

OPERATING GUIDELINE FOR IMPOSING AND CALCULATING
Port Facility Security Charges
(The Ministry of Oceans and Fisheries (Republic of Korea)
Notice No. 2015-209)

Article 1 (Purpose)

The purpose of this Operating Guideline is to prescribe necessary matters regarding the imposition and calculation of Port Facility Security Charges provided for in the “Act for the Security of International Ships and Port Facilities of Korea”, and the "Enforcement Decree" and "Enforcement Rule" of the same Act.

Article 2 (Definitions)

The terms used in this Operating Guideline are defined as follows:

1. The term "Port Facility Owners" means the owners or managers of Port Facilities, or legal entities, organizations or individuals entrusted with the operation of Port Facilities by such owners or managers thereof;
 - (a) Nation(including Regional Offices of Oceans and Fisheries)
 - (b) Local governments (including legal entities funded and established by Local Governments)
 - (c) Port Authorities established under the Port Authority Act
 - (d) Legal entities, organizations or individuals that established Port Facilities through private-sector projects in accordance with "Harbor Act" or "Act on Public-Private Partnerships in Infrastructure", and when the said legal entities, organizations or individuals, not the Nation, are in ownership of them;
 - (e) Legal entities, organizations or individuals who secured operating rights of Port Facilities constructed by private business operators in through means such as Non-Managing Port Authority, during the free-use period of such Port Facilities <Moved from (f)>
 - (f) Terminal Operating Companies <Moved from (e)>
2. The term "Port Facility Security Charges" means the expense imposed on owners, passengers and shippers of ocean-going vessels that use Port Facilities, for which investments were made by Port Facility Owners to secure security guard/inspection personnel and install security facilities/equipment in accordance with relevant laws, including “United Defense Act“ and Attached Table 4 of the Article 38 of “Enforcement Rule of Act for the Security of International Ships and Port Facilities of Korea”
3. “Personnel Expenses” mean the sum of annual contract fees contractually agreed upon between Port Facilities Owners and either organizations/legal entities in charge of security guard operations of the said Port Facilities, or security guard companies that carry out special security guard tasks in accordance with Article 2 of “Security Services Industry

Act", and also educational expenses that are within 5% of the aforementioned annual contract fees.

4. "Maintenance and repair fees" mean the expenses incurred to maintain and manage the security facilities and equipment of Port Facilities of Port Facility Owners, and shall be within 7% of actually invested expenses. However, the expenses incurred during the Defects Liability Period shall be exempted.
5. "Depreciation Expenses" mean the actual expenses spent by Port Facilities owners to install security facilities/equipment of the said Port Facilities, divided by service life. In such case, service life for security facilities such as security fences, security headquarters, outposts, entrance and watch towers shall be 20 years, and service life for other security equipment shall be 5 years. However, the aforementioned provision shall not apply in case there are other definitions for service life under other legislation.

Article 3 (Facilities Subject to Security Charges) The facilities subject to security charges shall be international passenger terminals and berthing facilities in Subparagraph 5, Article 2 of "Harbor Act."

Article 4 (Security Charges Collection) (1) The owners of Port Facilities may collect security charges from the owners, passengers and shippers of ocean-going shipping vessels that use such Port Facilities

(2) Deleted

(3) Deleted

(4) Port Facility Security Charges under Paragraph (1) can be notified as being part of the Total Charges for Port Facilities Uses under Paragraph (4), Article 30 of "Harbor Act". However, if Security Charges for Port Facilities and Charges for Port Facilities Uses are each imposed by different entities, Port Facility Security Charges can be calculated monthly or quarterly.

(5) Entities that already paid security guard expenses in accordance with Paragraph 2 of Article 42 of "Port Authority Act" shall be exempted from Port Facility Security Charges in accordance with Paragraph 5, Article 42 of the same Act.

Article 5 (Security Charge-Imposing Entities) (1) In the case that Port Facility Owners defined in (a)~(e) of Subparagraph 1, Article 2 signed a lease agreement with Terminal Operating Company, and in the case that the said Terminal Operating Company paid expenses for securing security guard/inspection personnel or installing security facilities/equipment in the Port Facilities, the said Terminal Operating Company can impose Port Facility Security Charges.

(2) In the case that Local Government paid expenses for securing security guard/inspection personnel or installed security facilities/equipment in the Port Facilities to operate the said

Port Facilities, the said Local Government can impose Port Facility Security Charges.

(3) In the case that Private Business as defined in (d) or (e) of Subparagraph 1, Article 2 and Terminal Operating Company signed a lease agreement, the above-mentioned two parties can mutually agree on which entity shall impose and collect Port Facility Security Charges, for the sake of efficient business operation.

Article 6 (Amount) Port Facility Security Charges that Port Facility Owners can charge shall not exceed the amount calculated according to the following subparagraphs.

1. Security Charges for Ships shall be 3 Korean Won per ton, measured by Gross Tonnage of the entering or departing ships.
2. Security Charges for Passengers shall be 120 Korean Won per person. However, children younger than 6 years old shall be exempted.
3. Security Charges for Cargo
 - (a) For Liquid Cargo, 5 Korean Won per 10 barrels. In this case, cargo that use pipelines as according to Regulation on Charges for Using Port Facility at Trade Ports shall be considered Liquid Cargo.
 - (b) For Container Cargo (20-feet), 86 Korean Won per TEU
 - (c) For General Cargo, 4 Korean Won per ton. In this case, mechanical cargo and anthracite coal as according to Regulation on Charges for Using Port Facility at Trade Ports shall be considered General Cargo.
4. Notwithstanding subparagraph 3, transshipment cargo and empty containers shall be exempted from Security Charges for Cargo.
5. In the case that container of item (b) of Subparagraph 3 is not a 20-feet container, calculations in the each following item shall be applied additionally
 - (a) 10 feet: 1/2 times 1-TEU-rate
 - (b) 35 feet: 1.7 times 1-TEU-rate
 - (c) 40 feet: 2 times 1-TEU-rate
 - (d) 45 feet: 2.3 times 1-TEU-rate

Article 7(Matters to Consider in Security Charges Calculation) In the case that Port Facility Owners calculate Port Facility Security Charges, the following items shall be considered.

1. Calculation shall be made on Cost-Valuation Basis, which means only actual costs spent on securing security guard/inspection personnels and installing security facilities/equipment at the said Port Facilities shall be taken into account.
2. Ship's Entry/Departure track record and Passenger/Cargo transportation record shall be measured based on the year which is previous to the year that Port Security Facility Owners submit Port Facility Security Charges Approval Application Document.
3. Charges shall be categorized into Personnel Expenses, Maintenance/Repair Costs, and Depreciation Costs.

4. In the case that investment expenses for Security Facilities/Equipment of Port Facilities constructed by privately-funded projects such as by Non-Managing Port Authority are compensated, the said Security Facilities/Equipment shall be excluded from Port Facility Security Charges. However, Personnel Expenses shall be included for calculation of Port Facility Security Charges.
5. For Cargo Tonnage calculation, 1 ton in weight shall be 1,000 kilograms, 1 ton in volume shall be 40 Cu/Ft (Cubic Foot) or 1.133 square meters, and 1 ton in solid wood and wood materials etc. shall be 480 B/F (Board Foot).
6. The larger between weight or volume shall be chosen for Tonnage calculation. However, in the case of Bulk Cargo, weight-tonnage shall be measured.
7. Measurement unit for oil and other Liquid Cargo shall be 10 barrel.

Article 8. (Approval Procedures for Port Facility Security Charges)

- (1) Heads of Regional Offices of Oceans and Fisheries (Hereinafter referred to as “Heads of Regional Offices”) shall attach Feasibility Review pursuant to Article 9 within one month of receiving Approval/Modification Application Form for Port Facility Security Charges pursuant to paragraph 1, Article 54-2 of “Enforcement Rule of Act for the Security of International Ships and Port Facilities of Korea.”, and request the Minister of Oceans and Fisheries (Hereinafter referred to as “Minister”) to consult with the Head of relevant Central Administrative Agency.
- (2) Minister shall consult with the Head of relevant Central Administrative Agency regarding the Consultation Request submitted by Heads of Regional Offices pursuant to paragraph 1, and shall notify the results to the said Head of Regional Office.
- (3) Head of Regional Office shall notify the Port Security Facilities Owners on the amount of Port Security Facilities Charges notified by the Minister, and the any approvals on the amount of Port Security Facilities Charges shall be put on notice immediately, whose results shall also be reported to the Minister.

Article 9 (Appropriateness Review) (1) Head of Regional Office shall review the following items once Port Security Facilities Owners submit Approval Application Form for Port Facility Security Charges, pursuant to Article 54-2 of “Enforcement Rule of Act for the Security of International Ships and Port Facilities of Korea.”

1. Appropriateness of installed Security Facilities/Equipment (Including Specification and Design Plans)
 2. Appropriateness of actual costs and documentary evidence.
 3. Appropriateness of imposed Port Security Facility Charges.
 4. Appropriateness of future plans for using Port Security Facility Charges.
- (2) For feasibility review of Security Facilities/Equipment under paragraph 1, Head of Regional Office shall appoint its public officials with expertise to review in advance the

appropriateness of actual costs spent for security facilities/equipment installation.

(3) In the case that approval of Application Form of Port Security Facility Charges is not feasible, as based on its review pursuant to paragraph 1 and paragraph 2, Head of Regional Office can either turn down the said Application Form or ask for reinforcement, by specifying the reasons for such decision.

Article 10 (Changes to Security Charges) (1) In the case that Port Security Facility Owners intend to change the Port Security Facility Charges after getting approval pursuant to Article 8, Port Security Facility Owners shall submit Modification Approval Form to Head of Regional Office.

(2) In the case that Head of Regional Office deems the changes to Port Facility Security Charges inappropriate as according to paragraph 1 after reviewal of the aforementioned Modification Approval Form, Head of Regional Office can turn down the form by specifying the reason for such decision.

(3) In the case that Head of Regional Office deems the changes to Port Facility Security Charges appropriate as according to paragraph 1, Head of Regional Office shall implement the procedures pursuant to paragraph 2 and paragraph 3 of Article 9.

Article 11 (Document Submission/Document Submission Request) (1) In the case that Head of Regional Office deems necessary to confirm documentary evidence for Approval Application Form for Port Facility Security Charges, Head of Regional Office can request access to or submission of relevant documents, tax invoice, contract or account books used for calculating Port Facility Security Charges.

(2) Port Facility Owner shall comply with the request by Head of Regional Office pursuant to paragraph 1, except in cases of special reasons.

Article 12 (Reviewal Deadline)

The Minister of Oceans and Fisheries shall review the feasibility of this Notice by and before every 3rd year since January 1, 2016 (that is, by and before December 31 of every 3rd year) and take necessary measures such as improvement to this Notice.

Addendum <No. 2015-209, 2015. 12. 28>

This Notice shall be implemented 3 months after this Notice is announced.