



# Law on Marine and Island Resources and Environment - Implementation issues and solutions

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The Law on Marine and Island Resources and Environment (the Law) was passed by the 13<sup>th</sup> National Assembly of the Socialist Republic of Vietnam, 9<sup>th</sup> session on 25 June 2015. Provisions of the Law have created a synchronous legal system, an important legal corridor, creating a breakthrough in the marine and island resource management and environmental protection; improving the efficiency and rational use of resources, promoting protection of the marine and island environment, sustainable development of the marine economy; protecting national sovereignty; ensuring national defence and security. However, after the period of application of the Law, some limitations and shortcomings have been revealed, such as: The development of documents detailing and guiding the implementation of the Law is completely new and faces many difficulties, easily overlapping with other legal documents; Resources for the dissemination, education of legislations are still limited, not meeting practical needs; the development of the Strategy for the Sustainable Exploitation and Use of Natural Resources and Protection of the Marine and Island Environment, the Master Plan for Sustainable Extraction and Use of Coastal Resources, establishment of coastal protection corridors, establishment of island records still face difficulties in implementation... Therefore, this article focuses on assessing the situation and results of the implementation of the Law; difficulties, obstacles and shortcomings in the implementation of the Law and guiding documents, thereby proposing amendments and supplements to the Law and recommending new issues arising in practice.

## 1. RESULTS OF THE IMPLEMENTATION OF THE LAW ON MARINE AND ISLAND RESOURCES AND ENVIRONMENT 2015

Immediately after the Law was promulgated, the MONRE developed and submitted to the Government for approval of the Strategy for the Sustainable Exploitation and Use of Natural Resources and Protection of the Marine and Island Environment to 2030 with a vision to 2050 in Resolution No. 48/NQ-CP dated 3 April 2023. The objective of the Strategy is to better understand the potential and advantages of the sea, the adverse impacts from the sea on Vietnam's seas and adjacent international waters; to build and complete the database on marine resources and environment as a basis for ministries, sectors and coastal local authorities to plan to exploit and use marine resources, respond to climate change and achieve the targets set out in the Resolution. To date, 27/28 People's Committees of coastal provinces have developed a Plan to implement the Strategy for the Sustainable Exploitation and Use of Natural Resources and Protection of the Marine and Island Environment to 2030 with a vision

to 2045 for their localities (Soc Trang province is in the process of developing). In general, the Plan to implement the Strategy in localities has closely followed the objective, orientation, and strategic tasks set out in Resolution No. 48/NQ-CP, the content of the Plan to implement the Strategy is consistent with the orientation of socio-economic development, national defence and security of localities.

In addition, the MONRE has advised the Prime Minister to promulgate Decision No. 28/QĐ-TTg dated 7 January 2020 approving the Key Program for Baseline Survey of Marine and Island Resources and Environment to 2030. The Prime Minister also promulgated Decision No. 216/QĐ-TTg dated 19 February 2021 on the regulation on coordination in management and implementation of this Key Program. To date, 2 projects have been completed, 13 projects have been approved and are being implemented, 7 projects have received opinions from line ministries and sectors and are being submitted to competent authorities for approval, and the remaining 14 projects are in the process of developing explanations and estimates. The main reason is that the funding source provided by the state budget is not guaranteed according to approved project implementation phases, or has not been provided; the implementing personnel still lack experience.

At the same time, the MONRE has granted 7 licenses to foreign organizations and individuals to conduct scientific research in Vietnam's seas. These research activities have contributed to improving our understanding of marine resources and environment; taking advantages of resources, equipment and improving the qualifications of Vietnamese scientists through research trips of foreign organizations. The MONRE also issued a separate Ministerial-level Science and Technology Program in Decision No. 2249/QĐ-BTNMT of the Minister dated 4 September 2015 approving the objectives, research contents, main products and evaluation criteria of this Key Program on "Science and Technology on Integrated Management of Marine and Island Resources and Environmental Protection for the 2016-2020 period", code TNMT.06/16-20. Results of the Program have provided a basis for the work of synthesizing marine and island resources



and environmental protection. In addition, by the end of 2023, the MONRE has ordered/assigned the completion of 42 science and technology subjects with 4 main research groups, with a total budget of VND75,324 million, serving the work of integrated management of marine and island resources and environmental protection in general, and serving the implementation of the Law in particular.

Regarding the formulation, development and organization for implementation of the Master Plan for Sustainable Extraction and Use of Coastal Resources: The Law has 8 Articles (from Article 26 to Article 33) stipulating the formulation, adjustment and organization for implementation of the Master Plan. However, to ensure consistency and unity in the national planning system, on 24<sup>th</sup> November 2017, the National Assembly promulgated the Law on Planning, which stipulates the formulation, appraisal, decision or approval, announcement, implementation, assessment and adjustment of planning in the national planning system; the responsibility for state management of planning, including this Master Plan. Additionally, the National Assembly also promulgated a Law amending and supplementing a number of articles of 37 laws related to planning, thereby amending and supplementing a number of articles of the Law on Marine and Island Resources and Environment related to the Master Plan. To carry out the task of formulating the Master Plan, the Prime Minister promulgated Decision No. 25/QĐ-TTg dated 23 April 2020 approving the task of formulating the Master Plan for Sustainable Extraction and Use of Coastal Resources for the 2021-2030 period with a vision to 2050.

In recent times, the work of statistics on marine and island resources has been implemented, this has provided data on marine resources as the basis for developing and adjusting policies and legislations on integrated management of marine and island resources and environmental protection in accordance with reality, unifying state management of seas and islands among ministries, sectors and local authorities. Marine biological resources in Vietnam are quite diverse with about 11,000 species residing in more than 20 typical ecosystems, belonging to 6 different marine biodiversity regions. Vietnam's marine aquatic resources are relatively abundant; the entire sea area has identified 1,700 aquatic species belonging to more than 730 genera, 260 families; of which over 130 species have high economic value. In the 2016-2020 period, immediate reserves of main resource groups are about 3.9 million tons, of which the Gulf of Tonkin accounts for nearly 16%; the Central Sea area is about 22%; the Southeast is about 25%; the Southwest is more than 13% and the middle of the East Sea is about 24%. The allowable exploitation capacity from aquatic resources in Vietnam's sea is estimated at more than 2.83 million tons/year. In recent years, aquatic resources and habitats of aquatic species in particular and marine aquatic species in general, are declining in terms of species diversity, quantity and quality. Main causes are overexploitation of aquatic resources, especially in coastal waters and waste sources from coastal socio-economic activities, especially industrial parks, urban areas, tourist areas, etc.

Up to now, 14/28 coastal provinces have been implementing the establishment of records for managing island resources, of which 10 provinces have completed the establishment of records, put them into storage and management, including the provinces of Thanh Hoa, Quang Tri, Phu Yen, Thua Thien - Hue, Ba Ria - Vung Tau, Ho Chi Minh City, Tien Giang, Soc Trang, Ca Mau, Kien Giang. 4 localities are implementing: Quang Ninh, Hai Phong, Khanh Hoa, Quang Ngai. According to provisions of Clause 2, Article 79 of the Law, People's Committees of coastal provinces and cities are responsible for establishing coastal protection corridors under their management within 18 months from the effective date of the Law from 1<sup>st</sup> July 2016. As of 30<sup>th</sup> June 2024, 27/28 coastal provinces have approved the List of areas requiring the establishment of coastal protection corridors. According to statistics from the Law implementation summary reports of 28 coastal provinces, there are about more than 560 coastal and island areas with established coastal protection corridors having a total length of nearly 1,700km (about 50% of the coastline).

Implementing the Project "Development and Implementation of Programs and Plans for Management of Waste; Control of Environmental Pollution Sources from Land and Activities at Sea", agencies under the MONRE have reviewed policies and legislations on integrated management of waste at sea; improved the institution for integrated management, unified marine environmental pollution sources from land and sea; developed a Program for Waste Management Plan; controlled environmental pollution sources from land and activities at sea; analysed and evaluated the quality of seawater and coastal sediments in the area surrounding waste sources; took samples and instantly measured on site waste sources from land to sea, at sea, conducted surveys of coastal areas in the North and North Central regions, 4 provinces in the Central region and South Central region... Currently, the coastal seawater environment is quite clean, most of which meet QCVN 10-MT:2015/BTNMT-QCVN on seawater quality. However, locally, some aquaculture areas, boat mooring areas, river mouths, etc. are polluted by compounds containing nitrogen, phosphate and suspended solids; the offshore seawater environment is stable and less volatile.

On 7<sup>th</sup> March 2024, the Prime Minister approved Decision No. 224/QĐ-TTg on the Master Plan on National Environmental



Monitoring for the 2021-2030 period with a vision to 2050, as an important basis for line ministries, sectors and local authorities to organize the implementation of unified environmental monitoring on the system nationwide. The MONRE issued Decision No. 1899/QĐ-BTNMT dated 10 July 2024 on the Plan for Implementation of Decision No. 224/QĐ-TTg on the Master Plan on National Environmental Monitoring for the 2021-2030 period with a vision to 2050. In coastal provinces, 18/28 provinces reported that they have carried out coastal water environmental monitoring (Hai Phong, Thanh Hoa, Nghe An, Quang Binh, Quang Tri, Thua Thien - Hue, Da Nang, Quang Nam, Quang Ngai, Binh Dinh, Ninh Thuan, Binh Thuan, Ba Ria - Vung Tau (Con Dao), Ho Chi Minh City, Tra Vinh, Soc Trang, Ca Mau, Kien Giang). Results of annual monitoring and supervision have provided important information and data for management of marine environment such as: scientific research, development of the State of National Marine Environment Report; development of normative documents on marine environment. In addition, above results also provide information and data on the state and changes in the quality of the marine environment, environmental incidents (red tides, oil pollution, earthquake data, tsunamis, etc.), information on environmental protection in medical activities at medical facilities nationwide, including medical care in coastal and island areas, and negative impacts on the environment in Vietnam's seas; serving the work of monitoring and warning the marine environment, contributing to the socio-economic development, security and sovereignty of Vietnam's seas.

From 2015 to 2023, the MONRE has directed the organization for implementation of 37 examinations; 3 inspections of the implementation of legal regulations on marine and island resources and environment in coastal provinces and centrally-run cities. Through the process of examination of the implementation of legal regulations on marine and island resources and environment in localities, organizations and individuals, it shows that the situation of administrative violations in the field of marine and island resources and environment is mainly related to violations of the allocation and use of sea areas such as: using sea areas without a decision on allocation of sea areas by a competent state agency; violating provisions at Point a, Clause 2, Article 27b of Decree No. 162/2013/ND-CP dated 12 November 2013 (supplemented at Clause 19, Article 3 of Decree No. 37/2022/ND-CP dated 6 June 2022). In addition, coastal provinces have established 372 inspections and examinations in the period from 2015 to 2024, conducted examinations of compliance with legal regulations on marine and island resources and environment in the area; field examinations of coastal protection corridor boundary markers; examinations and handling of violations of the legal regulations on dredging, sand transportation, illegal dumping of mud and soil, and violations of maritime traffic safety and order, etc. The total amount of fines imposed by local authorities for administrative violations in the field of marine and island resources and environment is VND23,061,826,100. In addition, local authorities also imposed fines for administrative violations in the field of fisheries of VND74,105,935,000, and fines for administrative violations in other fields at sea of VND 235,500,000.

## 2. SOME SHORTCOMINGS AND LIMITATIONS IN THE IMPLEMENTATION OF THE LAW

The Law on Marine and Island Resources and Environment is the first legal document with the highest legal effect promulgated to stipulate tools for integrated management of marine resources. Therefore, the development of documents detailing and guiding the implementation of the Law is completely new and faces many difficulties, easily overlapping with other legal documents. The participation of agencies and local authorities in drafting legal documents guiding the implementation of the Law has not been effective, so some regulations after promulgation have encountered difficulties and obstacles in the implementation process, not suitable to reality. In addition, resources for the dissemination and education of legislations are still limited, not meeting practical needs, so the dissemination and propaganda of legislations is not regular, continuous and proactive. The team of legal reporters and propagandists at the grassroots level still cannot meet the needs and requirements of the work; local dissemination and propaganda conferences often have to invite reporters at the Central level to carry out dissemination tasks.

In addition, human resources for integrated management of marine resources and environmental protection are increasingly limited in number and are also responsible for other fields. Some Departments of Natural Resources and Environment in 28 coastal provinces only arrange 1-2 full-time staff and 1 Division Leader in charge of work related to integrated management of marine resources and environmental protection. Most Divisions of Natural Resources and Environment in coastal districts do not have full-time staff for integrated management of marine resources and environmental protection, but mainly perform many different fields concurrently. The funding source for the implementation of the Law is still limited, not meeting the needs for organizing dissemination and propaganda work; performing tasks such as baseline survey; establishing records of island resources; marking coastal protection corridors; purchasing and investing in equipment and conducting patrols, controlling, combating and preventing violations, etc.



Some tasks are implemented slowly, such as developing the Strategy for the Sustainable Exploitation and Use of Natural Resources and Protection of the Marine and Island Environment; Master Plan for Sustainable Extraction and Use of Coastal Resources; establishing coastal protection corridors; establishing island records. Some tasks are still being implemented and have not been completed, such as classifying islands, developing and implementing program for integrated management of coastal resources, and zoning risks of marine and island environmental pollution.

Along with that, the work of drafting documents and implementing regulations on administrative sanctions for violations of provisions of the Law and documents guiding its implementation still has some difficulties and obstacles, such as: Decree No.37/2022/ND-CP dated 6 June 2022 of the Government amending and supplementing a number of articles of Decrees on administrative sanctions for violations in the fields of national defence, cryptography; management and protection of national borders; in the seas, islands and continental shelf of the Socialist Republic of Vietnam stipulates administrative sanctions for: (i) Violations of regulations on scientific research by foreign organizations and individuals in Vietnam's seas; (ii) Violations of regulations on dumping at sea. However, these regulations on handling administrative violations do not cover all violations of legislations on marine and island resources and environment, such as no regulations on sanctions for violations of regulations on coastal protection corridors, marine environmental protection, etc.

The Law does not have specific provisions on compensation for damage caused by oil spills. The determination and compensation for damage caused by oil spills at sea are regulated by many different legal documents, including the Civil Code 2015, the Law on Environmental Protection 2020 and their guiding documents for implementation, Decision

No. 12/2021/QĐ-TTg, etc. However, these legal documents overlap, thus making it difficult to claim compensation for damage caused by oil pollution at sea. In addition, the Law stipulates the definition of “dumping at sea”, but it is not consistent with provisions of UNCLOS and MARPOL 73/78 (Vietnam is a member) and overlaps with legislations on environmental protection. The integrated monitoring and supervision of marine and island resources and environment is stipulated in Section 1, Chapter VII, consisting of 3 Articles (from Article 64 to Article 66). However, it has not been implemented yet because in order to establish an integrated monitoring and supervision system of marine and island resources and environment, it is necessary to have regulations on planning the monitoring network and system.

The rigid stipulation in the direction of listing marine and island resources and environment data as in Article 68 of the Law is facing many shortcomings when new types of marine data arise or data names change according to other relevant legal provisions. Therefore, it is necessary to amend Article 68 in the direction of more open stipulation on data types in the new context and situation. In addition, Clause 3, Article 68 of the Law stipulates that “ministries, sectors and local authorities must provide data to the MONRE to build a national marine and island resources and environment database” but has not yet specified methods, forms and types of data... to carry out the data provision, so it is difficult to implement...



▲ Sustainable exploitation and use of marine and island resources in Phu Quoc



### 3. PROPOSING CONTENTS THAT NEED TO BE AMENDED AND SUPPLEMENTED IN THE LAW

*Baseline survey of marine resources and environment:* Amend and supplement more specific provisions to ensure that ministries, sectors and local authorities implementing schemes, projects, tasks on baseline survey of marine resources and environment not included in the Key Program for Baseline Survey of Marine and Island Resources and Environment must consult with the MONRE on the necessity, subjects, scope, contents of the survey, feasibility and efficiency; after approval, the approval decision and information on location, boundaries, area, coordinates of the survey area of schemes, projects, tasks must be sent to the MONRE; after acceptance, the product must be submitted to the database on marine resources and environment of the MONRE.

*Marine scientific research by foreign organizations and individuals in Vietnam's sea areas:* Amend and supplement provisions in Clause 3, Article 17 to clarify whether the subject of "foreign organizations and individuals" conducting research in Vietnam's sea areas includes foreign investors who have a need for scientific research for developing projects to exploit and use marine resources or not; Amend provisions in Clause 2, Article 19 and Clause 3, Article 21 in the direction of not rigidly stipulating the need to obtain specific opinions from each ministry, not rigidly stipulating the mandatory consensus of four ministries to license/permit to publish and transfer information and scientific research results; Amend and supplement to more specifically stipulate the roles and responsibilities of ministries in examining and supervising scientific research activities in Vietnam's sea areas...

*Management of scientific research, measurement, monitoring, survey, exploration activities at sea not using state budget:* To manage scientific research, measurement, monitoring, survey, exploration activities at sea not using state budget with non-budgetary capital, it is necessary to amend and supplement a Section to Chapter III with some provisions such as: Provisions on the basis, conditions, order, procedures, and dossiers for requesting licenses/approval for scientific research, measurement, monitoring, survey, exploration activities at sea without using the state budget; Provisions on the authority and responsibilities of state management agencies for licensing/approval for scientific research, measurement, monitoring, survey, exploration activities at sea without using the state budget.

*Master plan for sustainable extraction and use of coastal resources:* Amend and supplement provisions on responsibilities of agencies, organizations, order and procedures to determine areas for exploitation and use activities with specific purposes in the Law to suit reality.

*Coastal protection corridor:* Amend and supplement provisions in Article 23, thereby clarifying provisions on adjusting areas where coastal protection corridors need to be established or amend Clause 5, which assigns the Government to specify in detail the adjustment of areas where coastal protection corridors need to be established;

Amend provisions in Clause 3 on the width of coastal protection corridors to suit the coastal conditions of some provinces with high tide lines deep inland; Amend provisions in Point b, Clause 1, Article 25 in the direction of abolishing the phrase "encroaching on the sea" to suit the Land Law 2024.

*Supplement of provisions on new issues - provisions on coastal protection:* To be consistent with the zoning of use (including prohibited exploitation areas, conditional exploitation areas, areas requiring special protection and areas encouraged for development) in the National Marine Spatial Master Plan and the Master Plan for Sustainable Extraction and Use of Coastal Resources zoning of use, therefore a Section in Chapter IV is supplemented to stipulate the protection of coastal areas, including following provisions: Supplement provisions on prohibiting and restricting activities in conditional exploitation areas (according to the Master Plan for Sustainable Extraction and Use of Coastal Resources and the National Marine Spatial Master Plan); Supplement provisions on prohibiting the construction of works/factories carrying out certain production activities with high risks of polluting the marine environment in conditional exploitation areas (according to the Master Plan for Sustainable Extraction and Use of Coastal Resources and the National Marine Spatial Master Plan)...

*Management of island resources:* Amend and supplement provisions in Chapter V on management of island resources to ensure compliance with the National Marine Spatial Master Plan and practical requirements on island management; Amend and supplement provisions of Clause 1, Article 40 on island classification to suit reality; Amend and supplement provisions at Point a, Clause 2, Article 41 to ensure the implementation of new construction activities and installation of necessary equipment for the protection and conservation work.

*Control of marine and island environmental pollution, response to oil spills, toxic chemicals at sea and dumping at sea:* Amend and supplement provisions on control of marine environmental pollution sources originating from the mainland and from activities at sea; Amend and supplement provisions on zoning risks of marine and island environmental pollution; Supplement provisions on control of marine waste; Amend and supplement provisions on response to oil spills; Supplement provisions on compensation for oil pollution... ■