to jointly safeguard the ownership of the state and lawful rights and interests of the right holders.

## Chapter VII Legal Liabilities

**Article 42** Any one who illegally occupies any sea areas without approval or with fraudulently obtained approval shall be ordered to return the illegally occupied sea areas, recover them to their original state with the illegal gains be confiscated and shall be imposed upon a fine of not less than 5 times but not more than 15 times the amount of royalties that should have been paid according to the size of the sea areas during the illegal occupation. Any one who encircles or fills up any part of the sea without approval or with fraudulently obtained approval shall be imposed upon a fine of not less than 10 times but not more than 20 times the amount of royalties that should have been paid according to the size of the sea areas during the illegal use.

**Article 43** If any entity that is not entitled to approve the use of sea areas illegally approves the use of sea areas or approves the use of sea areas beyond its power or fails to approve the use of sea areas according to the functional divisions of the sea, the approving documents shall be invalid, and the sea areas under illegal use shall be taken back. The person-in-charge who is directly responsible for the approval and other persons who are held to be directly

responsible shall be given an administrative punishment.

**Article 44** If any one violates the provisions of Article 23 of this Law by hampering or disturbing the right holder to use sea areas, the right holder may plead the maritime administrative department to remove the hindrance, or institute a suit at the people's court. If any losses have resulted, he may also plead for damages.

**Article 45** Any one who violates the provisions of Article 26 of this Law by continuing the use of sea areas after the expiration of his right without going through relevant procedures shall be ordered to go through the procedures within a stipulated time limit and be fined not less than 10,000 yuan. If he refuses to go through the procedures, he shall be held to be illegally using the sea areas.

**Article 46** Any one who violates the provisions of Article 28 of this Law by changing the uses of the sea areas shall be ordered to make corrections within a stipulated time limit with the illegal gains be confiscated and shall be imposed upon a fine of not less than 5 times but more than 15 times the amount of the royalties that should have been paid according to the size of sea areas for the illegal change of the uses of the sea areas. If he refuses to make corrections, the people's government that granted the certificate of right to use sea areas shall write off the certificate and rescind right to use the sea areas.

**Article 47** If the original right holder violates the provisions of Article 29 of this Law by failing to dismantle the facilities or buildings within the stipulated time limit after the termination of the right to use sea areas, he shall be ordered to dismantle within a stipulated time limit. If he refuses to dismantle after the expiration of the time limit, he shall be fined an amount of not more than 50,000 yuan and the maritime administrative department of the people's government on the county level or above may entrust relevant entity to dismantle with the expenses therefor be borne by the original right holder.

**Article 48** Any one who should, pursuant to the provisions of this Law, pay the royalties on the yearly basis but fails to make the payment in good time shall be ordered to make the payment within a time limit. If he still refuses to make the payment within the time limit, the people's government that granted the certificate of right to use sea areas shall write off the certificate and rescind the right to use the sea areas.

**Article 49** Any one who refuses to accept the supervision or inspection or fails to provide truthful information or other relevant materials as against the provisions of this Law shall be ordered to make corrections within a stipulated time limit, be given a warning and be fined an amount of not more than 20,000 yuan.

**Article 50** The administrative punishments as mentioned in this Law shall be decided by the maritime administrative department of the people's government on the county level or above within their respective functions with the exception of those for which this Law has provided the organ to give punishments.

**Article 51** If the maritime administrative department of the State Council and that of the people's government on the county level or above grants any certificate of right to use sea areas as against the provisions of this Law or fails to discharge its duty of supervision or administration after granting the certificate or fails to make investigations of and punishes illegal acts, the person-in-charge who is directly responsible and other persons who are held to be directly responsible shall be given an administrative punishment; any staff member who is guilty of malpractice for private gains, misuses power or neglects his duties and a criminal offence has been constituted, criminal liabilities shall be investigated.

## Chapter VIII Supplementary Provisions

**Article 52** If any exclusive use of any specific part of the sea within the interior waters or territorial seas for not more than three months may have great effect on the national defense, maritime traffic or other use of the sea, a provisional certificate of right to use sea areas shall be obtained as pursuant to the provisions of this Law.

**Article 53** The measures for the use of the sea for military purposes shall be formulated by the State council and the Central Military Committee in accordance with this Law.

**Article 54** This Law shall become effective as of January 1, 2002.

