

Tentative Translation\*

**EMERGENCY DECREE AMENDING THE THAI VESSELS ACT, B.E. 2481 (1938),  
B.E. 2561 (2018)**

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HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 24<sup>th</sup> Day of March B.E. 2561;

Being the 3<sup>rd</sup> Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to amend the law on Thai vessels;

Whereas this Emergency Decree contains certain provisions relating to the restriction of rights and liberties of persons, in respect of which section 26 in conjunction with section 29, section 37, section 38 and section 40 of the Constitution of the Kingdom of Thailand so permits by virtue of the provisions of law;

Whereas the reasons and need for the restriction of rights and liberties of persons under this Emergency Decree lie in the prevention of unlawful fishing affecting national economic security, the regulation of Thai vessel fleets, the suppression of the commission of offences and the elevation of fishery standards of Thailand to meet international standards and, in this regard, the enactment of this Emergency Decree duly complies with the conditions provided in section 26 of the Constitution of the Kingdom of Thailand;

Be it, therefore, by virtue of the provisions of section 172 of the Constitution of the Kingdom of Thailand, enacted by the King, as follows.

**Section 1.** This Emergency Decree is called the “Emergency Decree Amending the Thai Vessels Act, B.E. 2481 (1938), B.E. 2561 (2018)”.

**Section 2.<sup>1</sup>** This Emergency Decree shall come into force on the day following the date of its publication in the Government Gazette.

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\* Translated by Associate Professor Dr. Pinai Nanakorn under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation by the Office of the Council of State.

<sup>1</sup> Published in Government Gazette, Vol. 135, Part 19a, dated 27<sup>th</sup> March 2018.

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**Section 3.** The provisions of section 22 of the Thai Vessels Act, B.E. 2481 (1938) shall be repealed and replaced by the following:

“**Section 22.** In the case where a registered Thai vessel has been lost, seized by an enemy, totally damaged by fire, caused to founder, destroyed or abandoned, the vessel owner shall give a notification thereof to the Vessels Registrar of the port of registration of such vessel together with documents or evidence within thirty days as from the date on which the incident becomes known to the owner, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General of the Marine Department and such Vessels Registrar shall revoke the registration of the Thai vessel, with the reason therefor being recorded, and strike the registration of the Thai vessel out of the register of Thai vessels.”

**Section 4.** The following provisions shall be added as Chapter VI/I Fishing Vessels, section 54/1, section 54/2, section 54/3, section 54/4, section 54/5, section 54/6, section 54/7, section 54/8, section 54/9 and section 54/10 of the Thai Vessels Act, B.E. 2481 (1938):

**“CHAPTER VI/I  
FISHING VESSELS**

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**Section 54/1.** In this Chapter:

“fishing vessel” means a vessel of every size which is used or intended to be used, or which has or has been equipped with fishing tools or equipment, for the purpose of exploiting aquatic animal resources for trade;

“aquatic animal transshipment vessel” means a vessel for transshipment of aquatic animals under the law on fisheries.

**Section 54/2.** In applying for registration of a Thai vessel in the category of a fishing vessel, the applicant shall, in addition to compliance with the provisions on registration of Thai vessels, have obtained a certificate in support of the submission of the application to the Vessel Registrar.

The applicant shall apply for a certificate under paragraph one by submitting an application therefor to the Department of Fisheries in accordance with the rules, procedures and

conditions prescribed by the Director-General of the Department of Fisheries, provided that the following certification must at least be made:

(1) that the applicant for registration is under no prohibitions for the purpose of being granted a fishing licence under the law on fisheries;

(2) that the vessel to which the application for registration of a Thai vessel relates has never been used for the commission of offences under the law on fisheries;

(3) that the vessel to which the application for registration of a Thai vessel relates is not under any legal proceedings against it.

The submission of an application for registration of a Thai vessel in the category of a fishing vessel under paragraph one shall be in accordance with the rules, procedures and conditions set forth in the Rule prescribed by the Director-General of the Marine Department.

Upon receipt of an application for registration of a Thai vessel, the Vessels Registrar shall conduct the examination of qualifications of the applicant for the registration, relevant documents and evidence, the certificate from the Department of Fisheries and the vessel to which the intended registration relates. If the Vessels Registrar considers that they are in compliance with the rules and conditions for registration of Thai vessels in the category of fishing vessels, the Vessels Registrar shall effect the registration of such Thai vessel in the category of a fishing vessel and cause a mark or symbol to be permanently affixed on the vessel at its conspicuous position.

**Section 54/3.** In applying for a change of the type of a fishing vessel or an aquatic animal transshipment vessel, applying for a change of details of a fishing vessel or an aquatic animal transshipment vessel or machinery thereof and applying for a transfer of ownership of a fishing vessel or an aquatic animal transshipment vessel, the owner or possessor thereof shall submit an application to the Vessels Registrar. In this regard, the provisions of section 54/2 shall also apply *mutatis mutandis*.

In the case of any change of a fishing vessel or an aquatic animal transshipment vessel under paragraph one or any other part thereof, the owner or possessor of the vessel shall give a notification to the Vessels Registrar for examination and the Vessels Registrar shall, when the vessels examination official and the official of the Department of Fisheries have jointly conducted the examination and considered it correct, make amendment of the registration of the vessel before the owner or possessor thereof may put the vessel into use.

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**Section 54/4.** In the case where it is necessary to control the number of vessels used for fishing in the interest of preventing or suppressing unlawful fishing under the law on fisheries or where a notification has been received from the Department of Fisheries that issuance of fishing licences is discontinued or where the number of vessels used for fishing exceeds that prescribed by the National Fishery Policy Commission, the Minister shall have the power to issue a Notification for discontinuing registration of fishing vessels *pro tempore* for each period not exceeding two years.

**Section 54/5.** The Vessels Registrar shall order revocation of the registration of Thai vessels, with the reason therefor being recorded, and strike the registration of Thai vessels out of the register of Thai vessels in the following cases:

(1) the owner of a fishing vessel gives the Vessels Registrar a written notification of an intention to have the registration of the Thai vessel cancelled;

(2) the Director-General of the Department of Fisheries notifies the marine official that the registered Thai vessel has been used for unlawful fishing under the law on fisheries;

(3) there is a final judgment that the registered Thai vessel has involved or has been used for unlawful fishing or the Court has ordered confiscation of the registered Thai vessel in consequence of the commission of an offence;

(4) the fishing vessel registered as a Thai vessel fails to be granted a licence for the use of the vessel under the law on navigation on Thai waters or a licence for the use of the vessel expires without application being submitted for renewal within thirty days as from the expiry thereof;

(5) the fishing vessel is subject to the requirement for application for a fishing licence under the law on fisheries but no application for a fishing licence has been submitted within thirty days as from the date of receipt of a certificate of registration or as from the date of expiry of the fishing licence or an application for a fishing licence has been submitted but a fishing licence has not been granted;

(6) the fishing vessel for which a fishing licence under the law on fisheries has been granted is, as notified by the Director-General of the Department of Fisheries to the marine official, under revocation of its fishing licence and the owner of the fishing vessel fails to give a notification of the discontinuance of use of the vessel or fails to apply for a change of the type of the vessel to the Vessel Registrar within forty five days as from the date on which the marine official receives the notification of the revocation from the Director-General of the Department of Fisheries;

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(7) the vessel is required to be registered as an aquatic animal transshipment vessel but no application has been submitted for registration as an aquatic animal transshipment vessel within thirty days as from the date of receipt of its certificate of registration or an application has been submitted for registration as an aquatic animal transshipment vessel but it is notified by the Director-General of the Department of Fisheries that registration as an aquatic animal transshipment vessel has been rejected;

(8) the aquatic animal transshipment vessel is, as notified by the Director-General of the Department of Fisheries, under revocation of the registration as an aquatic animal transshipment vessel and the owner thereof fails to give a notification of the discontinuance of use of the vessel or fails to apply to the Vessel Registrar for a change of the type of the vessel within forty five days as from the date on which the marine official receives the notification of the revocation from the Director-General of the Department of Fisheries;

(9) a notification has been given for the discontinuance of use of the fishing vessel or the aquatic animal transshipment vessel under section 54/10 but the vessel has been put into use in violation thereof;

(10) an application has been made for a change of the type of the fishing vessel or the aquatic animal transshipment vessel into another type of vessel under section 54/10 but the vessel has been put into use for fishing or transshipment of aquatic animals, as the case may be.

**Section 54/6.** The owner or possessor of a fishing vessel or an aquatic animal transshipment vessel of which the registration of a Thai vessel is revoked under section 54/5 must give the marine official a notification of its docking point within twenty four hours as from the time of receipt of the written notification of the revocation thereof and shall surrender the certificate of registration and the licence for the use of the vessel within thirty days as from the date of receipt of such written notification from the Vessels Registrar and comply with any other orders as given by the marine official.

When the marine official has received the notification of the docking point of the vessel under paragraph one, the marine official shall examine the suitability of the docking point. In the case where the marine official considers that such docking point is unsuitable, the marine official may determine a new docking point as it is deemed appropriate and, wherever the vessel is docked, the marine official shall install a device for controlling the vessel or any device which prevents the vessel from being moved from its docking point and affix a mark or a symbol indicating that such vessel has the registration of a Thai vessel revoked.

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The proceedings under paragraph one and paragraph two shall be in accordance with the rules, procedures, conditions and periods of time prescribed by the Director-General of the Marine Department.

**Section 54/7.** A person shall not move a vessel from a docking point notified or determined under section 54/6 or discharge, remove, damage or destroy the device for controlling the vessel or any device or the mark or symbol under section 54/6 paragraph two unless permission is obtained from the marine official or there exists an inevitable cause of urgent necessity.

**Section 54/8.** In the case of a cause of necessity, the marine official may place the fishing vessel or the aquatic animal transshipment vessel of which the registration of a Thai vessel has been revoked under care and maintenance or may entrust a State agency or a private entity to place the same under care and maintenance on the condition that costs incurred therein shall be collected from the owner of the vessel, in accordance with the rules, procedures and conditions prescribed in the Notification of the Minister.

In the case where the owner of the vessel refuses to indemnify the costs under paragraph one within a period of time fixed by the marine official or in the case where the owner of the vessel is not apparent, the marine official shall make an application to the Court of Competence or the Civil Court in whose territorial jurisdiction the owner is domiciled or the vessel is docked, as the case may be, for the Court's order for selling the fishing vessel or the aquatic animal transshipment vessel, accessories thereto and property therein by auction or by any other method for the purpose of indemnifying the costs. If the proceeds from such auction sale or sale by any other method remain after deducting the costs therefrom, the remainder shall be returned to the owner of the vessel.

**Section 54/9.** A vessel which is intended to be disassembled or destroyed by the owner must have a certificate from the Department of Fisheries and, for this purpose, an action plan therefor must be prepared and approved by the marine official.

In the case of the disassembly or destruction of a vessel by reason that the owner thereof intends to have a new fishing vessel for the purpose of replacement or for any other reason, the marine official and the official of the Department of Fisheries shall, in the case where it is suspected whether the disassembly or destruction actually takes place or not, jointly examine the disassembly or destruction of such vessel.

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The owner of the vessel shall apply for a certificate under paragraph one to the Department of Fisheries, provided that the rules, procedures and conditions prescribed by the Director-General of the Department of Fisheries shall be complied with.

The preparation of an action plan, the approval of an action plan and the examination of the disassembly or destruction of the vessel under paragraph one and paragraph two shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General of the Marine Department upon prior consultation with the Department of Fisheries.

**Section 54/10.** For the purpose of retaining the registration of a Thai vessel, the owner of the vessel may give the Vessels Registrar a notification of the discontinuance of the use of the fishing vessel or aquatic animal transshipment vessel or the change of the type of the fishing vessel or aquatic animal transshipment vessel into another type of vessel or the change of another type of a vessel into a fishing vessel or an aquatic animal transshipment vessel prior to the date on which the Vessels Registrar issues an order for the revocation of the registration of a Thai vessel and the striking of the registration of a Thai vessel out of a register of Thai vessels.

In the case of the notification of a change of the type of the vessel under paragraph one, when the vessels examination official and the official of the Department of Fisheries have jointly conducted the examination and are satisfied with correctness thereof, the Vessels Registrar shall amend the registration of the vessel.

The notification of the discontinuance of the use of the vessel and the change of the type of the vessel under paragraph one and paragraph two shall be in accordance with the rules, procedures and conditions set forth in the Rule prescribed by the Director-General of the Marine Department.”

**Section 5.** The provisions of section 61 of the Thai Vessels Act, B.E. 2481 (1938) shall be repealed and replaced by the following:

“**Section 61.** The marine official shall have the power to settle offences under this Act which carry an administrative penalty or a criminal penalty by a fine only.

The rules for the settlement under paragraph one shall be as prescribed by the marine official, having regard also to the gravity of circumstances of the commission of the offence.”

**Section 6.** The provisions of section 62 of the Thai Vessels Act, B.E. 2481 (1938) as amended by the Thai Vessels Act (No. 3), B.E. 2521 (1978) shall be repealed and replaced by the following:

“**Section 62.** The Minister of Transport shall have charge and control of the execution of this Act and shall have the powers to appoint competent officials, issue Ministerial Regulations prescribing fees and other payments, granting exemption from such fees and payments and prescribing other activities and issue Notifications in the execution of this Act.

The Ministerial Regulations and Notifications under paragraph one shall come into force upon their publication in the Government Gazette.”

**Section 7.** The provisions of Chapter VIII Penalties, section 62 *bis*, section 62 *ter*, section 63, section 63 *bis*, section 63 *ter*, section 64, section 65, section 66, section 67, section 67/1 and section 68 of the Thai Vessels Act, B.E. 2481 (1938) as amended by the Thai Vessels Act (No. 7), B.E. 2550 (2007) shall be repealed and replaced by the following:

“CHAPTER VIII  
PENALTIES

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PART I

ADMINISTRATIVE PENALTIES

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**Section 63.** Any person who changes the type of a fishing vessel or an aquatic animal transshipment vessel or changes details of a fishing vessel or an aquatic animals transshipment vessel or machinery thereof without obtaining permission or in departure from the permission obtained, which constitutes the violation of section 54/3 paragraph one, or violates or fails to comply with section 54/6 paragraph one or section 54/9 or violates or fails to comply with the notification given under section 54/10 shall be liable to payment of an administrative fine, as follows:

(1) in the case of a vessel below ten gross tons, payment of an administrative fine shall be at the rate not exceeding five thousand Baht;



(2) in the case of a vessel of ten gross tons upwards but not over thirty gross tons, payment of an administrative fine shall be at the rate from five thousand Baht but not exceeding fifty thousand Baht;

(3) in the case of a vessel over thirty gross tons upwards but not over sixty gross tons, payment of an administrative fine shall be at the rate from ten thousand Baht but not exceeding one hundred thousand Baht;

(4) in the case of a vessel over sixty gross tons upwards but not over one hundred gross tons, payment of an administrative fine shall be at the rate from fifty thousand Baht but not exceeding five hundred thousand Baht;

(5) in the case of a vessel over one hundred gross tons upwards but not over one hundred fifty gross tons, payment of an administrative fine shall be at the rate from one hundred thousand Baht but not exceeding one million Baht;

(6) in the case of a vessel over one hundred fifty gross tons upwards, payment of an administrative fine shall be at the rate from two hundred thousand Baht but not exceeding three million Baht.

In the case where it is deemed appropriate, the marine official may also order such person to take any action for the purpose of rectification or adjustment or correct compliance within a specified period of time.

**Section 64.** Any person who transfers ownership of a fishing vessel or an aquatic animal transshipment vessel without carrying out registration proceedings shall be liable to payment of an administrative fine at the rate not exceeding five thousand Baht.

**Section 65.** If the person inflicted with a fine under section 63 or section 64 fails to make payment of an administrative fine, the marine official shall have the power to institute an action before the Court which has jurisdiction to try criminal cases for the purpose of enforcing payment of the administrative fine. In this regard, if the Court renders judgment mandating payment of the administrative fine and such person fails to make payment thereof within thirty days as from the date of the judgment of the Court, property of such person shall be seized in lieu of the administrative fine, provided that measures for detention in lieu of a fine shall not apply to such person.

**Section 66.** If the commission of an offence which carries an administrative fine is continuous and the marine official orders the infliction of an administrative fine for such offence, the offender shall additionally be liable to payment of a daily fine at the rate as follows as from

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the date of the order inflicting such administrative fine throughout the period in which the violation or failure occurs or until correct performance takes place:

(1) in the case of a vessel below ten gross tons, a fine shall be one hundred Baht a day;

(2) in the case of a vessel of ten gross tons upwards but not over thirty gross tons, a fine shall be five hundred Baht a day;

(3) in the case of a vessel over thirty gross tons upwards but not over sixty gross tons, a fine shall be one thousand Baht a day;

(4) in the case of a vessel over sixty gross tons upwards but not over one hundred gross tons, a fine shall be five thousand Baht a day;

(5) in the case of a vessel over one hundred gross tons upwards but not over one hundred fifty gross tons, a fine shall be ten thousand Baht a day;

(6) in the case of a vessel over one hundred fifty gross tons upwards, a fine shall be thirty thousand Baht a day.

**Section 67.** In the case where the offender has carried out correct performance or has carried out rectification or adjustment within a period of fifteen days as from the date of knowledge of the order under section 63 paragraph two, such person shall be exempt from the fine under section 66.

## PART II CRIMINAL PENALTIES

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**Section 68.** Any natural person of Thai nationality, juristic person capable of owning a vessel registered as a Thai vessel under section 7 or section 7 *bis* or limited company or public limited company capable of owning a vessel registered as a Thai vessel under section 7 *bis*, that violates section 7 *ter* or section 7 *quarter*, shall be liable to imprisonment for a term not exceeding five years and a fine not exceeding one million Baht.

A foreigner instigating or allowing the violation under paragraph one shall be liable to the same penalty as that to be inflicted on such offender.

**Section 68/1.** In the case where the offender under section 68 is a juristic person, if the commission of the offence by such juristic person has resulted from the instruction or an

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action of a director or a manager or any person responsible for the operation of such juristic person or in the case where such person has the duty to give instructions or take action and refrains from giving instructions or taking action, thereby leading to the commission of the offence by such juristic person, such person shall also be liable to the penalty as provided in section 68.

**Section 68/2.** Any person who violates or fails to comply with the provisions of section 11, section 17, section 18 paragraph one, paragraph two or paragraph three, section 19, section 20 paragraph one, section 22, section 25 paragraph two, section 26 paragraph one, section 29 paragraph one, section 30 paragraph one, section 32 paragraph one, section 35 paragraph one, section 38 paragraph one, section 40, section 52 or section 54/3 paragraph two shall be liable to a fine not exceeding forty thousand Baht.

**Section 68/3.** Any juristic person that owns a vessel registered as a Thai vessel without complying with section 32 *bis* (1) shall be liable to a fine not exceeding four hundred thousand Baht.

**Section 68/4.** Any juristic person that owns a vessel registered as a Thai vessel and violates section 32 *bis* (2) shall be liable to a daily fine in an amount to be calculated from the size of the vessel at the rate of five hundred Baht per gross ton throughout the period in which the violation occurs.

**Section 68/5.** Any vessel controller who violates the provisions of section 49 shall be liable to a fine not exceeding fifty thousand Baht.

If the offence committed is concerned with a certificate of registration or a temporary certificate of registration, the offender shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

**Section 68/6.** In the case of violation of the provisions of section 47, the conditions prescribed by the Minister under section 47 *bis*, section 50 or section 51, the vessel controller shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding four hundred thousand Baht or to both.

**Section 68/7.** Any person who violates the provisions of section 48 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred thousand Baht or to both.

**Section 68/8.** Any vessel owner or vessel controller who violates the provisions of section 53 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred thousand Baht or to both.

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**Section 68/9.** Any person who violates the provisions of section 53/1 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred twenty thousand Baht or to both and shall also be liable to make payment of money as expenses incurred in the elimination or cure of hazardous substances, damages for loss which has arisen and expenses incurred in the restoration of the environment to its original condition.

In the case of the commission of an offence under section 53/1, the competent official appointed by the Minister shall have the power to gather evidence connected therewith and furnish the same to the competent inquiry official under the Criminal Procedure Act for taking further legal proceedings.

In the case where the offender has by himself or herself carried out the elimination or cure of hazardous substances and the restoration of the environment to its original condition at the time close to the incident which has occurred, such person shall not be liable to any penalty and shall not be liable to make payment in compensation for expenses or damages under paragraph one.

**Section 68/10.** In the case of violation of the provisions of section 47 or section 51, the Court may order confiscation of the vessel, vessel accessories, benefits obtained from such vessel and articles used for such violation.

**Section 68/11.** Any person who violates section 54/7 shall be liable to a fine not exceeding one hundred thousand Baht.

**Section 68/12.** When the marine official has carried out the settlement under section 61 for any offence provided in this Part and the offender has made payment of a fine in an amount required by the marine official for the settlement within thirty days as from the date of the settlement, it shall be deemed that the case has been extinguished under the Criminal Procedure Code.

In the case where the offender agrees to the settlement but fails to make payment of a fine within the period of time specified under paragraph one, legal proceedings for the prosecution shall be further taken. In such a case, the period of prescription shall commence upon the expiration of such period of time.”

Countersigned by:

General Prayut Chan-o-cha

Prime Minister

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