

Law on the Protection of Offshore Islands of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com
Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Protection Planning	2
Chapter III — Protection of Offshore Islands	2
Chapter IV — Development and Utilization	3
Chapter V — Special Protection	3
Chapter VI — Supervision and Inspection	3
Chapter VII — Legal Liability	4
Chapter VIII — Supplementary Provisions	4

Adopted at the 12th Meeting of the Standing Committee of the Eleventh National People's Congress on December 26, 2009
Effective: March 1, 2010

Table of Contents

- Chapter I — General Provisions
- Chapter II — Protection Planning
- Chapter III — Protection of Offshore Islands
- Chapter IV — Development and Utilization
- Chapter V — Special Protection
- Chapter VI — Supervision and Inspection
- Chapter VII — Legal Liability
- Chapter VIII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of protecting offshore islands and their surrounding sea areas, safeguarding the sovereignty and territorial integrity of the State, and promoting the sustainable development of the economy and society.

Article 2 — This Law applies to the protection, development, and utilization of offshore islands within the territory of the People's Republic of China and their surrounding sea areas. For the purposes of this Law,

"offshore islands" refer to naturally formed land areas that are surrounded by seawater and are above the water surface at high tide. The protection and management of offshore islands utilized for special purposes such as national defense shall be governed by the relevant State regulations.

Article 3 — The protection and management of offshore islands shall follow the principles of scientific planning, giving priority to protection, rational development, and sustainable utilization.

Article 4 — Offshore islands without inhabitants shall be owned by the State, and no entity or individual may occupy, trade, or illegally transfer such islands.

Article 5 — The State Council and the people's governments in coastal regions shall incorporate the protection, development, and utilization of offshore islands into their national economic and social development plans, adopt effective measures to strengthen the protection and management of offshore islands, and prevent the ecological environment of offshore islands and their surrounding sea areas from being damaged.

Article 6 — The oceanic administrative department under the State Council and the relevant government departments under the State Council shall, in accordance with their respective duties, be responsible for the protection, development, and utilization of offshore islands nationwide. The oceanic administrative departments and other relevant departments of the people's governments in coastal regions shall, in accordance with their respective duties, be responsible for the protection, development, and utilization of offshore islands within their administrative areas.

Article 7 — The State shall encourage and support scientific research on the protection and management of offshore islands, promote the application of advanced technologies, and popularize knowledge of the protection of offshore islands.

Chapter II — Protection Planning

Article 8 — The State shall implement a system of protection planning for offshore islands. The oceanic administrative department under the State Council shall, in conjunction with the relevant government departments, organize the preparation of a national protection plan for offshore islands and submit it to the State Council for examination and approval.

Article 9 — The preparation of protection plans for offshore islands shall follow the principles of improving the ecological environment of offshore islands, promoting the sustainable development of offshore islands, and safeguarding national security.

Article 10 — Protection plans for offshore islands shall include the classification of offshore islands, the objectives and tasks of protection, the key areas for protection, and the measures for protection.

Article 11 — The oceanic administrative departments of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government in coastal regions shall, in accordance with the national protection plan for offshore islands, prepare protection plans for offshore islands within their respective administrative areas.

Chapter III — Protection of Offshore Islands

Article 12 — The State Council shall strengthen the protection of the names of offshore islands. The oceanic administrative department under the State Council shall, in conjunction with the relevant government departments, formulate and publish a directory of the names of offshore islands.

Article 13 — No entity or individual may damage the vegetation, topography, geomorphology, or coastal landscape of offshore islands. Activities such as quarrying, sand excavation, and tree felling on offshore islands shall not damage the ecological environment of offshore islands and their surrounding sea areas.

Article 14 — The construction of buildings and structures on offshore islands shall comply with the protection plan for offshore islands and shall not damage the ecological environment of offshore islands and their surrounding sea areas.

Article 15 — The discharge of pollutants into the sea areas surrounding offshore islands shall comply with the relevant State regulations and standards and shall not cause pollution damage to the environment of offshore islands and their surrounding sea areas.

Article 16 — It is prohibited to alter the coastline of offshore islands without authorization. Where it is truly necessary to alter the coastline due to the needs of economic and social development, such alteration shall be subject to scientific verification and approval in accordance with the law.

Article 17 — The State shall protect the rare and endangered species and their habitats on offshore islands. It is prohibited to hunt, kill, or collect rare and endangered species on offshore islands and in their surrounding sea areas, or to damage their habitats.

Chapter IV — Development and Utilization

Article 18 — The development and utilization of offshore islands shall comply with the protection plan for offshore islands and shall not cause damage to the ecological environment of offshore islands and their surrounding sea areas.

Article 19 — The development and utilization of uninhabited offshore islands shall be subject to application and approval in accordance with the law. No entity or individual may develop or utilize uninhabited offshore islands without approval. The specific measures for the examination and approval of applications for the development and utilization of uninhabited offshore islands shall be formulated by the State Council.

Article 20 — Where the approved development and utilization involves construction activities, such activities shall be conducted in accordance with the approved plan and shall not exceed the approved scope.

Article 21 — The State shall implement a system of compensation for the use of uninhabited offshore islands. Entities and individuals that develop and utilize uninhabited offshore islands with approval shall pay fees for the use of uninhabited offshore islands in accordance with the relevant State regulations. The specific measures for the collection and use of such fees shall be formulated by the financial department and the oceanic administrative department under the State Council.

Article 22 — Where offshore islands are developed and utilized for purposes such as transportation, communications, meteorology, and ocean observation in the public interest, the State shall provide support through appropriate means such as exemption from or reduction of the fees for use.

Chapter V — Special Protection

Article 23 — Offshore islands with special conservation value such as those of great significance to the protection of the marine ecological environment, those rich in biodiversity, and those with unique natural landscapes and cultural heritage shall be subject to special protection.

Article 24 — The oceanic administrative department under the State Council shall, in conjunction with the relevant government departments, designate offshore islands subject to special protection and publish a directory thereof. The development and utilization of offshore islands subject to special protection shall be strictly restricted.

Article 25 — Offshore islands of great significance to national security and the protection of national rights and interests shall be designated as offshore islands of special use and shall be subject to strict protection and management. The specific measures shall be formulated by the State Council.

Chapter VI — Supervision and Inspection

Article 26 — The oceanic administrative departments of the people's governments at or above the county level and their marine surveillance agencies shall conduct supervision and inspection of the protection, development, and utilization of offshore islands in accordance with the law.

Article 27 — The oceanic administrative departments and their marine surveillance agencies shall have the power to require the entities and individuals under inspection to provide documents and materials relating to the protection, development, and utilization of offshore islands and to conduct on-site inspections.

Article 28 — Entities and individuals under inspection shall cooperate with the supervision and inspection and shall truthfully provide the relevant documents and materials. No entity or individual may refuse or obstruct the supervision and inspection conducted in accordance with the law.

Chapter VII — Legal Liability

Article 29 — Where an entity or individual, in violation of this Law, develops or utilizes an uninhabited offshore island without approval, the oceanic administrative department shall order the entity or individual to cease the illegal activity and restore the island to its original state; where the case is serious, a fine shall be imposed.

Article 30 — Where an entity or individual, in violation of this Law, damages the ecological environment of an offshore island or its surrounding sea areas, the oceanic administrative department shall order the entity or individual to make corrections and impose a fine; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 31 — Where a staff member of an oceanic administrative department or other relevant government department abuses his or her power, neglects his or her duties, or engages in malpractices for personal gain, he or she shall be subject to administrative sanctions in accordance with the law; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VIII — Supplementary Provisions

Article 32 — The protection and management of offshore islands utilized for national defense purposes shall be separately prescribed by the State Council and the Central Military Commission.

Article 33 — This Law shall come into effect on March 1, 2010.

Disclaimer: This English translation is provided for reference and informational purposes only. It is not an official translation and has no legal effect. The official Chinese text of the Law of the People's Republic of China on the Protection of Offshore Islands shall prevail in all legal and administrative matters. While every effort has been made to ensure accuracy, Dan Young Business Consultancy makes no warranty, express or implied, as to the accuracy, completeness, or fitness for any particular purpose of this translation. Readers should consult qualified legal professionals for advice on specific matters concerning Chinese offshore islands law. This translation reflects the law as adopted on December 26, 2009.