Law of the PRC on the Administration of the Use of Sea Areas

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Chapter I — General Provisions

Article 1 — This Law is enacted in order to strengthen the administration of the use of sea areas, safeguard the State's ownership of sea areas and the lawful rights and interests of the users of sea areas, and promote the rational development and sustainable utilization of the sea areas.

Article 2 — For purposes of this Law, "sea areas" shall mean the internal waters and the territorial sea of the People's Republic of China.

This Law shall not apply to the use of sea areas within the offshore areas under the jurisdiction of the People's Republic of China for activities such as scientific research, navigation, fishing, and other activities permitted under international law and the laws of the People's Republic of China.

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The units and individuals that continuously use a specific sea area for three months or more within the internal waters and territorial sea of the People's Republic of China shall abide by this Law.

Article 3 — Sea areas shall be owned by the State. The State Council shall exercise the right of ownership of sea areas on behalf of the State. No unit or individual may encroach upon, trade in, or illegally transfer sea areas by any other means.

Article 4 — The State shall practise a system of administration of the use of sea areas by function zones. The use of sea areas must comply with the zoning of marine functions.

The State shall strictly control the conversion of sea areas into land through reclamation.

Article 5 — The State shall establish a system of registration of the right to use sea areas and a statistical system for the use of sea areas in accordance with law.

The right to use sea areas obtained in accordance with law shall be protected by law.

Article 6 — The State shall establish a system of compensated use of sea areas. Entities and individuals using sea areas shall pay fees for the use of sea areas in accordance with the provisions of the State Council.

Article 7 — The competent department of natural resources of the State Council shall be responsible for the unified supervision and administration of the use of sea areas throughout the country.

The competent departments of natural resources of the local people's governments at or above the county level shall, in accordance with their authorization, be responsible for the supervision and administration of the use of sea areas within their respective administrative areas.

The competent department of marine administration of the people's government at the coastal county level or above shall, in accordance with their authorization, be responsible for the supervision and administration of the use of sea areas within their respective administrative areas.

Chapter II — Administration of the Use of Sea Areas by Function Zones

Article 8 — The State shall practise a system of zoning of marine functions. Marine function zoning shall be prepared in accordance with the following principles:

(1) arranging scientifically the use of sea areas in accordance with the natural attributes such as the geographical location, natural resources, and environmental conditions of the sea areas;

(2) safeguarding the State's maritime rights and interests and the needs of national defense and security;

(3) safeguarding the sustainable utilization of marine resources and protecting the marine ecological environment;

(4) preserving the dominant marine functions of the sea areas and making overall arrangements for the use of sea areas by various industries; and

(5) ensuring the economic and social benefits of the use of sea areas.

Article 9 — Marine function zoning shall be subject to graded examination and approval. The national marine function zoning shall be submitted by the competent department of natural resources of the State Council to the State Council for approval. The marine function zoning of coastal provinces, autonomous regions, and municipalities directly under the Central Government shall, upon consent by the people's government at the same level and examination by the competent department of natural resources of the State Council, be submitted to the State Council for approval. The marine function zoning of coastal cities and counties shall be submitted by the people's government at the same level to the people's government of the relevant province, autonomous region, or municipality directly under the Central Government for approval upon examination and consent by the competent department of natural resources of the people's government of

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the province, autonomous region, or municipality directly under the Central Government, and shall be reported to the competent department of natural resources of the State Council for record-filing.

Article 10 — Marine function zoning shall, upon approval, be announced to the public, except for those portions involving State secrets.

Article 11 — Where any of the following circumstances arises, the marine function zoning may be amended:

(1) a major change occurs in the natural attributes of the sea area;

(2) there is a significant adjustment in the State policy for the development and utilization of the sea areas; or

(3) the national defense and security needs require it.

No amendment to the marine function zoning may be made without the approval of the original examination and approval organ.

Chapter III — Application and Approval of the Right to Use Sea Areas

Article 12 — Entities and individuals may, in accordance with law, apply to the competent department of natural resources of the people's government at or above the county level for the right to use sea areas.

To apply for the right to use sea areas, the applicant shall submit the following written materials:

(1) an application for the use of sea areas;

(2) the relevant qualification certificates of the applicant;

(3) an assessment of the impact of the use of sea areas on the marine environment;

(4) materials on the sea area use demonstrating that the use complies with the marine function zoning; and

(5) other written materials required by laws and regulations.

Article 13 — The competent department of natural resources of the people's government at or above the county level shall, in accordance with the marine function zoning, examine the application for the use of sea areas and shall, in accordance with the provisions of this Law and the relevant laws and regulations of the people's governments of the relevant provinces, autonomous regions, and municipalities directly under the Central Government, submit it for approval.

The use of sea areas shall be subject to approval by the State Council for the following:

(1) the reclamation of sea areas;

(2) the use of sea areas for a project that involves an area of 700 hectares or more; or

(3) the use of sea areas for other purposes involving an area of 1,000 hectares or more.

The use of sea areas other than those specified in the preceding paragraph shall be subject to the approval limits and procedures prescribed by the State Council.

Article 14 — The term of the right to use sea areas shall be determined in accordance with the following provisions:

(1) 50 years for aquaculture;

(2) 25 years for salt production;

(3) 25 years for recreational purposes;

(4) 30 years for the construction of engineering works using sea areas; and

(5) 50 years for other sea area use activities such as the laying of submarine cables and pipelines.

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Article 15 — Upon approval of the application for the right to use sea areas, the right shall be registered and a certificate of the right to use sea areas shall be issued by the people's government that approved the application. The user of the sea areas shall commence development and utilization activities only after obtaining the certificate of the right to use sea areas in accordance with law.

The user of sea areas shall not change the approved purpose of use of the sea areas without authorization. Where it is truly necessary to change the purpose, it shall be subject to approval by the original approving organ in accordance with law.

Article 16 — Where the right to use sea areas is disputed, the parties shall settle the dispute through consultation; if consultation fails, the competent department of natural resources of the people's government at or above the county level shall mediate; if mediation fails, the parties may institute an action in a people's court.

Pending the settlement of a dispute over the right to use sea areas, no party may change the status quo of the use of the sea areas.

Article 17 — Where the people's government at or above the county level needs to recover the right to use sea areas due to the public interest or national security, it shall handle the matter in accordance with law and give corresponding compensation to the original user of the sea areas.

Article 18 — The right to use sea areas may be transferred or leased in accordance with law, provided that it is subject to approval by the original approving organ. Specific measures shall be prescribed by the State Council.

Article 19 — Where the right to use sea areas is mortgaged, the mortgagor and the mortgagee shall enter into a written contract and undergo mortgage registration with the original registration organ.

Article 20 — The right to use sea areas shall be terminated upon the expiry of the term of the right. Where it is necessary to continue using the sea areas, an application for renewal shall be submitted to the original approving organ at least two months prior to the expiry of the term.

Where the original approving organ approves renewal, the right holder shall undergo renewal registration in accordance with law.

Chapter IV — Fees for the Use of Sea Areas

Article 21 — The State shall practise a system of compensated use of sea areas.

Entities and individuals using sea areas shall pay fees for the use of sea areas in accordance with the provisions of the State Council.

Article 22 — The following uses of sea areas may be exempted from or subject to a reduction of fees for the use of sea areas upon approval in accordance with law:

(1) the use of sea areas for public welfare purposes such as public navigation routes and marine environmental protection;

(2) the use of sea areas for national major projects such as those relating to energy and transport; or

(3) other uses of sea areas for which fees may be exempted or reduced in accordance with laws and administrative regulations.

Article 23 — The fees for the use of sea areas shall be turned over to the State treasury in full in accordance with the provisions of the State Council and shall be incorporated into the budget for management.

Article 24 — Specific measures for the collection, use, and administration of fees for the use of sea areas shall be prescribed by the State Council.

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Chapter V — Supervision and Inspection

Article 25 — The competent department of natural resources of the people's government at or above the county level shall strengthen the supervision and inspection of the use of sea areas.

When performing their duties of supervision and inspection, the functionaries of the competent department of natural resources of the people's government at or above the county level shall have the right to take the following measures:

(1) requiring the unit or individual under inspection to provide documents and materials relating to the use of sea areas;

(2) requiring the unit or individual under inspection to make explanations on issues relating to the use of sea areas;

(3) entering the site being used by the unit or individual under inspection to conduct survey, photographing, and inspection; and

(4) ordering the parties concerned to cease the illegal acts that are in progress.

Article 26 — When performing their duties of supervision and inspection, the functionaries of the competent department of natural resources shall produce their valid administrative law enforcement certificates.

Article 27 — Relevant units and individuals shall support and cooperate with the supervision and inspection conducted by the competent department of natural resources of the people's government at or above the county level and shall provide convenience, and shall not refuse to do so or obstruct such supervision and inspection by the functionaries of the competent department of natural resources in the performance of their duties.

Article 28 — Where the competent department of natural resources of the people's government at or above the county level, in performing its duties of supervision and inspection, discovers an illegal act, it shall investigate and handle the case in accordance with law. Where the case shall be handled by another department, it shall transfer the case to the relevant department in a timely manner.

Chapter VI — Legal Liability

Article 29 — Where the use of sea areas without authorization is in violation of the marine function zoning, the competent department of natural resources of the people's government at or above the county level shall order the violator to return the illegally used sea areas, restore the original condition of the sea areas, confiscate the illegal gains, and impose a fine of not less than five times and not more than 15 times the fee for the use of the sea areas; where the circumstances are serious, a fine of not less than 15 times and not more than 20 times the fee for the use of the sea areas shall be imposed.

Article 30 — Where the use of sea areas without authorization does not violate the marine function zoning, the competent department of natural resources of the people's government at or above the county level shall order the violator to complete the formalities within a specified time limit and impose a fine of not less than the fee for the use of the sea areas and not more than three times the fee for the use of the sea areas; where the formalities are not completed within the time limit, the use of the sea areas without authorization shall be ordered to cease.

Article 31 — Where the purpose of use of the sea areas previously approved is changed without authorization, the competent department of natural resources of the people's government at or above the county level shall order that the change be corrected within a specified time limit and impose a fine of not less than five times and not more than 15 times the fee for the use of the sea areas; where the change is not corrected within the time limit, the certificate of the right to use sea areas shall be revoked and the right to use the sea areas shall be recovered.

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Article 32 — Where the right to use sea areas is not renewed upon the expiry of the term, continued use of the sea areas shall be ordered to cease, and a fine of not less than five times and not more than 15 times the fee for the use of the sea areas shall be imposed.

Article 33 — Where the fees for the use of sea areas are not paid in full and on time, the competent department of natural resources of the people's government at or above the county level shall order payment within a specified time limit; where the fees are not paid within the time limit, a fine of not less than 0.05% and not more than 0.1% of the overdue amount for each day overdue shall be imposed.

Article 34 — Where any functionary of the competent department of natural resources of the people's government at or above the county level commits any of the following acts in the course of the supervision and administration of the use of sea areas, criminal liability shall be investigated in accordance with law if a crime is constituted; where a crime is not constituted, administrative sanctions shall be imposed in accordance with law:

(1) approving the use of sea areas in violation of the marine function zoning without following the statutory requirements;

(2) issuing a certificate of the right to use sea areas in violation of the provisions of this Law; or

(3) discovering an illegal act of using sea areas but failing to investigate and handle it in accordance with law.

Chapter VII — Supplementary Provisions

Article 35 — Matters concerning the use of sea areas by military installations shall be prescribed separately by the State Council and the Central Military Commission in accordance with this Law.

Article 36 — The right to use sea areas obtained in accordance with the provisions of this Law shall be protected during the term of use. Where a sea area is needed for the expropriation of land for construction due to natural changes or the reclamation of such sea area, the use of the sea area shall be terminated, and the original user of the sea area shall be compensated in accordance with the relevant State provisions.

Article 37 — This Law shall enter into force on January 1, 2002.

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