

## **Act Governing the Right to Fish in Thai Fishery Waters, B.E. 2482 (1939)**

**Translation**

Whereas the Assembly of the People's Representatives has passed a resolution that it is deemed expedient to revise the law governing the right to fish in Thai fishery waters so as to be more complete;

Be it, therefore, enacted by the King, by and with the advice and consent of the Assembly of the People's Representatives, as follow:

### **Section 1**

This Act shall be called the "Act governing the Right to fish in Thai Fishery Waters, B.E. 2482 (1939)".

### **Section 2**

This Act shall come into force as from the 7th day of October, B.E. 2482 (1939).

### **Section 3**

On and from the date of the coming into force of this Act, the Act governing the right to fish in Thai Fishery Waters, B.E. 2477, and the Act governing the Right to fish in Thai Fishery Waters Amendment Act, B.E. 2478 shall be repealed.

### **Section 4**

In this Act:

"Fishing" means fishing activity by using any kind of implement or by any method carried on at any place in the Thai Fishery Waters, including the use of a vessel for fishing purpose or as means of conveyance for such purpose;

"Thai fishery waters" means the Thai territorial waters or any other waters in which Thailand exercises or may be entitled to exercise its fishing rights, as such waters publicly appear to be delimited by local law or usage, by international law, by treaty or in any other way;

"Person in charge of a vessel" means a master, sarang, taikong, coxwain, steersman or any other person who is in control of the vessel and responsible for it, but does not include a pilot;

"Alien" means an alien under the law concerning registration of aliens;

"Minister" means the Minister having charge and control of the execution of this Act;

"Competent official" means any fishery officer, provincial councilor, district councilor, harbor master, customs officer, commanding officer of a vessel or of a body of marines of the Royal Navy, and any other official appointed by the Minister for the execution of this Act.

### **Section 5**

No license for fishing shall be issued to:

- (a) any alien, or
- (b) any ordinary partnership, unless all its partners shall have Thai nationality, or
- (c) any limited partnership, unless all its partners jointly and unlimitedly liable shall have Thai nationality, and not less than seventy percent of its capital shall be owned by natural persons having Thai nationality, or
- (d) any limited company, unless the majority of its directors shall have Thai nationality and not less than seventy percent of its capital shall be owned by natural person having Thai nationality, and such company shall have no regulations permitting the issue of shares to bearer.

The partnership or company which is entitled to obtain such license must have been registered under the Thai law, having its principal office in the Kingdom of Thailand.

### **Section 6**

If the person, partnership or company who or which has already obtained license for fishing afterwards becomes disqualified to be granted license as provided in Section 5, such person, partnership or company shall notify the issuing official of same within fifteen days from the date of becoming disqualified and, at the same time, to surrender the license. In such case the issuing official shall cancel such license.

### **Section 7**

Unless agreements have been made otherwise with foreign countries, the following vessels can not be used for fishing purpose in the Thai fishery waters:

- (1) Vessels having foreign nationality or belonging to aliens or juristic persons having foreign nationality;
- (2) Thai vessels, the crews of which include aliens, no matter in what capacity they may be.

However, aliens who have been residents in Thailand for not less than five consecutive years before the 28th October, B.E. 2477, may become members of the crew of a Thai fishing vessel, provided that they must have been registered under and complied with the law concerning registration of aliens, and the aggregate number does not exceed twenty five per cent of the total number of crew.

For the purpose of this Section, a crew shall not be deemed to be an alien if such an alien is an instructor appointed by the Minister for imparting knowledge in fishery in Government, Public or Municipal school. In case of Public or Municipal school, the number shall not exceed five instructors to each school and permission must have been obtained from the Minister or the official appointed by the Minister for that purpose.

### **Section 8**

A person who engages in fishing activity by using a vessel in the Thai fishery waters is required to carry on board such vessel the license for fishing during the fishing operation.

### **Section 9**

The competent official is empowered to inspect and search any vessel used or reasonably suspected of being used for fishing purpose in violation of this Act, and to seize implement which may be served as evidence for the commission of an offence against this Act, as well as any catch found on board the vessel which is suspected to have been taken out from the Thai fishery waters.

### **Section 10**

The competent official is empowered to capture and seize a vessel in respect of which an offence against this Act has been or is reasonably suspected to have been committed, and to take it in tow or order the person in charge of such vessel to do anything with a view to bringing the vessel to the nearest port suitable for inquiry or otherwise for legal proceedings.

The competent official who effects the capture or orders the capture to be made is empowered to make an inquiry into the commission of offence against this Act.

The court shall have the power to order forfeiture of the vessel used in the commission of offence against this Act, any implements and catch found on board the vessel which has been proved to have been taken out from the Thai fishery waters.

### **Section 11**

Where a vessel is used for fishing, or there is an attempt to fish in the Thai fishery waters in violation of this Act, the owner of the vessel who is on board at the time of violation, or,

in his absence, the person in charge of the vessel, shall be punished with fine not exceeding two thousand Baht or with imprisonment not exceeding one year, or both.

If the owner or person in charge of the vessel can not be brought for trial, or the owner or person in charge of the vessel is unknown, all persons on board the vessel at the time of violation shall be liable to the punishment provided in the preceding paragraph.

### **Section 12**

Whoever violates the provisions of Section 6 or Section 8 shall be punished with fine not exceeding two hundred Baht.

### **Section 13**

Prosecution of offence under this Act shall be instituted by the Public Prosecutor under the Department of Public Prosecution or military authority appointed by the Minister as having the power and duty to prosecute.

The appointment of military authority as having the power and duty to prosecute as provided in the preceding paragraph shall be published in the Government Gazette.

### **Section 14**

The Minister of Agriculture shall take charge and control of the execution of this Act, and shall have power to appoint competent officials and issue Ministerial Regulations for carrying out this Act.

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

## **TRANSITORY PROVISIONS**

### **Section 15**

Any alien who has already obtained fishing license on the date of the coming into force of this Act may continue his activity as far as permitted and may apply for renewal of such license within a period of not more than five years from the date of the coming into force of this Act provided he had never acted in violation of the provisions of this Act or of other law concerning fishing, or Ministerial Regulations issued under this Act or such other law.

The period of the time provided in the preceding paragraph shall not apply to the case of license to fish in place where the water is saltish throughout the year.

An alien who enjoys the right prescribed in the two preceding paragraphs shall subject to law, be entitled to use his vessel for fishing purpose for which license has been obtained when the crew of such vessel, in whatever capacity, are persons of Thai nationality or, if it includes aliens, such aliens must not exceed twenty five percent of the total number and must also be as hose prescribed in Section 7 paragraph two, then and in such case the provision of Section 7 (1) shall not apply.

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