

The Navigation in Thai Waters Act, B.E.2456 (1913)

Translation

Background

The Act on Navigation in Thai Waters, B.E. 2456 (1913) (the "Act") may be one of the oldest Thai laws relating to navigation. The Act was issued in 1913 in the period of King Rama VI, the sixth king of Chakri Dynasty. At that time Thailand was called 'Siam' and was governed by Monarchy. Therefore, the original name of the Act was "the Act on Navigation in Siam Waters B.E.2456". The Act came into force on 1st September 1913.

As the Act is quite an old law, it has been amended in several occasions and there are so many Ministerial Regulations and Announcements issued under the Act. Besides, some kinds of ship mentioned in the Act can be seen only in the museum, because they are no longer used.

General Scope of the Act

The Act comprises three major parts, each part deals with different matter. However, the below general scope of the Act may reflect its legal framework.

**Chapter 1
General rules****Section 1**

Navigation course, port area and berth area

Section 2

Duties of the master

- (a) when a steamboat enters the Siamese waters
- (b) when a steamboat enters into or exits from a river
- (c) when a steamboat enters into or exits from Bangkok port area

Section 3

Location for ship anchorage

Section 4

Navigation courses in river ways

- (a) Eastern navigation course or the main course
- (b) Western navigation course
- (c) Parts of the two navigation courses reserved for smaller vessels
- (d) Canals

Section 5

Wooden rafts, house boats, etc.

- (a) Wooden rafts
- (b) House boats
- (c) Boats used for catching water animals and long fishing nets set up in rivers

Section 6

Miscellaneous rules

- (a) Mooring of ships to the shore by using steel cords and ropes
- (b) Ship velocity-danger-lamps
- (c) Ships taken out from the docks
- (d) Encroachment of river ways
- (e) Dumping of ballasts into river ways, port area or anchorage
- (f) Dangerous ships
- (g) Horns blown by steam power :
 - Gun shooting
 - Drum beating and setting off fireworks
- (h) Things forgotten on a ship and things left floating in the rivers
- (i) Warnings for master of a steam boat

Chapter 2

Rules for issuing licenses for use and control of steam boats and small vessels

Section 1

General rules

Section 2

Ship survey

Section 3

All types of steamers

Section 4

Sail boats, big boats used for conveyance of goods, lighters, other types of boats and junks

Section 5

Cargo vessels and small vessels

Chapter 3

Special rules

Section 1

Rules for steam boats and vessels carrying hazardous goods

Section 2

Rules concerning petroleum contained in freight tanks

Section 3

Rules concerning throwing of anchors in nearby location or throwing of anchors over underwater electric cables

Section 4

Lighthouse charges

Section 5

Rules for prevention of disease

Section 6

Pilot rules

Section 7

Hiring and dismissal of ship workers and academic testing

For persons seeking certificate to perform duties

Section 8

Use of punitive measures against offences

Section 9

Penalty and civil liability

Section 10

General rules for vessel collision cases

Thai Waters

The Act applies to the navigation in Thai waters of any ships defined in Section 3 of the Act. According to the definition in the Act, 'Thai waters' mean any waters within the sovereignty of the Kingdom of Thailand. Therefore, the Act should not be able to apply to the navigation in high sea and the specific economic zone.

Ships

Under Section 3 of the Act, 'Ship' means any water vehicle used for carriage conveyance, passenger transport, hauling, towing, lifting, digging or dredging including any other vehicles capable for use in water of similar nature. The Act also applies to cargo ship, passenger ship, fishing boat, and floating house.

Pilotage

The Pilotage is governed by the Ministerial Regulations No. 2, B.E. 2477 which have been amended on many occasions. The most important amendment was made in 1991 in respect of clause 37 under which the word 'Pilotage' was defined. Before the amendment of this clause, the Supreme Court had ruled in the Supreme Court judgment No 3088/2525 that the Pilot was regarded as the controller of ships and must be jointly liable with the Master.

The liability of the pilot, under the new wording of clause 37, for any damage resulting from his fault in pilotage is still in question, because the word 'Pilotage' under the current clause 37 means to assist or to act on the Master's behalf, only in respect of navigation and the control of vessel to safely sail in port area or waters where the sailing with pilot on board is compulsory, with acknowledgement and approval of the Master to the pilot's order, advice and information.

SOLAS 1974

In 1974, the Thai Government ratified the Convention for the Safety of Life at Sea 1974 but the Convention came into effect in Thailand on 18th March 1975. As a result, in 1976, the Director General of the Harbor Department by approval of the Minister of the Ministry of Communication issued the Harbor Department's Announcement No. 353/2539 regarding the Classification of Dangerous Goods. Therefore, part of IMDG Code was incorporated in the Act.

Classification Society

In 1975, the Harbor Department issued the Rules for Ship Survey (No. 15), B.E.2528 recognizing ship survey proceeded by these following international classification societies:-

- 1) American Bureau of Shipping (U.S.A.)
- 2) Bureau Veritas (France)
- 3) Det Norske Veritas (Norway)
- 4) Germanischer Lloyd (Germany)
- 5) Lloyd Register of Shipping (England)
- 6) Nippon Kaiji Kyokai (Japan)

Special Provisions

Section 308 of the Act provides that a claim for compensation resulting from a collision of ships must be filed with the Court within six months. However, in 1956, the Supreme Court ruled in the Supreme Court judgment No. 1188/2499 that the prescription of time applicable to a claim for compensation resulting from ship collision is the one-year time limit in respect of a wrongful act under the Civil and Commercial Code of Thailand

The Act also provides the arrest of ships and perhaps, it may be the first Thai law providing the arrest of ships. The Act empowers the Court to attach the faulty ship after the claimants have filed a law-suit for compensation resulting from collision, but in 1991, the Royal Thai Government enacted the Act on Arrest of Ship, B.E.2534. As a result, the matter of arrest of ship is governed by the new law.

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