

Act on Ensuring the Proper Domestic Distribution and Importation of Specified Aquatic Animals and Plants (Act No. 79 of December 11, 2020)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to ensure the proper domestic distribution, import and export of specified aquatic animals and plants, etc. by taking measures such as requiring business operators handling the aquatic animals and plants, etc. to communicate information among them, to make and keep transaction records, and to attach documents at the time of import/export certifying that those specified aquatic animals and plants were caught or gathered legally, so as to prevent the distribution of illegally caught or gathered aquatic animals and plants, and thereby to contribute to the prevention of illegal fishing and to the sustainable use of fishery resources as well as to the sound development of the fisheries and the related industries, in view of the fact that there is a risk that domestic fishery resources are decreased due to the distribution of aquatic animals and plants illegally caught or gathered in Japan and that there is an increasing international need to prevent the import of aquatic animals and plants, etc. that were illegally caught or gathered overseas.

(Definition)

Article 2 The term “Class I Aquatic Animals and Plants” as used in this Act means aquatic animals and plants that are recognized to be under significant risk of illegal and excessive catching or gathering in Japan (excluding catching or gathering by foreign fishing vessels, meaning non-Japanese-flagged vessels with fishing equipment or otherwise used for fishing purposes; the same applies in paragraph (4)) and thus stipulated in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries as those to be recognized to be particularly in need for conservation and management.

(2) The term “Class I Aquatic Animals and Plants, etc.” as used in this Act means Class I Aquatic Animals and Plants and processed products which are made of or from any of the Class I Aquatic Animals and Plants, stipulated in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries as those to be recognized to be in need to take measures to regulate their domestic distribution.

(3) The term “business operator handling Class I Aquatic Animals and Plants, etc.” as used in this Act means a person/entity (organization) that is engaged in the business of selling, exporting, processing, manufacturing or providing any of the Class I Aquatic Animals and Plants, etc.

(4) The term “Class II Aquatic Animals and Plants” as used in this Act means aquatic animals and plants imported into Japan and those that are stipulated in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries to be recognized to be illegally caught or gathered with significant risk by foreign fishing vessels under foreign laws and/or to be recognized to be in need for taking import measures by reasons that international conservation and management measures of fisheries resources are necessary.

(5) The term “Class II Specified Aquatic Animals and Plants, etc.” as used in this Act means Class II Aquatic Animals and Plants and processed products which are made of or from any of the Class II Aquatic Animals and Plants, stipulated in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, which are recognized that there is a necessity for taking measures regarding import regulation.

(6) When the Minister of Agriculture, Forestry and Fisheries is going to establish or amend the Ordinance of the Ministry of Agriculture, Forestry and Fisheries referred to in paragraph (1) and (4), he/she shall hear the opinions of the Fisheries Policy Council in advance.

Chapter II Regulations on Class I Aquatic Animals and Plants, etc.

(Notification by Persons/Entities (Organizations) Engaged in the Business of Catching or Gathering Class I Aquatic Animals and Plants)

Article 3 (1) A person/entity (organization) that is engaged in the business of catching or gathering a Class I Aquatic Animal and Plant and that intends to be engaged in the business of transferring the Class I Aquatic Animal and Plant caught or gathered by the person/entity (organization) or any Class I Aquatic Animal and Plant, etc. which are processed products made of or from that Class I Aquatic Animal and Plant (or, in case the organization to which the person/entity (organization) belongs intends to be engaged in the business of transferring these Class I specified Aquatic Animal and Plant, etc. on behalf of the person/entity (organization), that organization) shall notify the Minister of Agriculture, Forestry and Fisheries, in advance, of the fact that the business of catching or gathering the Class I Aquatic Animal and Plant is conducted in accordance with the authority granted by the Fishery Act (Act No. 267 of 1949) or other relevant laws and regulations, as well as of other information specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(2) Upon receipt of the notification given under the provisions of the preceding paragraph, when the Minister of Agriculture, Forestry and Fisheries acknowledges that the person/entity (organization) that gave the notification has the authority referred to in the same paragraph (or, in cases where the notifier is the organization set forth in the same paragraph, when the Minister acknowledges that the person/entity (organization) that belongs to the organization has that authority), the Minister shall give him/her notice of the number associated with that notification pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) In the event of any changes in the information notified under paragraph (1) (including discontinuation of the business of catching or gathering the Class I Aquatic Animal and Plant in respect of which the notification was given), the person/entity (organization) that received the notice under the provisions of the preceding paragraph (hereinafter referred to as the “notifying catcher /gatherer”) shall notify the Minister of Agriculture, Forestry and Fisheries of the change within two weeks after the date of the change.

(Communication of Information by Notifying Catcher/Gatherer)

Article 4 When a notifying catcher/gatherer transfers the Class I Aquatic Animal and Plant caught or gathered by himself/herself (or, in case a notifying catcher/gatherer is an organization referred to in paragraph (1) of the preceding Article, the person/entity (organization) that belongs to that organization) or any Class I Aquatic Animal and Plant, etc. which are processed

products made of or from that Class I Aquatic Animal and Plant to another business operator handling Class I Aquatic Animals and Plants, etc., the notifying catcher/gatherer shall inform the other Class I Aquatic Animals and Plants, etc. handling business operator of the name of the Class I Aquatic Animal and Plant, etc., the number associated with the relevant catch or gather, including the number notified by the notice given under paragraph (2) of the same Article (hereinafter referred to as the “catch number”), and other information specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, by indicating the information on the packaging, containers or invoice of the class I Aquatic Animal and Plant, etc. or by other means pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(Communication of Information between Business Operators Handling Class I Specified Aquatic Animals/Plants, etc.)

Article 5 (1) In case a business operator handling Class I Aquatic Animals and Plants, etc., to whom a Class I Aquatic Animal and Plant, etc. has been transferred from another business operator, transfers or delivers the Class I Aquatic Animal and Plant, etc. to another business operator handling Class I Aquatic Animals and Plants, etc., the transferor shall inform the transferee of the name of the Class I Aquatic Animal and Plant, etc., the catch number, and other information specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, by indicating the information on the packaging, containers or invoice of the Class I Aquatic Animal and Plant, etc. or by other means pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(2) In the case referred to in the preceding paragraph, the transferor of Class I Aquatic Animals and Plants, etc. may inform a lot number (meaning a number or code which is not the catch number but corresponds to the catch number; the same applies hereinafter) instead of the catch number, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) In case a business operator handling Class I Aquatic Animals and Plants, etc. is entrusted by another handling business operator to deliver a Class I Aquatic Animal and Plant, etc. and inform a lot number at the time of delivery pursuant to the provisions of the preceding paragraph, the entrusted business operator handling Class I Aquatic Animals and Plants, etc. shall inform the lot number to the entrusting business operator handling Class I Aquatic Animals and Plants, etc. pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(4) When applying the provisions of paragraph (1) to a Class I Aquatic Animal and Plant that has been imported or cultured (excluding a Class I Aquatic Animal and Plant caught or gathered and cultured in Japan) or to a Class I Aquatic Animal and Plant, etc. which are processed products made of or from that Class I Aquatic Animal and Plant (hereinafter collectively referred to as “imported/cultured aquatic animals and plants, etc.”), the term “catch number” in the same paragraph is deemed to be replaced with “the fact that the Class I Aquatic Animal and Plant, etc. are imported/cultured aquatic animals/plants, etc. set forth in paragraph (4).”

(Preparation and Preservation of Transaction Records)

Article 6 When a business operator handling Class I Aquatic Animals and Plants, etc. carries out a transfer etc. (meaning a transfer, acceptance thereof, a delivery and acceptance thereof; the same applies hereinafter) of a Class I Aquatic Animal and Plant, etc. with another business operator handling Class I Aquatic Animals and Plants, etc. (including any persons/entities (organizations) specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries as similar to a business operator handling Class I Aquatic Animals and Plants, etc.) or disposes of or loses a Class I Aquatic Animal and Plant, etc., the first-mentioned business operator handling Class I Aquatic Animals and Plants, etc. shall prepare a record of the following information on the Class I Aquatic Animal and Plant, etc. pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries and shall keep the record for the period specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries from the date of the transfer etc. or the disposal or loss. However, this does not apply to: cases where the notifying catcher/gatherer is the organization referred to in Article 3, paragraph (1) and where the person/entity (organization) that belongs to the organization carried out the transferring etc. of the Class I Aquatic Animal and Plant, etc. in respect of which the notification was given; cases where a small amount of the Class I Aquatic Animal and Plant, etc. was disposed of or lost; or other cases specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries:

- (i) name;
- (ii) weight or quantity;
- (iii) date (or, in the case of a loss, its approximate date if the date is unknown) of the transferring etc. or the disposal or loss;
- (iv) in the case of transferring etc., the name of the other party thereto;
- (v) catch number or lot number; and
- (vi) any other information specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

- (2) In case a business operator handling Class I Aquatic Animals and Plants, etc. informs a lot number pursuant to paragraph (2) of the preceding Article, the business operator shall prepare and keep a record of the catch number corresponding to such lot number.
- (3) When applying the provisions of paragraph (1) to an imported/cultured aquatic animal/plant, etc., the term “catch number or lot number” in item (v) of the same paragraph is deemed to be replaced with “the fact that the Class I Aquatic Animal and Plant, etc. are imported or cultured aquatic animals and plants, etc.”

(Recommendations and Orders)

Article 7 (1) When the Minister of Agriculture, Forestry and Fisheries finds that a notifying catcher/gatherer is not in compliance with the provisions of Article 4, the Minister may recommend to the notifying catcher/gatherer to take necessary measures.

- (2) In case the Minister of Agriculture, Forestry and Fisheries finds that a business operator handling Class I Aquatic Animals and Plants, etc. is not in compliance with the provisions of either of the preceding two Articles, the Minister may make a recommendation to the business operator handling Class I Aquatic Animals and Plants, etc. to take necessary measures.
- (3) In case a notifying catcher/gatherer who received a recommendation as set forth in paragraph (1) or a business operator handling Class I Aquatic Animals and Plants, etc. who received a recommendation as set forth in the preceding paragraph fails to take the measures based on the recommendation without justification, the Minister of Agriculture, Forestry and Fisheries may order the notifying catcher/gatherer or the business operator handling Class I Aquatic Animals and Plants, etc., as the case may be, to take the measures based on the recommendation.

(Notification by Business Operator Handling Class I Aquatic Animals and Plants, etc.)

Article 8 A business operator handling Class I Aquatic Animals and Plants, etc. shall notify the Minister of Agriculture, Forestry and Fisheries of the following information pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries within two weeks after the date of commencement of its business. However, this does not apply to cases where the notifying catcher/gatherer (if the notifying catcher/gatherer is the organization referred to in Article 3, paragraph (1), including the person that belongs to the organization) is engaged in the business of selling, exporting, processing, manufacturing or providing the Class I Aquatic Animal and Plant, etc. in

respect of which the notification was given or to other cases specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries:

- (i) name and address of the business operator and, if a corporation, its representative's name;
- (ii) address of its office or place of business;
- (iii) type(s) of Class I Aquatic Animal(s) and Plant(s), etc. handled; and
- (iv) any other information specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(2) In the event of any changes in the information notified under the provisions of the preceding paragraph (including discontinuation of the business in respect of which the notification was given), the person/entity (organization) that gave the notification shall notify the Minister of Agriculture, Forestry and Fisheries of the change within two weeks after the date of the change.

(Reporting on Class I Specified Aquatic Animals and Plants, etc.)

Article 9 In case a business operator handling Class I Aquatic Animals and Plants, etc. suspects that any Class I Aquatic Animal and Plant, etc. (or, in case of processed products, the Class I Aquatic Animal and Plant of or from which the Class I Aquatic Animal and Plant, etc. were made) transferred from another business operator handling Class I Aquatic Animals and Plants, etc. have been caught or gathered in violation of the Fishery Act or any other relevant laws or regulations, the first-mentioned business operator handling Class I Aquatic Animals and Plants, etc. shall endeavor to promptly report the suspicion to the Minister of Agriculture, Forestry and Fisheries.

(Regulations on Exportation)

Article 10 A business operator handling Class I Aquatic Animals and Plants, etc. shall not export any Class I Aquatic Animal and Plant, etc. unless they are accompanied by a certificate issued by the Minister of Agriculture, Forestry and Fisheries certifying that the Class I Aquatic Animal and Plant, etc. (or, in case of processed products, the Class I Aquatic Animal and Plant of or from which the Class I Aquatic Animal and Plant, etc. were made) meets either of the requirements set forth in the following items (hereinafter referred to as a "legal harvest certificate"):

- (i) the Class I Aquatic Animal and Plant, etc. were not caught and/or gathered in violation of the Fishery Act or any other relevant laws or regulations; or
- (ii) the Class I Aquatic Animal and Plant, etc. are an imported or cultured aquatic animals and plants, etc.

(2) A person/entity (organization) who intends to receive a legal harvest certificate shall file an application with the Minister of Agriculture, Forestry

and Fisheries pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) In case the Minister of Agriculture, Forestry and Fisheries finds that the Class I Aquatic Animal and Plant, etc. (or, in case of processed products, the Class I Aquatic Animal and Plant of or from which the Class I Aquatic Animal and Plant, etc. were made) in respect of which an application has been filed under the preceding paragraph falls under either of the items of paragraph (1), the Minister shall issue a legal harvest certificate pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(4) In the event of loss or destruction of a legal harvest certificate issued to a person/entity (organization) (referred to as the “certificate recipient” in the following paragraph and paragraph (6)), the person/entity (organization) may receive a legal harvest certificate reissued by filing an application with the Minister of Agriculture, Forestry and Fisheries pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(5) In any of the events set forth in the following items, the certificate recipient shall return its legal harvest certificate (or, in the case of item (ii), the legal harvest certificate found or recovered) to the Minister of Agriculture, Forestry and Fisheries pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries:

(i) the legal harvest certificate is invalidated pursuant to the provisions of the following paragraph; or

(ii) the legal harvest certificate lost or destroyed is found or recovered after receipt of the legal harvest certificate reissued pursuant to the provisions of the preceding paragraph.

(6) In case a certificate recipient violates any provision of this Act or of an order issued under this Act or violates any disposition rendered under this Act, the Minister of Agriculture, Forestry and Fisheries may invalidate the legal harvest certificate.

Chapter III Regulations on Class II Aquatic Animals and Plants, etc.

Article 11 Class II Aquatic Animal and Plant, etc. shall not be imported into Japan without a catch certificate issued by a foreign government agency to certify that the Class II Aquatic Animal and Plant, etc. (in case of processed products, the Class II Aquatic Animal and Plant of or from which the Class II Aquatic Animal and Plant, etc. were made) were legally caught or gathered and other document(s) provided for in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

Chapter IV Miscellaneous Provisions

(On-site Inspection)

Article 12 (1) To the extent necessary for the enforcement of this Act, the Minister of Agriculture, Forestry and Fisheries may request a business operator handling Class I Aquatic Animals and Plants, etc., a person/entity (organization) that is engaged in the import business of any of the Class II Aquatic Animals and Plants, etc., or a business operator that has a business relationship with either of the above to submit necessary reports or books, documents or other materials related to its business operations, and/or may have the officials: enter their factories, stores, offices, places of business, vessels, vehicles, warehouses or other places of the business operator or the person/entity (organization), and/or inspect the conditions of its operations, the relevant Class I or Class II Aquatic Animal and Plant, etc., books, documents or other materials; or ask questions for its employees or other persons involved.

(2) An official who conducts an on-site inspection pursuant to the provisions of the preceding paragraph shall carry his/her identification and present it to relevant persons.

(3) The authority to conduct an on-site inspection under paragraph (1) shall not be interpreted as being granted for the purpose of criminal investigation.

(Delegation of Authority etc.)

Article 13 (1) A part of the authority of the Minister of Agriculture, Forestry and Fisheries stipulated by this Act may be delegated to the heads of local branch offices pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(2) A part of the duties that are under the authority of the Minister of Agriculture, Forestry and Fisheries stipulated by this Act may be undertaken by prefectural governors pursuant to the provisions of the Cabinet Order.

(Transitional Measures)

Article 14 If an order is established, revised or abolished under this Act, the order may specify necessary transitional measures (including transitional measures concerning penal provisions) to the extent reasonably deemed necessary for the establishment, revision or abolition of the order.

Chapter V Penal Provisions

Article 15 If the provisions of Article 11 are violated, the person/entity (organization) who commits the violation shall be punished by imprisonment

with work of not more than one year or a fine of not more than one million yen.

Article 16 In any of the events set forth in the following items, the person/entity (organization) who commits the violation shall be punished by a fine of not more than five hundred thousand yen:

- (i) a person/entity (organization) transfers any Class I Aquatic Animal and Plant, etc. without giving the notification required under, or gives a false notification in violation of, the provisions of Article 3, paragraph (1);
- (ii) a person/entity (organization) violates an order issued under the provisions of Article 7, paragraph (3);
- (iii) a person/entity (organization) fails to give the notification required under, or gives a false notification in violation of, the provisions of Article 8, paragraph (1);
- (iv) a person/entity (organization) violates the provisions of Article 10, paragraph (1); or
- (v) a person/entity (organization) fails to submit reports or materials under, or submits false reports or materials in violation of, the provisions of Article 12, paragraph (1), or refuses, interferes with, or evades inspection conducted under the provisions of the same paragraph, or fails to answer or gives false answers to questions asked under the provisions of the same paragraph.

Article 17 If a person/entity (organization) commits a violation by failing to make the notification required under, or by giving a false notification in violation of, the provisions of Article 3, paragraph (3) or Article 8, paragraph (2), that person/entity (organization) shall be punished by a fine of not more than three hundred thousand yen.

Article 18 If a corporation's representative or a corporation's or individual's agent, employee or other worker commits any of the violations set forth in the preceding three Articles in connection with the business of the corporation or individual, the corporation or individual is subject to the fine referred to in the relevant Article, in addition to the offender being subject to punishment.

Supplementary Provisions (Effective Date)

Article 1 This Act enters into force as of the date set by the Cabinet Order at a date within a period of two years commencing on the date of promulgation; provided, however, that the provisions of the following Article and Articles 3, 6, and 7 of the Supplementary Provisions enter into force as of the date of promulgation.

(Transitional Measures)

Article 2 When establishing the Ordinance of the Ministry of Agriculture,

Forestry and Fisheries referred to in Article 2, paragraphs 1 and 4, the Fisheries Policy Council may be consulted prior to as well as after the date of enforcement of this Act (hereinafter referred to as the “date of enforcement”).

Article 3 (1) A person/entity (organization) that is engaged in the business of catching a Class I Aquatic Animal and Plant and that intends to, after the date of enforcement, be engaged in the business of transferring the Class I Aquatic Animal and Plant caught or gathered by the person/entity (organization) or any Class I Aquatic Animal and Plant, etc. which are processed products made of or from that Class I Aquatic Animal and Plant (or, if the organization to which the person/entity (organization) belongs intends to be engaged in the business of transferring these Class I Aquatic Animal and Plant, etc. on behalf of the person/entity (organization), that organization) may give notification to the Minister of Agriculture, Forestry and Fisheries at any time during the period beginning on the date six months prior to the date of enforcement and ending on the date preceding the date of enforcement, as if pursuant to the provisions of Article 3, paragraph (1). In this case, the person/entity (organization) who gave the notification shall be deemed to have given the notification under the provisions of the same paragraph on the date of enforcement.

(2) Upon receipt of the notification given under the provisions of the preceding paragraph, the Minister of Agriculture, Forestry and Fisheries may, prior to the date of enforcement, give the person/entity (organization) who gave the notification notice of the number associated with the notification as if pursuant to the provisions of Article 3, paragraph (2). In this case, the person/entity (organization) that received the notice shall be deemed to have received the notice under the provisions of the same paragraph on the date of enforcement.

Article 4 The provisions of Articles 4 through 6 apply to all Class I Aquatic Animals and Plants caught or gathered on and after the date of enforcement and all Class I Aquatic Animals and Plants, etc. which are processed products made of or from those Class I Aquatic Animals and Plants.

Article 5 When applying the provisions of Article 8, paragraph (1) to a person/entity (organization) that is actually engaged in the business of selling, exporting, processing, manufacturing or providing any of the Class I Aquatic Animals and plants, etc. at the time of enforcement, the phrase “Within two weeks after the date of starting its business” in the same paragraph is deemed to be replaced with “Within one month after the date of enforcement of this Act.”

Article 6 (1) A person/entity (organization) who intends to receive a legal harvest

certificate may submit an application prior to the date of enforcement, as if pursuant to the provisions of Article 10, paragraph (2).

(2) Upon receipt of the application filed under the preceding paragraph, the Minister of Agriculture, Forestry and Fisheries may issue a legal harvest certificate prior to as well as after the date of enforcement, as if pursuant to the provisions of Article 10, paragraph (3). In this case, the person/entity (organization) to whom the certificate was issued shall be deemed to have been issued the same certificate under the provisions of the same paragraph on the date of enforcement.

(Delegation to Cabinet Order)

Article 7 Beyond what is provided for in Article 2 through the preceding Article of the Supplementary Provisions and all transitional measures (including transitional measures concerning penal provisions) necessary for the enforcement of this Act are specified by Cabinet Order.

(Review)

Article 8 Upon the elapse of five years after this Act entering into force, the government shall review the state of enforcement of this Act and, if deemed necessary, take necessary measures based on the results of the review.