

## APPENDIX ONE

### REFERENCE TABLE

This table is designed to correlate particular Sections of the Draft Act with the discussion of that Section in the Final Report. Only the primary discussion is noted, other parts of the Final Report may also refer to or discuss the specific Section.

DRAFT FISHERIES ACT SECTION	FINAL REPORT PART
1	-
2	-
3	11.5
<b>Chapter I: Principles</b>	
4	11.1
5	11.1
6	11.1
7	11.1
8	11.1
9	11.1
<b>Chapter II: Definitions</b>	
10 (1)	23.4
10 (2)	18.3
10 (3)	19.1
10 (4)	19.2.1
10 (5)	19.4
10 (6)	11.3
10 (7)	21.4
10 (8)	23.2
10 (9)	10.4
10 (10)	9.5 and 16.0
10 (11)	16.0
10 (12)	10.1
10 (13)	23.3.1
10 (14)	21.4
10 (15)	12.5
10 (16)	13.5.1
10 (17)	11.3
10 (18)	14.4
10 (19)	11.3 and 17.0
10 (20)	11.3 and 17.0
10 (21)	12.4
10 (22)	11.3
10 (23)	18.3
10 (24)	18.3
10 (25)	10.6.2
10 (26)	15.3
10 (27)	-
10 (28)	10.1

<b>DRAFT FISHERIES ACT SECTION</b>	<b>FINAL REPORT PART</b>
10 (29)	18.3
10 (30)	11.3
10 (31)	23.3.1
10 (32)	-
10 (33)	12.5
10 (34)	12.3.1
10 (35)	11.3 and 17.0
10 (36)	9.1
10 (37)	11.3
<b>Chapter III: Zones</b>	
11	9.1
12	9.1
13	9.1
<b>Chapter IV: Management of Aquatic Resources</b>	
<b><i>Sub-Chapter I: General</i></b>	
14	10.1 and 10.4
15 (intro wording)	9.6.3, 10.1, 10.2 and 12.2.1
15 (a)	12.2.3 and 14.4
15 (b)	12.2.3
15 (c)	12.2.3
15 (d)	12.2.4
15 (e)	12.2.3
15 (f)	12.2.4
15 (g)	12.2.4 and 12.4
15 (h)	12.2.4 and 12.4
15 (i)	12.2.6
15 (j)	13.1
15 (k)	13.1
15 (l)	13.1 and 14.5
15 (m)	12.4
15 (n)	21.5
15 (o)	12.2.5 and 23.5
15 (p)	12.2.5 and 23.5
15 (q)	12.2.5 and 23.5
15 (r)	26.0
15 (s)	22.2
15 (t)	22.2
15 (u)	12.2.7
15 (v)	12.2.1
16	9.6.3 and 12.2.2
17	12.1
<b><i>Sub-Chapter II: Local Fishery Committee and Public Consultation</i></b>	
18	10.6.2
19	10.6.2, 10.6.3 and 15.3
20	10.6.2
21	10.6.3, 12.2.2, 10.3.4 and 15.4

<b>DRAFT FISHERIES ACT SECTION</b>	<b>FINAL REPORT PART</b>
22	9.3 and 10.8
23	9.3
<b><i>Sub-Chapter III: Licences, Permits and Written Permissions</i></b>	
24	13.2 and 28.1
25	13.3
26	13.4
<b><i>Sub-Chapter IV: Fisherman Not in Good Standing</i></b>	
27	13.5.3
28	13.5.1
29	13.5.1
30	13.5.2
31	13.5.2
32	13.5.4
<b><i>Sub-Chapter V: The National Fishery Committee</i></b>	
33	11.2
34	11.2
35	11.2
<b><i>Sub-Chapter VI: Statistics and Research</i></b>	
36	12.6
37	12.6
38	12.6
39	12.6
<b><i>Sub-Chapter VII: General Prohibitions</i></b>	
40	12.3.2
41	12.3.2
42	12.4 and 19.3
43	19.3, 22.1 and 23.3.2
44	11.4
45	13.6
46	13.6
47	13.6
48	20.0
49	10.10
50	10.10
<b>Chapter V: Community-Based Management</b>	
51	16.0
52	16.0
53	16.0
<b>Chapter VI: The Inland Fishery Zone</b>	
54	15.2
55	15.4
56	12.3.1
57	12.3.1
58	12.3.2
<b>Chapter VII: The Coastal Marine Fishery Zone</b>	
59	12.3.1

<b>DRAFT FISHERIES ACT SECTION</b>	<b>FINAL REPORT PART</b>
60	15.2
61	15.4
<b>Chapter VIII: The Commercial Marine Fishery Zone</b>	
62	14.5
63	14.2
64	14.3
65	14.4
66	14.4
<b>Chapter IX: Overseas Marine Fishery Activity</b>	
67	18.1
68	18.3
69	18.3
70	18.1
71	18.4
72	18.4
73	18.3
74	18.3
75	18.3
76	18.5
77	18.4
78	18.4
<b>Chapter X: Foreign Fishing Activity in Thai Waters</b>	
79	17.0
80	17.0
81	17.0
82	17.0
<b>Chapter XI: Aquaculture</b>	
83	19.2.1, 19.2.2, 19.2.3, 19.3, and 22.2
84	19.3
85	19.3
86	19.4
87	19.4
88	19.5
<b>Chapter X: Protected Species and Protection Areas</b>	
89	12.5
90	12.5
91	12.5
<b>Chapter XI: Health, Quality and Export</b>	
92	21.2
93	21.2
94	21.2
95	21.3
96	21.3
97	21.3
98	21.4
99	21.4

<b>DRAFT FISHERIES ACT SECTION</b>	<b>FINAL REPORT PART</b>
100	21.4
<b>Chapter XIV: Monitoring, Control and Surveillance</b>	
101	23.3
102(a)	23.3.1
102(b)	23.3.1
102(c)	23.3.1
102(d)	23.3.1
102(e)	23.3.1
102(f)	23.3.2
102(g)	19.3, 22.1 and 23.3.2
102(h)	19.3, 22.1 and 23.3.2
102(i)	23.3.3
102(j)	23.3.3
102(k)	23.3.4
102(l)	23.3.4
103	16.0 and 23.3.5
104	23.3.5
105	23.3.5
106	23.2
107	23.2
108	23.4
109	23.4
110	23.4
111	19.3 and 23.3.2
112	23.4
113	23.7
114	23.7
115	23.7
116	23.2 and 23.5
117	23.6
118	23.6
<b>Chapter XV: Jurisdiction and Penalties</b>	
119	24.0
120	24.0
121	25.2.1
122	25.2.1
123	25.2.1
124	25.2.1
125	25.2.1
126	25.2.1
127	25.2.1
128	25.2.1
129	25.2.1
130	25.2.1
131	25.2.1
132	25.2.1

<b>DRAFT FISHERIES ACT SECTION</b>	<b>FINAL REPORT PART</b>
133	25.2.1
134	25.2.1
135	16.0, 25.2.1 and 25.3.1
136	25.4
137	25.3.1
138	25.3.1
139	25.3.1
140	25.3.1
141	25.3.1
142	25.3.2
143	25.3.1
<b>Chapter XVI: Miscellaneous</b>	
144	10.9
145	27.0
146	11.4

## APPENDIX TWO

DOF/FAO National Workshop on Thai Fishery Legislation  
August 1-3, 2000  
Rose Garden, Nakornpatom Province, Thailand

### Report of the Legal Consultant

#### Preparation

As required by point v of the Terms of Reference, the Legal Consultant assisted the Thai Department of Fisheries in the planning and holding of a National Workshop to discuss the work that the Legal Consultant had done.

In preparation for the Workshop, the Legal Consultant assisted Ms Pongthong Onoora of the Department of Fisheries in the design of the Workshop. It was agreed that to the extent that was possible that the Workshop would be conducted in Thai. In order to facilitate this, the Workshop was designed to have both speakers and then small group sessions for discussion of subjects raised by the speakers.

Also in preparation for the Workshop, the Legal Consultant prepared an Interim Report respecting the Draft Fisheries Act. The Interim Report contained four parts. Part Four was the Draft Act itself. Part One contained an edited version of those parts of the Progress Report that dealt with an introduction and background to the fishery and legal situation in Thailand. Part Two was the *first draft* of large parts of the Final Report which contained a detailed explanation of the Draft Fisheries Act. Part Three contained a brief discussion of the main issues in the Draft Act that were not covered in Part Two. The only major issues covered in Part Three were “Control, Enforcement and Penalties” and “Health and Quality Inspection and Export”.

#### The Workshop

Over 50 people (including five from FAO) were registered for the Workshop and attended either all or part of the Workshop. Fourteen of the participants were from departments or institutions other than the Department of Fisheries and seven participants were from the private sector.

The morning of Day One was devoted to a welcome to the Workshop and background discussions on “Policy and Fisheries Act for Thai Fisheries Management”, the importance of monitoring, control and surveillance (MCS), and the reasons that a new Thai Fisheries Act was important. It was stressed in the morning session that the Draft Act was a “work in progress” and that the primary purpose of the Workshop was to obtain ideas, information and suggestions for alteration and improvement of the Draft Act.

The afternoon of Day Two was led by the Legal Consultant who provided an overview of the main concepts and principles within the Draft Act. What was covered included:

- the guidelines used in the creation of the Draft Act;
- the importance of the 1997 Constitution;
- the division of Thai waters into zones;
- the organization of the Draft Act around zones and activities;
- the creation of competences; and
- the management measures including permits and licences.

The Workshop then divided into three working groups for more detailed discussion of the concepts and principles and the afternoon ended with reporting from the three working groups.

The morning of Day Two commenced with Pongthong Onoora providing an overview of the Draft Act looking at each of the Sixteen Chapters and the major contents of each Chapter. Dr. Veeravat Hongskul from FAO-Bangkok outlined what he believed to be the process that would need to be followed within Thailand before the Draft Act would become the New Law.

The Legal Consultant commenced a more detailed examination of the Draft Act looking at zones, permits, management measures, public participation, the National Fisheries Policy Committee and community-based management. The Workshop again divided into three working groups each to discuss different topics and they each reported back to the Workshop at the end of the afternoon.

Day Three commenced with Blaise Kuemlangan from FAO discussing the international fisheries agreements that were of importance to Thailand. The Legal Consultant discussed overseas fishing by Thai vessels and aquaculture. The Workshop divided into two groups and reported back to the Workshop. The afternoon of Day Three dealt with control, enforcement and penalties and seafood safety and exports. Peter Flewelling made a presentation explaining the role of MCS and its importance both in proper management, deterrence and enforcement.

The Workshop ended with Dr. Veeravat chairing the last session and asking each of the participants for their final comments.

A full Workshop Report is to be prepared by the Department of Fisheries.

## **Outcome**

For the Legal Consultant the principal outcome of the Workshop was a series of points drawn from the working groups, the final comments, questions asked during the various sessions, and general (and private) conversations respecting inclusions, exclusions and alterations recommended for the Draft Act. The suggestions and recommendations from the Workshop are dealt with in the body of the Final Report and have been, where appropriate, incorporated into the Draft Act upon which this Final Report is based.



## APPENDIX THREE

### **FISHERIES ACT B.E. 2490**

**Fisheries ACT (No.2) B.E. 2496**

**Fisheries ACT (No.3) B.E. 2528**

IN THE NAME OF  
HIS MAJESTY KING BHUMIBOL ADULYADEJ  
The Council of Regency

Rangsit Krom Khun Chinat Narendara  
Phaya Manavaraj Sewi

Given on the 13th day of January, B.E. 2490;  
Being the 2nd Year of the Present Reign

Whereas it is expedient to have a law relating to fisheries;  
Be it therefore, enacted by the King, by and with the advice and consent of the  
National Assembly, as follows:

Section 1. - This Act is called the "Fisheries Act, B.E. 2390"

Section 2. - This Act shall come into force after the expiration of ninety days from  
the date of its publication in the Government Gazette.

Section 3. - The following shall be repealed:

- (1) The Fisheries Law, R.S. 120;
- (2) The Act amending the Fisheries Law, R.S. 120;
- (3) The Royal Proclamation amending the Fisheries Law, R.S. 120;
- (4) The Act amending the fisheries Law, R.S. 120;
- (5) The Fisheries Law Amendment Act, B.C. 2472;
- (6) The Fisheries Law R.S. 120 Amendment Act, B.E. 2477;
- (7) The Fisheries Act (No.6), B.E. 2479;
- (8) The fisheries Act (No.7), B.E. 2481;
- (9) The Ministerial Regulation on the Collection and the fixation of Fishery tax under  
the Fisheries Law, R.S. 120; and

All other Law, Rules and Regulations in so far as they are already provided by this  
Act or are contrary to or inconsistent with the provision of this Act.

Section 4. - in this Act:

(1)\* "Aquatic animals" means animals that inhabit or have one part of their life cycles  
in water or inhabit an inundated area such as fish, shrimps, crabs, horseshoe crabs, mollusks,  
tortoises, turtles, snapping turtles, crocodiles, including their eggs, mammals, sea-cucumbers,  
sponges, coral, coralline and marine algae, as well as their carcasses or any part of them and  
includes water plants as specified by a Royal Decree,

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\* The provision of (1) of Section 4 has repealed and replaced by Section 3 of Fisheries Act  
(No.3), B.E. 2528.

(1 Bis.)\* "Aquatic animal products" means the products with the aquatic animals as specified by a Royal Decree to be raw materials."

(2) "To fish" means to catch, to trap, to injure, to kill, or to take aquatic animals in fishery waters with any fishing implement or by any method;

(3) "Fishing implement" means machinery, instrument, accessories, component parts, arms, stakes, or vessels which are used in fishing operation;

(4) "Vessel" means a water craft of every description;

(5) "Fisheries" means land with still or running Water such as sea, river, canal, swamp, marsh, pond and beach, which are domained public of State, including forest and ground which are inundated during flood season, notwithstanding that it be domained public of State or the land owned by any person, and being within territorial waters, or any other waters in which Thailand exercises or may be entitled to exercise its fishery rights, as such waters publicly appear to be delimited by local or international law or usage. By treaty or in any other way;

(6) "Trapping pond" means such pond which is used to trap aquatic animals for the purpose of fishing as prescribed in the ministerial Regulation;

(7) "Cultivation pond" means such pond which is used to culture aquatic animals as prescribed in the Ministerial Regulation;

(8) "Concession" means license granted by provincial governor to a person to obtain by means of tendering the right to fish in the leasable fisheries;

(9) "Permit" means license issued by competent official to a person to fish and to cultivate aquatic animals in the reserved fisheries;

(10) "License" means license issued by competent official to a licensee to use fish implement;

(11) "Licensee" means a person who holds concession, permit or license, or a person who obtains permission to do any thing according to this Act;

(12) "Stationary gear" means fishing implement which is used in the manner of pegging down, typing, stretching, pulling. Sinking or by any other means which will make the fishing implement stationary during the time of fishing;

(13) "License fishing implement" means fishing implement the name description and method of operation of which are specified in the Ministerial Regulation;

(14) "Non-licensed fishing implement" means fishing implement which is not specified in the Ministerial Regulation;

(15) "Fishery Statistics" means figures or information relating to the aquatic animal products, trade in aquatic animals, fishing, and fish cultivation;

(16) "Competent official" means provincial governor, district officer, fishery officer or person who is appointed by the Minister to carry out this Act;

(17) "Director-General" means the Director-General of the Department of Fisheries;

(18) "Minister" means the Minister taking charge and control of the execution of this Act.

Section 5. - The Minister of Agriculture shall take charge and control of the execution of this Act. And shall have the power to appoint competent official and to issue Ministerial Regulation fixing the rates of fishery taxes and fees not exceeding the rates in the Schedule annexed to this Act and determining other activities for carrying out this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

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\* The Provision of (1 Bis) of Section 4 is inserted by Section 4 of Fisheries Act (No.3), B.E. 2528.

## **Chapter 1**

### **Fisheries**

Section 6. - Fisheries are of four categories:

- (1) Preservation fisheries;
- (2) Leasable fisheries;
- (3) Reserved fisheries;
- (4) Public fisheries.

Section 7. - Provincial Council with the approval of the Minister, is empowered to make notification determining fisheries within their province to be in the category of preservation fisheries, leasable fisheries, or reserved fisheries.

Fisheries which are not included in the notification under paragraph one shall be regarded as public fisheries.

Section 8. - Preservation fisheries are fisheries lying within or adjoining to the compound of a monastery or place of worship, Zones of the navigation lock, regulator, weir or dam, or places which are suitable for the conservation of aquatic animals.

Section 9. - No person can fish or cultivate aquatic animals in the preservation fisheries, unless permission has been obtained from the Director-General.

Section 10. - Leasable fisheries are fisheries in which exclusive right to fish and to cultivate aquatic animals should be granted to a person by means of tendering.

Any fisheries which are to be determined as leasable fisheries shall not be within the state irrigation area nor impair the rice cultivation or Water communication.

Section 11. - No person other than licensee shall fish or cultivate aquatic animals in leasable fisheries.

The licensee must comply with the conditions imposed by the Director-General.

Fishing in leasable fisheries for the purpose of family consumption is permissible, provided that the fishing implements used must be in accordance with those determined in the notification by the Provincial Council with the approval of the Minister.

Section 12. - Reserved fisheries are fisheries in which a person has been permitted to fish or to cultivate aquatic animals, and include trapping ponds.

Section 13. - No person other than the licensee shall fish aquatic animals in reserved fisheries.

The licensee must comply with the conditions imposed by the Director-General.

Section 14. - No person shall dig or build trapping ponds in the land which is domained public of State, unless permission has been obtained from the competent official.

In the land owned by a person, the digging or building of trapping pond is permissible, provided that the aquatic animals in preservation fisheries are not injured.

Section 15. - The licensee has the duty to put up such lamps and signs for the safety of water communication as prescribed in the Ministerial Regulation.

Section 16. - Public fisheries are fisheries in which every person has the right to fish and to cultivate aquatic animals.

Any person fishing or cultivating aquatic animals in public fisheries must comply with the conditions imposed by the Minister and published in the Government Gazette.

Section 17.\* - No person shall erect anything in preservation fisheries, leasable fisheries, reserved fisheries which are not owned by a person, and in public waters or grow therein lotus, rice, jute, such other crops or water plants as named in the Royal Decree, unless permission has been obtained from the competent official.

The licensee must comply with the conditions imposed by the Minister.

Section 18.\* - No person shall drain the water out of preservation fisheries, leasable fisheries, reserved fisheries which are not owned by a person, and out of public waters or trapping ponds or dry up or diminish water in the said fisheries for the purpose of fishing, unless permission has been obtained from the competent official.

The licensee must comply with the conditions imposed by the competent official.

Section 19.\* - No person shall pour, throw away, drain or lay in the fisheries such poisonous substance as determined by the notification of the Minister in the government Gazette, or do any act that stupefies the aquatic animals, or pour throw away, drain or lay in the fisheries any substance in the manner that is dangerous to aquatic animals or causes pollution therein, except for the experiments for scientific benefit which have already been permitted by competent official.

Section 20.\* - No person shall use an electric current in fisheries, or use explosive in fisheries in any other way, except for the official purposes, or permission has been obtained from the Director-General.

Section 20bis.\* - No person shall have in his possession for commercial purpose aquatic animals which he knows that has been taken in contravention of the provision of Section 19 or Section 20.

Section 21. - No person shall make any alternation to the fisheries not lying within the land owned by a person affecting its former condition, unless permission has been obtained from the competent official.

The licensee must comply with the conditions imposed by the competent official.

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\* Section 17 has been repealed and replaced by Section 3 of the Fisheries Act (No.2), B.E. 2496.

\* Section 18 has been repealed and replaced by Section 4 of the Fisheries Act (No.2), B.E. 2496.

\* Section 19 has been repealed and replaced by Section 5 of the Fisheries Act (No.3), B.E. 2528.

\* Section 20 has been repealed and replaced by Article 2 of the Annancement of the Revolutionary Party No. 105, dated 24 March B.E. 2515.

\* Section 20 bis has been repealed and replaced by Article 3 of the Annancement of the Revolutionary Party No. 105, dated 24 March B.E. 2515.

Section 22. - No person shall erect, set up or build dike, dam, screen fence, fishing nets or other fishing implement in fisheries obstructing the passage of aquatic animals, unless permission has been obtained from the competent official or it is for the agricultural purposes in the land owned by a person.

The licensee must comply with the conditions imposed by the competent official such as those relation to the fish-ladders or other implements enabling aquatic animals to swim up and down.

## **Chapter 2 Cultivation pond**

Section 23. - No person shall dig or build cultivation pond in the land which is domain public of State, unless permission has been obtained from the competent official.

The licensee must comply with the conditions prescribed in the permit.

Section 24. - Fishing in cultivation pond requires no permission and is exempted from fishery tax under this Act.

## **Chapter 3 Registration and Application for Permission**

Section 25. - The Minister shall have the power to make a notification requiring person in any localities who engage in fishing, in trading in aquatic animals, fishery products or fishery industry as may be specified in the Royal Decree to be registered, and requiring then to apply to the competent official for permission before engaging in such occupation with or without the license fee being charged under this Act.

Section 26. - The Minister shall have the power to make a notification requiring owners or possessors of any kind of fishing implement in any locality to have the fishing implement in their possession registered with the competent official.

Section 27. - In case of necessity for official service or for public interest, the provincial governor may, subject to the approval of the Minister, order the revocation of any permit or concession. In such case, the licensee is entitled to refund of the portion of fishery tax only for the revoked period.

Section 28. - Any person is entitled to use licensed fishing implement only when the license specifying his name has been issued and the fishery tax under Act has been paid.

The Minster is empowered to make a notification exempting the requirement of license of any kind of fishing implement in any locality.

Section 28bis.\* - Any person who owns the vessels, using it for fishing or permits it to be used in fishery which results in the violation of waters of foreign states, and thereby causes the crew or passengers aboard to be left abroad has the duty to comply with the decision of the Committee on Considering Compensation and other Expenses Resultion from the Violation of Waters of Foreign States which is appointed by the Minister in the amount of not exceeding 7 persons within thirty days as from the date that the notice informing such decision is obtained.

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\* Section 28 bis is inserted by Section 6 of Fisheries Act (No.3), B.E. 2528.

In case that the decision cannot be informed to the person under paragraph one as the said person cannot be found or no one uccent it in lien it is deemed that the said person has already been informed of the decision by registered mail or has posted the same at noticeable place at the domicile office or place of residence of the said person with the administrative official or police as witness therein.

Section 29. - Any person who is desirous of using licensed fishing implement, or which license has been issued in one province, in another province where higher fishery tax for same is leviable, is required to pay an additional fishery tax cover the cover the full rate leviable therein before using such implement.

Section 30. - Any person who is desirous of fishing in reserved fisheries must apply for permission and pay fishery tax under this Act. The money in respect of tendering payable by the licensee shall be deemed to be fishery tax under this Act.

The Minister is empowered to make a notification exempting any particular person form fishery tax in the reserved fisheries, in which case it shall be deemed that permission has been obtained.

Section 31. - No person shall erect, peg down or build a stationary gear in public fisheries, now shall be do so in other fisheries without permission from the competent official.

Section 32. - The Minister or provincial governor in his jurisdiction and with the approval of the Minister, is empowered to make notification determining:

(1) the size of mesh and dimension of every kind of fishing implement, and size, kind, number and parts of fishing implement, which is permitted in fisheries;

(2) any kind of fishing implement which is absolutely forbidden to be used in fisheries;

(3) the distance between each stationary gear;

(4) the methods of using every kind of fishing implement;

(5) the spawning and breeding seasons, fishing implement and methods of fishing in any fisheries during the said season;

(6) the kind, size and maximum number of aquatic animals the fishing of which is permissible;

(7) certain kinds of aquatic animals the fishing of which is absolutely forbidden.

Section 33. - The transfer of concession, permit or license, the issue of substitute thereof and the endorsement of the license in order to after or insert name of the person entitled to use the fishing implement shall be subject to the fees chargeable under this Act.

Where any permit or license has expired but an application for renewal has been made before the date of its expiration, any fishing or using of fishing implement thereunder shall be considered to have been permitted under this Act until the fact of not granting permission shall be notified by the competent official.

Section 34. - No person shall fish or do any act inside a stationary gear of the licensee or within such location limit of the said gear as determined by notification of the provincial governor with the approval of the Minister.

Section 35. - The licensee must carry with him the concession, permit or license during the time of fishing and must produce it for inspection upon request of the competent official.

Section 36. - In case the licensee violates this Act or the conditions imposed in the concession, permit or license, or fails to pay fishery tax in respect of the concession, permit or license, the competent official may order the revocation of same.

Section 37. - Whenever or wherever the levy of fishery tax is inappropriate, exemption shall be made by a Royal Decree.

Section 38. - The provincial governor shall have the power, subject to the approval of the Minister, to exempt, suspend or refund the whole or a part of fishery tax in respect of any concession, permit and license as he thinks fit.

Section 39. - The provincial governor shall have the power, subject to the approval of the Minister, to order the extension of the period for payment of fishery tax as he thinks fit. As for the fishery tax due, the licensee is bound to pay an interest there on at 10 percent per annum, and such interest shall be deemed to be in arrear.

Section 40. - When the licensee fails to pay fishery tax, the competent official shall proceed as follows;

(1) To make a notification or serve upon the licensee a written notice requiring the latter to pay the fishery tax due within such a period as the former thinks fit;

(2) If, after proceeding as provided in (1), the licensee is still in failure, to order the cessation of the fishing;

(3) To cause the property placed by the licensee as security to be sold by auction or to demand the surety to pay fishery tax in his stead. The proceeds of sale by auction shall be deducted to cover the tax and expenses incurred thereby. The remainders shall be returned to the licensee or surety, as the case may be.

Section 41. - The competent official is empowered to seize and cause to be sold by auction so much of the property of the licensee as may be required to cover the fishery tax due as well as expenses incurred by the seizure and auction sale.

Section 42. - In case the concession, permit or license is revoked in accordance with Section 36, the fishery tax paid in respect thereof shall not be returned.

Section 43. - The period of validity of a license shall, for the purpose of applying for permission and paying fishery tax, commence from the 1st April to the 31st March.

Section 44. - Subject to Section 43, the Provincial Council shall, for the purpose of collection fishery tax, have the power, subject to the approval of the Minister, to make a notification determining fishing seasons as may be suitable to the local condition; each season shall cover a period of twelve months, and shall be regarded as the annual period for applying for permission and paying fishery tax.

Section 45. - When the competent official has to go out to inspect or to locate a stationary gear for any person applying therefore, such person shall, at his option, provide the competent official with transportation or such necessary expenses as have actually been paid.

Section 46. - In case the competent official having the power to grant concession, permit and license refuses to grant the documents, any interested person is entitled to lodge an

appeal with the Minister through the competent official within thirty days as from the day when the order comes to his knowledge. The competent official shall, without delay, submit the appeal to the Minister, whose decision shall be final.

#### **Chapter 4 Fisheries Statistics**

Section 47. - The Minister shall have the power to make a notification requiring the collection of fishery statistics be made in any such localities as he thinks fit.

Section 48. - When the notification under Section 47 has been made, the Director-General may request any person engaging in occupation relating to aquatic animals to furnish particulars, information and figures in connection with the fishery statistics.

Section 49. - The request of the Director-General must be made in writing, naming the proprietor of the business, its manager or representative, and specifying the time, place or manner of filing the return.

Section 50. - Any person who receives the request under Section 48, must fill in the form answers showing such particulars, information and figures so far as he knows, sign his name, and then file the same within the time, at the place and in the manner prescribed in the request.

Section 51. - In case of necessity for official interest, the competent official appointed by the Minister for this purpose shall have the power to enter the premises of the request receiver during the time between sunrise and sunset for examining and recording any information and figures concerning the fishery statistics. It shall be the duty of the request receiver and his representative to answer the questions and render facilities and assistance to the competent official.

#### **Chapter 5 Control**

Section 52. - The provincial government has the power, subject to the approval of the Minister, to make a notification forbidding any person other than the licensee to enter any fisheries unless permission has been obtained from the licensee or the competent official.

Section 53.\* - No person shall have in his possession such kind of aquatic animals or aquatic animal products as prescribed in a Royal Decree, or have in his possession any kind of the aquatic animals or aquatic animal products in excessive amount or quantity or of smaller size than specified by a Royal Decree unless permission has been obtained from the competent official.

In case of the aquatic animals which are prohibited to have in the possession of any person are of the species that may cause danger to the body or property of person or public, the character of the aquatic animals that may be dangerous shall be specified and the term for the person who has such aquatic animals in his possession to deliver them to competent official shall be prescribed in a Royal Decree under paragraph one.

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\* Section 53 has been repealed and replaced by Section 7 of Fisheries Act (No.3), B.E. 2528.



The application for and the grant of permission under paragraph one shall be in accordance with such rules, procedures and conditions as prescribed in the Ministerial Regulations.

Any person who has in his possession the aquatic animals or aquatic animal products on the day that the Royal Decree issues in pursuance of paragraph one comes into force, if is desirous to have in his possession such aquatic animals or aquatic animal products, shall apply for permission under paragraph three within thirty days as from the day that the said Royal Decree comes into force, except in the case that the aquatic animals under paragraph two cannot be applied for permission or be permitted. During the prescribed time for the application for permission until the day that the application is denied by the competent official. Section 67 bis, shall not be applied.

In the case that the person under paragraph four has already applied for permission but has been denied, the Director-General has the authority to order the said person to deliver such aquatic animals or aquatic animal products to the competent official within seven days after receiving the instruction.

In the case of the delivery of aquatic animals or aquatic animal products under paragraph two or five, the Department of Fisheries shall appraise the due price of such aquatic animals or aquatic animal products to the deliverer.

The provision in paragraph one, two, three, four, five and six shall not apply to the governmental departments, state enterprises or other activities that the Minister particularly specifies by the announcement in the Government Gazettes.

Section 54. - No person shall, without permission from the competent official, bring into the Kingdom such kind of aquatic animals as specified by a Royal Decree.

Section 55. - No person shall introduce in any fisheries any kind of aquatic animals as specified by a Royal Decree, unless permission has been obtained from the competent official.

Section 56. - The competent official shall have the power to enter at any time any fisheries or board any fishing vessel of any person for the purpose of inspection of the fishing, fishing implements, aquatic animals, accounts and documents of the licensee. The licensee must give facilities and explanations to the competent official.

Section 57. - When any person is found committing an offence under this Act or there is a reasonable ground to suspect that he has committed such offence, the competent official shall have the power to arrest that person and seize the fishing implements, aquatic animals and other things which are used in committing the offence for legal proceedings.

Section 58. - The provincial governor shall have the power to order the licensee to remove all his fishing implements, structures or things placed in any fisheries in violation of this Act, or when his concession or permit has expired. The expenses or the removal shall be borne by the licensee.

Section 59. - The competent official shall have the power to remove, demolish or seize implements placed in any fisheries in violation of this Act, and other things specified in Section 58 in case the order receiver fails to remove them within a reasonable time. The expenses of the removal shall be borne by the licensee or by the violator.

Section 60. - Notifications under this Act shall, if not specially provided in this Act, be made in Writing and posted at the District Office or Provincial Office of the Locality concerned for a period of not less than thirty days.

## **Chapter 6 Penalties**

Section 61.\* - Whoever violates Section 11, 14, 15, 16 paragraph Two, 23, 31, 34 or 52 shall be punished with fine not exceeding two thousand baht or with imprisonment not exceeding one month, or both.

Section 62.\* - Whoever violates Section 9, 13, 17, 18, 21, 22, 30, 54 or 55 shall be punished with fine not exceeding ten thousand baht or with imprisonment not exceeding six months, or both.

Section 62.bis.\* - Whoever violates Section 19 or 20 shall be punished with imprisonment from six months to five years and with fine from ten thousand to one hundred thousand baht.

Section 62.ter.\* - Whoever violates Section 20 bis. Shall be punished with imprisonment not exceeding three years and with fine not exceeding five thousand baht.

Section 63. - Whoever does not comply with the notification of the Minister made under Section 25 or 26 shall be punished with fine not exceeding one hundred baht or with imprisonment not exceeding one month, or both.

Section 64.\* - Whoever uses fishing implement without license required by this Act Under Section 28, or does not pay additional tax under Section 29, shall be punished with fine three times the amount of the tax and the Director-General or the competent official assigned by the Director-General shall have the authority to impose fine.

When the offender has already paid the imposed fine within fifteen days, the case shall be final.

Section 64bis.\* - Whoever does not comply with the judgement of the Committee according to Section 28 bis. Shall be punished with fine not exceeding two hundred thousand baht, or imprisonment not exceeding five years, or both.

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\* Section 61 has been repealed and replaced by Section 8 of Fisheries Act (No.3), B.E. 2528.

\* Section 62 has been repealed and replaced by Section 9 of Fisheries Act (No.3), B.E. 2528.

\* Section 62 bis. Has been repealed and replaced by Section 10 of Fisheries Act (No.3), B.E. 2528.

\* Section 62 ter. Is inserted by Section 9 of Fisheries Act (No.2), B.E. 2496.

\* Section 64 has been repealed and replaced by Section 11 of Fisheries Act (No.3), B.E. 2528.

\* Section 64 bis is inserted by Section 12 of Fisheries Act (No.3), B.E. 2528.

Section 65.\* . Whoever violates the notification of the Ministry or the provincial governor issued in pursuance of Section 32 shall be punished with fine from five thousand to one hundred thousand baht, or imprisonment not exceeding one year, or both.

Section 66. - Any licensee who does not comply with Section 35 shall be punished with fine not exceeding fifty baht.

Section 67. - Any person who has the duty to comply with Section 50, 51 or 56 fails to do so, shall be punished with fine not exceeding one thousand baht.

Section 67.bis.\* - Whoever violates Section 53 paragraph one or five shall be punished with fine not exceeding twenty thousand baht, or imprisonment not exceeding one year, or both.

In case that such aquatic animals may cause danger under Section 53 paragraph two, whoever violates shall be punished with fine not exceeding one hundred and twenty thousand baht, or imprisonment not exceeding six years, or both.

Section 68. - Any licensee does not comply with the order of the provincial governor given under Section 58 shall be punished with fine not exceeding five hundred baht or with imprisonment not exceeding six months, or both.

Section 69.\* - Vessels, fishing implements, aquatic animals and other things used in or acquired through the commission of an offender under this Act may be forfeited by the Court. But, if were offence Section 19 or Section 20, they shall be forfeited by the Court.

Section 70. - Fishing implements which are absolutely forbidden to be used according to the notification made under Section 31, shall, if used in any fisheries, be forfeited by the Court.

Section 71. - Any person who commits an offence under this Act must pay the informer a reward in money not exceeding two thousand baht according to the rules determined by the Minister, and must compensate for the expenses which the competent official has spent in the carrying out of Section 59. In the case where the offender is punished by the Court, he must be adjudged to pay the said monies, failing which Section 18 of the Penal Code shall be dealt with as in the case of fine.

Section 72. - Whoever demolished, removed, or causes damages to lamps; demarcation posts, notification, or other things which are provided by the competent official in fisheries, shall be punished with fine not exceeding one thousand baht or with imprisonment not exceeding one year, or both.

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\* Section 65 has been repealed and replaced by Section 13 of Fisheries Act (No.3), B.E. 2528.

\* Section 67 bis is inserted by Section 17 of Fisheries Act (No.3), B.E. 2528.

\* Section 69 has been repealed and replaced by Article 5 of the Announcement of the Revolutionary Party No. 105, dated 24 March B.E. 2515.

### **Transitory Provisions**

Section 73. - Notifications determining the categories of fisheries, with were issued before the date of enforcement of this Act shall be regarded to be notifications issued under Section 7 of this Act as from the date of enforcement of this Act.

The concession, license and permit which were granted before the date of enforcement of this Act shall be regarded to be the concession, license and permit as the case may be, granted under this Act, and still be valid until the expiration of such concession, license and permit.

Counter-signature:

Rear-Admiral T. Damrong Nava Svasti  
Prime Minister