



## **Directive of the Department of Fisheries**

### **Re: Determination of an Operational Guideline on Courses of Action Pertaining to Factories/Plants Operating Businesses Related to Aquatic Animals as Stipulated in Fisheries Laws**

As it is deemed expedient to set forth an operational guideline for the competent officer to comply with in cases in which it is found that an employee is employed in a manner that is in violation of laws on labour protection, or that foreign nationals employed are not authorized therefor pursuant to the law(s) on the working of foreign nationals in a factory/plant operating a business related to an aquatic animal, as well as in his/her deliberation upon the issuance of orders for enterprises to cease their business operation and any other operation as prescribed in section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015), the Director General of the Department of Fisheries has hereby issued the following directive on an operation guideline therefor:

Clause 1 This Directive shall be called the Directive of the Department of Fisheries on the Determination of an Operational Guideline on Courses of Action Pertaining to Factories/Plants Operating Businesses Related to Aquatic Animals as Stipulated in Fisheries Laws

Clause 2 This Directive shall come into force as from the date of its publication.

Clause 3 In this Directive

“Factory/plant operating a business related to an aquatic animal” means a factory/plant pursuant to the law(s) on factories/plants operating businesses related to aquatic animals.

“Competent officer” means a person assigned by the Minister of Agriculture and Cooperatives for the performance of action pursuant to the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015).

“Director General” means the Director General of the Department of Fisheries.

Clause 4 There shall be a Committee comprising a Deputy Director-General, assigned by the Director-General, as Chairperson of the Committee, together with Lead Inspector-General of the Department, Director of the Fisheries Foreign Affairs Division, Director of the Fish Inspection and Quality Control Division, Director of the Fisheries Administration and Management Division, and Director of the Legal Division as committee members. Head of the Case and Tort Group of the Legal Division shall serve as a committee member and secretary, and an assigned lawyer from the Case and Tort Group shall serve as a committee member and assistant secretary.

Clause 5 The Committee shall have the following duties and powers:

- (1) Find facts and collect evidence related to wrongful acts in violation of the provisions of section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015);

- (2) In a case in which dubious circumstances arise, issue a letter to the owner of any such factory/plant operating a business related to aquatic animals or a representative to clarify and present evidence as per clause 7;
- (3) Deliberate upon and examine the matter, and provide opinions thereupon for the deliberation of the Director-General pursuant to clause 7;
- (4) Issue letters inviting the Provincial Fisheries Officer in the locality concerned, or any other officer who has detected a wrongful act pursuant to section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015) so that they provide data, or supply relevant documents or evidence in support of action in light of this Directive;
- (5) Perform other duties as assigned by the Director-General.

Clause 6 When the competent officer has found that a factory/plant operating a business related to an aquatic animal employs an employee in a manner that is in violation of laws on labour protection, or employs not more than five foreign nationals who have not been given permission to work pursuant to the law(s) on the working of foreign nationals, he/she shall take the following course of action:

- (1) Prepare an inspection note regarding a factory/plant operating a business related to an

aquatic animal, together with his/her opinions as per the TR/KPM Form attached hereto.

- (2) File a complaint to the Investigation Officer for legal proceedings pursuant to section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015), and other relevant laws.

The competent officer shall report any such violation, and send the inspection note and relevant evidence to the Director-General promptly as from the date any such violation is detected.

Clause 7 When the Director-General is informed of the violation as per clause 6, he/she shall send the said report and relevant evidence to the Committee promptly.

Clause 8 After the Committee has received the said report and relevant evidence, if a cause for suspicion is identified, the Committee shall send a registered letter to the owner of a factory/plant operating a business related to an aquatic animal for the latter to appear before the Committee and present his/her case or evidence. The owner of a factory/plant operating a business related to an aquatic animal may assign his/her representative to present the case or evidence on/her behalf.

In deliberating upon the case, the Committee shall examine facts as appropriate, without restricting itself to the request(s) sought or evidence presented by the owner of a factory/plant operating a business related to an aquatic animal or his/her representative.

Clause 9 When facts of the matter subsequently emerge that a factory/plant operating a business related to an aquatic animal truly employs an employee in a manner that is in violation of laws on labour protection, or that not more than five foreign nationals who have not been given permission to work pursuant to the law(s) on the working of foreign nationals are truly there employed, the committee shall submit its opinion(s) to the Director-General in order that the latter issues an order that the factory/plant operating a business related to an aquatic animal cease operating in accordance with the provisions of section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015). Any such opinion(s) shall also specify a period of ten to thirty days during which the factory/plant is required to cease operating, taking into consideration the graveness of the offence.

The Director-General shall promptly inform the owner of the factory/plant operating a business related to an aquatic animal thereof.

Clause 10 When the competent officer has found that a factory/plant operating a business related to an aquatic animal employs an employee in a manner that is in violation of laws on labour protection, or that more than five foreign nationals who are not authorized pursuant to the law(s) on the working of foreign nationals are there employed, he/she shall undertake necessary steps to report the matter to the Director General and file a complaint to the investigation officer. In this connection, the provisions in clause 6 shall apply *mutatis mutandis*.

If facts of the matter subsequently emerge that a factory/plant operating a business related to an aquatic animal truly employs an employee in a manner that is in violation of laws on labour protection, or that more than five foreign nationals who are not authorized pursuant to the law(s) on the working of foreign nationals are truly there employed, the Director General shall issue a letter to the Permanent Secretary of the Ministry of Industry for the latter to issue an order for any such factory/plant to be closed pursuant to paragraph three of section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015). In this connection, the provisions in clause 7 shall apply *mutatis mutandis*.

Clause 11 In a case in which the competent officer has found that the operator whose factory/plant has been given an order to cease operation by the Director-General employs an in a manner that is in violation of laws on labour protection, or employs not more than five foreign nationals who have not been given permission to work pursuant to the law(s) on the working of foreign nationals again within a period of three years as from the date on which the Director-General issues the order, he/she shall report to the Director-General thereabout, and shall file a complaint to the investigation officer. In this connection, the provisions under clause 6 shall apply *mutatis mutandis*.

If facts of the matter subsequently emerge as reported by the competent officer, the Director General shall issue a letter to the Permanent Secretary of the Ministry of Industry for the latter to take action for the closing of any such factory/plant pursuant to paragraph four of section 11 of the Royal Ordinance on Fisheries, B.E. 2558 (A.D. 2015).

Clause 12 In a case in which the Director-General issues an order, commanding that a factory/plant operating a business related to an aquatic animal cease operating, he/she shall issue letters informing agencies in charge of the matter pursuant to the laws on labour protection, the law(s) on the working of foreign nationals, and the law(s) on industrial plants of the order within five as from the date on which any such order is issued,

Clause 13 When the Director-General has given an order, commanding that a factory/plant operating a business related to an aquatic animal cease operating, and has sent any such order letter pursuant to the Administrative Public Service Practice Guideline Act, B.E. 2539 (A.D. 1996), the competent officer shall monitor as to whether or not the factor/plant complies with the order of the Director-General. If he/she finds that the factory/plant still violates or fails to comply with the order, he/she shall file a complaint to the investigator officer for further legal proceedings.

Clause 14 In deliberating upon a matter, notifying thereof, lodging an appeal thereabout, or taking any action relating to any administrative order that is not provided for in this Directive, or when a problem related thereto arises, the Committee shall comply with the provisions prescribed in the Administrative Public Service Practice Guideline Act, B.E. 2539 (A.D. 1996).

Issued on 25 December, B.E. 2558 (A.D. 2015)

(Wimol Jantrarotai)  
Director General of the Department of Fisheries

**Note on the Inspection of a Factory/Plant Operating a Business Related to an Aquatic Animal**

Made at .....

Date: ....., month: ....., year: .....

Today at ..... hrs, the following competent officers

- 1. .... 4.
- 2. .... 5.
- 3. .... 6.

Made an inspection of the following factory/plant operating a business related to an aquatic animal

- 1. Name of the factory/plant: .....
- 2. Address:.....
- 3. Number of employees: .....  
 Of ..... nationality: ..... employees  
 Of ..... nationality: ..... employees  
 Of ..... nationality: ..... employees
- 4. Type of business  
 factory/plant of type 1     factory/plant of type 2     factory/plant of type 3  
 4.1 Manufacturing food from aquatic animals in sealed and vacuum containers  
 4.2 Preserving aquatic animals by fuming, smoking, salting, pickling, sun-drying, or IQF freezing, or freeze-drying  
 4.3 Manufacturing instant food products from aquatic animals, skin or fat.  
 4.4 Extracting food-grade oil or fat from aquatic animals, or manufacturing purified food-grade oil or fat from aquatic animals  
 4.5 Cleaning, butchering, peeling, boiling, steaming, deep-frying or mincing aquatic animals  
 4.6 Others .....

- 5. Findings
  - 5.1 Laws on labour protection
    - 5.1.1 General provisions
      - Operated pursuant to the law(s)
      - Not operated in line with the legal provisions concerned: Specify: .....
    - 5.1.2 Use of labour in general
      - Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

5.1.3 Use of women labourers

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

5.1.4 Use of child labour

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

5.1.5 Wages, overtime wages, wages on holidays, compensation remuneration, and overtime wages on holidays

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

5.1.6 Wage payment

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

5.1.7 Others

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

5.2 Laws on the working of foreign nationals

5.1.1 Work permits

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

6. Summary of the inspection findings

( ) Operated pursuant to the law(s)

( ) Not operated in line with the legal provisions concerned: Specify:

.....

Conditions/circumstances in brief and operation in perspectives:

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.....  
.....

Reference documents used in the inspection (Specify)

- |         |         |
|---------|---------|
| 1. .... | 6. .... |
| 2. .... | 7. .... |
| 3. .... | 8. .... |

- 4. .... 9. ....
- 5. .... 10. ....

Opinions of the competent officers

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 .....  
 .....  
 .....  
 .....  
 .....  
 .....

During the course of the inspection, all of the competent officers did not threaten or deceive parties concerned in whatever manner, did not cause any damage to or loss of any property item, and did not demand any asset or any other type of benefit unlawfully from parties concerned.

Signature: .....: Owner of the factory/plant / operator of the enterprise

( )

Signature: .....: Competent officer

( )

Signature: .....: Witness

( )

Signature: .....: Witness

( )

NB:

.....  
 .....  
 .....  
 .....