

## Marine Salvage Act, B.E. 2550 (2007)

Translation

Bhumiphol Adulyadej, Rex.

Given on the 15th day of July B.E. 2550

Being the 62nd Year of the Present Reign

His Majesty King Bhumiphol Adulyadej had been graciously pleased to proclaim that:

WHEREAS is deemed expedient to have law concerning marine salvage.

BE IT THEREFORE ENACTED BY THE KING, by and with the advice and consent of the National Legislative Assembly, as follows:

### Section 1

This Act shall be called the "Marine Salvage Act, B.E. 2550 (2007)".

### 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

All laws, rules and other regulations which are already prescribed in this Act or which conflict or are inconsistent with the provisions of this Act shall be superseded and this Act shall instead be applied.

### Section 4

In this Act;

"Salvage operation" means any act or activity undertaken to assist a vessel or any other property in danger at sea or in any waters whatsoever.

"Vessel" means all kinds of water craft.

"Seagoing vessel" means a vessel which by nature is used in the seas pursuant to the Regulations Governing Vessel Inspection issued under the law of navigation in Thai waters.

"Property" means any property not permanently and intentionally attached to the shoreline and includes right to receive freight.

"Damage to the environment" means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

"Payment" means any reward or special compensation due under this Act.

### Section 5

This Act shall not apply to

- (1) salvage operation undertaken in inland waters without involvement of any seagoing vessel.
- (2) warships or other non-commercial vessels owned or operated by the State and entitled, at the time of salvage operations, to sovereign immunity under generally recognized principles of international laws.
- (3) fixed or floating platforms or mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bred mineral resources.

## **Section 6**

The Minister for Transport shall take charge and control of the execution of this Act.

### **Chapter 1 Salvage Operations**

-----

#### **Part 1 Salvage Contracts**

-----

## **Section 7**

The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The owner or master of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

## **Section 8**

In enforcing a salvage contract, if the court is of the view that such contract has been entered into under undue influence or the influence of danger and its terms are inequitable, or the payment under the contract is in an excessive degree too large or too small for the services actually rendered, the court may issue any of the following orders;

- (1) To annul whole or part of the contract against the contracting party and apply the provisions of this Act instead.
- (2) To modify the terms or conditions of the contract.
- (3) To increase or reduce the amount of payment stipulated in the contract to be appropriate for the services actually rendered.

### **Part 2 Duties in Salvage Operations**

-----

## **Section 9**

The salvor shall owe a duty to the owner of the vessel, the master and the owner of other property in danger:

- (1) to carry out the salvage operations with due care;
- (2) in performing the duty specified in (1), to exercise due care to prevent or minimize damage to the environment;
- (3) whenever circumstances reasonably require, to seek assistance from other salvors;
- (4) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or owner of other property in danger; provided, however, that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

## **Section 10**

In the event the vessel or other property is in danger, the owner of the vessel, the master or the owner of other property shall owe a duty to the salvor:

- (1) to co-operate fully with him during the course of the salvage operations;

- (2) in so doing in (1), to exercise due care to prevent or minimize damage to the environment;
- (3) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

### **Section 11**

The master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph one.

## **Chapter 2 Rights of Salvors**

-----

### **Section 12**

The salvor shall be entitled to reward if the salvage operations have had a useful result in saving the vessel or other property.

The right to a reward shall not be extinguished notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

### **Section 13**

The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to order in which they are presented below:

- (1) the salvaged value of the vessel and other property;
- (2) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
- (3) the measure of success obtained by the salvor;
- (4) the nature and degree of the danger;
- (5) the degree and efforts of the salvors in salvaging the vessel, other property and life;
- (6) the time used and expenses including losses incurred by the salvors;
- (7) the risk of liability or other risks run by the salvors or their equipment used in the salvage operations;
- (8) the promptness of the services rendered;
- (9) the availability and use of vessels or other equipment intended for salvage operations;
- (10) the state of readiness and efficiency of the salvor's equipment and the value thereof.

### **Section 14**

Payment of a reward shall be made by all of the vessel and other property interests in proportion to their respective salvaged values.

If the salvor by his salvage operations has helped save the vessel and property on board the vessel, he may claim the owner of the vessel for the whole amount of the reward.

If the salvor exercised his right under paragraph two, the owner of the vessel who has paid the reward shall be entitled to the right of recourse against the parties interested in the vessel or property on board the vessel in proportion to their share of payment under paragraph one.

## **Section 15**

The reward, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

## **Section 16**

If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under Section 13 or received a reward under Section 13, but less than his expenses, the salvor shall be entitled to receive special compensation in accordance with this Section from the owner of the vessel equivalent to his expenses or the difference between his expenses and the reward under Section 13, as the case may be.

If, in the circumstances set out in paragraph one, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the court, if it deems fair and just to do so and bearing in mind the relevant criteria set out in Section 13, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.

Salvor's expenses for the purpose of paragraphs one and two means the out-of-pocket expenses necessary and reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in Section 13 (8), (9) and (10).

If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or part of any special compensation due under this Section, as the case may be.

Nothing in this Section shall affect any right of recourse on the part of the owner of the vessel.

## **Section 17**

In case of several salvors, the criteria set out in Section 13 shall be the basis of apportionment of a reward between the salvors.

## **Section 18**

In the event the salvage operation has been carried out from a Thai vessel, the apportionment between the owner and crew shall be determined on the fact as to whether such operations were carried out by putting the vessel at risk or by relying on personal skill or capability of the crew. If it is the case of putting the vessel at risk, the majority of the reward shall be awarded to the owner of the vessel, but if it is the case of relying specifically on personal skill or capability of the crew, the majority of the reward shall be awarded to all crew members, in which case the reward shall be apportioned equally among them, unless expressly agreed otherwise.

In the event the salvage operation has been carried out from a foreign vessel, the apportionment of a reward between the owner and crew shall be determined by the law of the flag of that vessel.

## **Section 19**

In the event the salvage operation has not been carried out from a vessel, the apportionment of a reward between the salvor and the servants he used in the salvage operation shall be determined by the law governing the contract between the salvor and his servants.

If the law applicable to the contract between the salvor and his servants is Thai law, the provisions in paragraph one of Section 18 shall apply *mutatis mutandis*.

## **Section 20**

No remuneration is due from persons whose lives are saved.

A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of payment awarded to the salvor.

## **Section 21**

If, simultaneously with saving lives, the salvor of human life has also rendered his services in the salvage operations, the court may further increase the remuneration the salvor is entitled to receive.

## **Section 22**

If a salvage contract was entered before the danger occurs, no payment is due for the performance of the contract, unless the services rendered exceed the scope of duty provided in such contract.

## **Section 23**

If the salvage operations have become necessary or more difficult because of fault or neglect of the salvor, he may be deprived of the whole or part of the payment.

If the salvor has been guilty of fraud or other dishonest conduct, he shall be completely deprived of the payment.

## **Section 24**

Services rendered in salvage operation shall not give rise to payment if carried out against the express and reasonable prohibition of the following persons:

- (1) the owner or master of the vessel in case of salvaging the vessel, or the property which is or has been on board the vessel.
- (2) the owner of other property in danger which is not and has not been on board the vessel.

## **Chapter 3**

### **Right to Claim Payment and Actions**

-----

## **Section 25**

The salvor is entitled to maritime lien in respect of his right to payment for carrying out salvage operations, but the salvor may not enforce his maritime lien when satisfactory security for his claim has been duly tendered.

## **Section 26**

Upon the request of the salvor, a person liable for a payment due shall provide satisfactory security for the claim, including interest and costs incurred by the salvor from exercising such claim.

## **Section 27**

Before the cargo is released, the owner of the salvaged vessel shall use his best endeavors to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs for exercising such claims, regardless of whether or not the salvor has made a request under Section 26.

## **Section 28**

The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of salvage

operations unless satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

### **Section 29**

Any action relating to claim arising from salvage operations undertaken pursuant to this Act shall be under the jurisdiction of the Intellectual Property & International Trade Court.

### **Section 30**

In the event the issue of the claim is specifically concerned with payment, the salvor may file an ex-parte application with the court at any time before judgment is rendered to ask the court to order the person liable for payment to pay for the undisputed amount. The court, upon receiving such application, may hold an inquiry and may order the salvor to be paid for the amount applied for.

After the salvor has received payment of the said amount, the security put up under Section 26 shall be reduced proportionally for the persons liable for the payment.

### **Section 31**

Any action relating to payment shall be time barred if judicial proceedings have not been instituted within a period of two years from the day on which the salvage operations are terminated.

### **Section 32**

Non-commercial cargoes owned and protected by a State shall not be subject to seizure, arrest or detention by any legal process unless the State owner of such cargoes consents.

### **Section 33**

Humanitarian cargoes donated by a State shall not be subject to seizure, arrest or detention by any legal process if such State has agreed to pay for salvage services rendered.

## **Transitory Provisions**

-----

### **Section 34**

This Act shall not apply to salvage operations undertaken before the date of its enforcement.

Countersigned by:

General Surayut Julanont

Prime Minister

### **Disclaimer**

This translation is intended to help Thais or foreigners to understand Thailand laws and regulations only, not to use as references, because it is only the original Thai version of legislation that carries legal effect. [www.ThaiLaws.com](http://www.ThaiLaws.com), therefore, shall not be held responsible in any way for any damage or otherwise the user may incur as a result of or in connection with any use of this publication for any purposes. It's the responsibility of the user to obtain the correct meaning or interpretation of this publication or any part thereof from Thai version or by making a formal request to the appropriate or related authorities.