

DIVISION FOUR
THE DRAFT FISHERIES ACT

Chapter I	Principles	127
Chapter II	Definitions	128
Chapter III	Zones	130
Chapter IV	Management of Aquatic Resources	130
Sub-chapter I	General	130
Sub-chapter II	Local Fishery Committees and Public Consultation	132
Sub-chapter III	Licences, Permits and Written Permissions	134
Sub-chapter IV	Fisherman Not in Good Standing	135
Sub-chapter V	The National Fishery Policy Committee	136
Sub-chapter VI	Statistics and Research	136
Sub-chapter VII	General Prohibitions	137
Chapter V	Community-Based Management	138
Chapter VI	The Inland Fishery Zone	139
Chapter VII	The Coastal Marine Fishery Zone	140
Chapter VIII	The Commercial Marine Fishery Zone	140
Chapter IX	Overseas Marine Fishery Activity	141
Chapter X	Foreign Fishing Activity in Thai Waters	143
Chapter XI	Aquaculture	144
Chapter XII	Protected Species and Protection Areas	145
Chapter XIII	Health, Quality and Export	146
Chapter XIX	Monitoring, Control and Surveillance	148
Chapter XV	Jurisdiction and Penalties	151
Chapter XVI	Miscellaneous	154

DRAFT FISHERIES ACT, B.E. 25---

- Section 1. This Act is called the “Fisheries Act, B.E. 25--“.
- Section 2. This Act shall come into force the date of its publication in the Government Gazette.
- Section 3. The following shall be repealed:
- (a) The Fisheries Act, B.E. 2490;
 - (b) The Fisheries Act (No. 2), B.E. 2496;
 - (c) The Fisheries Act (No. 3), B.E. 2528;
 - (d) The Act Governing the Right to Fish Within Thai Fishery Waters, B.E. 2482;
 - (e) ...
- All other laws, rules, regulations and notifications insofar as they deal with matters provided for herein or are contrary to or inconsistent with the provisions of this Act, shall be replaced by this Act.

CHAPTER I: PRINCIPLES

- Section 4. This Act shall be applied, interpreted and implemented so as to improve the welfare of all those involved in the harvesting of aquatic resources and related activities, in particular, small-scale fishermen and those who depend on aquatic resources for a large portion of their diet or income.
- Section 5. This Act shall be applied, interpreted and implemented so as to promote the objective of optimum utilization and long term sustainable development of marine and freshwater aquatic resources in order to ensure an adequate supply of aquatic resources for the people of Thailand and to ensure both a sound ecological balance and biodiversity.
- Section 6. This Act shall be applied, interpreted and implemented so as to promote and encourage protection of the habitat of aquatic resources and to eliminate destructive and other practices inconsistent with sustainable aquatic resource management.
- Section 7. This Act shall be applied, interpreted and implemented so as to promote the adoption by all Thai fishermen, whether their harvesting activity takes place in or beyond Thai waters, of internationally-accepted responsible fishing practices.
This Act endorses and seeks to implement the 1995 Code of Conduct for Responsible Fisheries.
- Section 8. This Act shall be applied, interpreted and implemented so as to ensure that all those at the community and local level with an interest in the harvest, utilization or protection of aquatic resources are involved in the decision-making processes respecting those resources.
- Section 9. This Act shall be applied, interpreted and implemented so as to ensure that all aquatic resources and aquatic resource products consumed in Thailand or exported from Thailand meet all national and international health, safety and quality standards.

CHAPTER II: DEFINITIONS

Section 10. In this Act:

(1) “Appropriate prosecution authorities” means the Department of Public Prosecution and the appropriate authority for receipt of complaints and evidence under the Criminal Procedure Code;

(2) “Approved overseas fishing plan” means an agreement, arrangement or plan which provides for Thai flag fishing vessels to harvest, purchase or transship aquatic resources outside Thai waters that has been approved by the Minister or Director-General under Section 68;

(3) “Aquaculture” means the cultivation, propagation or farming of aquatic resources, whether from eggs, spawn, spat or seed, including rearing aquatic resources from the wild, or lawfully imported into the country, or by other similar process whether done using fresh, brackish or salt water;

(4) “Aquaculture facility” means any location, site or place where aquaculture takes place;

(5) “Aquaculture permit” means an aquaculture permit issued under Section 87;

(6) “Aquatic resource” means animals that inhabit or during part of their life-cycle inhabit marine or fresh waters including fish, shrimps, crabs, mollusks, tortoises, turtles, snapping turtles, crocodiles, marine mammals, sea cucumbers, sponges, coral, marine algae and water plants, seaweed and, where relevant, the eggs of the listed aquatic resource;

(7) “Aquatic resource product” means both an aquatic resource and any good, item or substance made from or with an aquatic resource that is intended for human or animal consumption;

(8) “Authorized fisheries officer” means a competent official who is appointed by the Minister pursuant to Section 101 to carry out the responsibilities as set out in Chapter Fourteen of this Act;

(9) “Competent official” means a provincial governor, provincial fishery officer, district fishery officer, fishery officer or person who is appointed by the Minister, pursuant to Section 14, paragraph two, to carry out the purposes of this Act;

(10) “Designated community” means the persons who, pursuant to this Act, have either the right to harvest aquatic resources within a designated community fishery area or have been given the authority to manage and implement measures related to aquatic resources within a designated community fishery area;

(11) “Designated community fishery area” means a specific geographic area set out by the Minister by regulation or the Director-General by notification pursuant to Section 51, in which only the designated community has rights to harvest specified aquatic resources and in which the designated community has been delegated rights and responsibilities regarding the management and implementation of measures respecting aquatic resources and the habitat of aquatic resources;

(12) “Director-General” means the Director-General of the Department of Fisheries;

(13) “Documents” includes any electronically stored record or information;

(14) “Fisheries export permit” means a fisheries export permit issued under Section 100;

(15) “Fisheries protection area” means an area of Thai waters that has been designated and listed in a regulation or notification issued under Section 91 as a fisheries protection area;

(16) “Fisherman in good standing” means all persons except a person who is a fisherman not in good standing pursuant to Sections 29-31;

(17) “Fishing gear” means any equipment or other thing that can be used in the act of harvesting of aquatic resources including, but not limited to, nets, hooks, traps, ropes, line, floats, winches, trawls, seines, and lights;

(18) “Fishing gear permit” means a fishing gear permit issued under Section 65;

(19) “Fishing vessel” means any vessel which is used for, equipped to be used for or is of a type normally used for harvesting aquatic resources or related activities which includes being a carrier, support or mother vessel for fishing vessels and also includes both a foreign fishing vessel and a Thai flag fishing vessel;

(20) “Foreign fishing vessel” means any fishing vessel that is not a Thai flag fishing vessel;

(21) “Habitat of an aquatic resource” means any area of Thai waters where an aquatic resource may be found;

(22) “Harvesting” means

(a) searching for, catching, taking or attempting to catch or take aquatic resources;

(b) placing or having fishing gear in waters or using it on land;

(c) engaging in any other activity that can reasonably be expected to result in the locating, catching or taking of aquatic resources;

(d) any operations in Thai waters or non-Thai waters in preparation for any activity mentioned in paragraph (a), (b), or (c);

(23) “High seas” means marine waters which are not within the national jurisdiction of any State;

(24) “International arrangements” as used in Chapters Nine and Ten means both international agreements which are binding on Thailand and international agreements respecting fishery matters which create rules, procedures and structures which Thailand observes and follows;

(25) “Local Fishery Committee” means a Local Fishery Committee established pursuant to Section 19;

(26) “Local fishing permit” means a local fishing permit issued pursuant to either Section 55 or Section 61;

(27) “Master” means the person having command or control of a fishing vessel and its harvesting operations;

(28) “Minister” means the Minister of Agriculture and Cooperatives;

(29) “Overseas fishing permit” means an overseas fishing permit issued under Section 75;

(30) “Person” means an individual, a company, an association, or a body of individuals;

(31) “Premise” means any building or place where business, storage, packaging or processing related to or involving aquatic resources takes place;

(32) “Processing”, in relation to aquatic resources, includes cutting up, dismembering, separating parts for cleaning, sorting, packing, loining, freezing, salting, canning or preserving;

(33) “Protected aquatic resource” means an aquatic resource that has been designated and listed in a regulation or notification issued under Section 91 as a protected aquatic resource;

(34) “Small-scale fisherman” means a person who, in the harvesting of aquatic resources, uses a vessel of less than 5 gross tons and uses fishing gear, such as nets, hook-and-line or traps, in such a manner as to be consistent with the harvest of small amounts of aquatic resources;

(35) “Thai flag fishing vessel” means a vessel registered under the Thai Vessels Act of B.E. 2481 or a vessel not registered in any State but under the control of Thai nationals:

(36) “Thai waters” means the rivers, canals, ponds, reservoirs, lakes, swamps, marshes and flood plains located within the land boundaries of Thailand and all marine waters claimed by Thailand as being subject to its national jurisdiction including all waters claimed by Thailand as being within its internal waters, territorial seas and exclusive economic zone; and

(37) “This Act” includes any regulations and notifications made or issued under this Act.

CHAPTER III: ZONES

Section 11. For the purposes of this Act, the “Coastal Marine Fishery Zone” means all marine waters adjacent to land seaward from the high water mark to a distance of [___] nautical miles and waters as may be included pursuant to paragraph 2.

The Director-General by notification may designate specific water areas as being within the Coastal Marine Fishery Zone and , in particular areas, may expand the Coastal Marine Fishery Zone to a maximum distance of [___] nautical miles.

Section 12. For the purposes of this Act, the “Commercial Marine Fishery Zone” means all marine waters within Thai waters seaward of the Coastal Marine Fishery Zone.

Section 13. For the purposes of this Act, the “Inland Fishery Zone” means all Thai waters not in the Coastal Marine Fishery Zone or the Commercial Marine Fishery Zone.

For greater certainty, the Inland Fishery Zone means all rivers, canals, ponds, lakes, reservoirs, swamps, marshes and flood plains located within the land boundaries of Thailand and generally referred to as inland or fresh waters.

CHAPTER IV: MANAGEMENT OF AQUATIC RESOURCES

Sub-Chapter I: General

Section 14. The Minister and Director-General shall have charge and control of the execution of this Act.

The Minister shall by regulation or notification appoint persons as competent officials to carry out of the purposes of this Act.

Section 15. The Minister may issue regulations and the Director-General, and, respecting the Inland Fishery Zone and the Coastal Marine Fishery Zone, with the approval of the Minister, the provincial governor within his jurisdiction, may issue notifications relating to any matter that arises under this Act including:

(a) fishing gear which is approved for use in harvesting aquatic resources and this may include the size, kind, type, number, parts, size of mesh, dimension, and the place, time and method in which approved fishing gear may be used;

(b) fishing gear which may be used in harvesting aquatic resources in the Commercial Marine Fishery Zone without a fishing gear permit and this may include the size, kind, type, number, parts, size of mesh, dimension, and the place, time and method in which the fishing gear may be used;

- (c) fishing gear which may not be used in harvesting aquatic resources in the Inland Fishery Zone or the Coastal Marine Fishery Zone and this may include the size, kind, type, number, parts, size of mesh, dimension, and the place, time and method in which approved fishing gear may be used;
- (d) the kind, species, size and other characteristics and quantity of aquatic resources which may be harvested either by persons, fishing gear, fishing vessels or in total within a specific geographic area, including any restrictions on by-catch;
- (e) the type and method of harvesting of aquatic resources that may take place;
- (f) aquatic resources for which harvesting is prohibited;
- (g) the habitat of aquatic resources in which harvesting of aquatic resources is prohibited;
- (h) times and areas which are open or closed to harvesting of aquatic resources;
- (i) fish aggregating devices, artificial reefs and similar items for attracting aquatic resources;
- (j) the requirement that a person, fishing vessel and all those on board a fishing vessel engaged in harvesting aquatic resources and related activities must register with the Department of Fisheries in a required manner, time and place;
- (k) the requirement that a person engaged in harvesting aquatic resources and related activities must have a licence or permit issued by a competent official and the criteria that must be met before such a licence or permit will be issued and the conditions that can be placed on the licence or permit;
- (l) the requirement that fishing vessels engaged in harvesting of aquatic resources and related activities must have a licence or permit issued by a competent official and the criteria that must be met before such a licence or permit will be issued and the conditions that can be placed on the licence or permit;
- (m) the protection or restoration of the habitat of aquatic resources;
- (n) the requirement that persons engaged in and premises where aquatic resources are processed, transported, stored, handled, sold or transshipped must be registered with the Department of Fisheries in a required manner, time and place and must have a licence or permit issued by a competent official and the criteria that must be met before such a licence or permit will be issued and the conditions that can be placed on the licence or permit;
- (o) the maintenance of logbooks on board fishing vessels in which shall be recorded the nature, time and position of all harvesting operations and the quantity of catch by species, including all aquatic resources caught but not landed or retained on board;
- (p) the size, location and specific identification markings or numbers that a fishing vessel or fishing gear must display;
- (q) the communications and safety equipment, including radios, transponders and similar devices, that a fishing vessel is required to have and the times, places, conditions and manner in which the master of a fishing vessel is to communicate with competent officials and safety equipment is to be checked;
- (r) any fee that may be payable for the harvesting or the landing of an aquatic resource;
- (s) biotechnology and genetically modified organisms as they relate to aquatic resources and aquatic resource products;
- (t) research, identification, control and prevention of diseases that effect aquatic resources, or that through aquatic resources, effect humans, plants or animals;
- (u) the implementation of the provisions of any convention, treaty or agreement in relation to fishery matters which is binding on Thailand; and

(v) any matter related to the harvest of aquatic resources and related activities including the improvement of harvesting opportunities and the protection of aquatic resources and the habitat of aquatic resources from destructive and abusive practices.

Section 16. Regulations and notifications issued under Section 15 shall indicate whether they are applicable to the Inland Fishery Zone, the Coastal Marine Fishery Zone, areas under the jurisdiction of Local Fishery Committees, the Commercial Marine Fishery Zone, Thai flag fishing vessels outside Thai waters or foreign fishing activity in Thai waters.

Section 17. The Department of Fisheries may prepare and keep under review plans for the management, conservation and development of aquatic resources for all of Thai waters, specific geographic areas of Thai waters, aquaculture, or respecting specific aquatic resources within Thai waters.

The Department of Fisheries shall encourage fishermen, fishing communities, the public, provincial and local authorities, and Local Fishery Committees to prepare management, conservation and development plans for specific areas of the Inland Fishery Zone and the Coastal Marine Fishery Zone or respecting specific aquatic resources within the Inland Fishery Zone and the Coastal Marine Fishery Zone.

All plans for the management, conservation and development of aquatic resources shall:

- (a) be based on consultation with and the participation of those persons who may be affected by the plans, in particular communities and organizations that represent persons who may be affected by or have an interest in the plans;
- (b) be based on the best scientific information available;
- (c) apply the precautionary approach to attain the goals of sustainable development, biodiversity, and ecological integrity;
- (d) be consistent with the Principles stated in Chapter One of this Act; and
- (e) not be inconsistent with any provisions of this Act.

Plans for the management, conservation and development of aquatic resources shall guide the Minister, Director-General, provincial governors, the Department of Fisheries, Local Fishery Committees, fishing communities, and fishermen respecting the application, interpretation and implementation of this Act.

Sub-Chapter II: Local Fishery Committees and Public Consultation

Section 18. The Minister, Director-General, provincial governors and the Department of Fisheries shall encourage fishermen, fishing communities, the public, and provincial and local authorities to work together to create Local Fishery Committees for the purposes of better managing, conserving and developing the aquatic resources of specific areas of the Inland Fishery Zone or the Coastal Marine Fishery Zone.

Section 19. The Minister by regulation or the Director-General by notification may:

- (a) establish a Local Fishery Committee and designate an area of Thai waters within the Inland Fishery Zone or the Coastal Marine Fishery Zone which is under the jurisdiction of a Local Fishery Committee;
- (b) expand or contract the area of Thai waters which is under the jurisdiction of a Local Fishery Committee;
- (c) establish the processes and procedures for the determination of the members and operation of a Local Fishery Committee;

(d) provide to the Local Fishery Committee the exclusive authority to issue local fishing permits for the area of Thai waters under the jurisdiction of the Local Fishery Committee; and

(e) provide to the Local Fishery Committee the exclusive authority to issue written permissions, pursuant to Section 59 (b), for the harvesting of aquatic resources in the area of Thai waters under the jurisdiction of the Local Fishery Committee by persons who are not small-scale fisherman.

Section 20. No regulation or notification shall be issued under Section 19 establishing a Local Fishery Committee unless the Minister or Director-General is of the view that the Local Fishery Committees membership, structure and operation represent the local fisherman and fishing communities and that the Local Fishery Committee will operate in a manner consistent with the Principles stated in Chapter One of this Act.

If the Minister or Director-General, after a review of the membership, structure and operation of a Local Fishery Committee, determines that a Local Fishery Committee is not operating in a manner consistent with the requirements of paragraph one, the Minister by regulation or the Director-General by notification may disband the Local Fishery Committee.

The Minister, Director-General, provincial governors and Local Fishery Committees should establish a process for the regular monitoring, oversight and reviewing of the operation of Local Fishery Committees.

Section 21. A Local Fishery Committee may recommend to the Minister, Director-General or provincial governor, as appropriate, that regulations or notifications be issued respecting:

- (a) the matters referred to in Section 24 relating to a local fishing permit;
- (b) the matters referred to in Section 25 relating to a written permission; and
- (c) all matters referred to in Section 15.

The Minister, Director-General or provincial governor, as appropriate, shall review all recommendations from a Local Fishery Committee and, where reasonable and feasible, issue regulations or notifications implementing the recommendations.

The Minister, Director-General, provincial governors and Local Fishery Committees should establish a process for the review of recommendations from a Local Fishery Committee.

Section 22. The Minister, Director-General, provincial governor and the Department of Fisheries may establish committees, boards, consultative groups or other mechanisms for the purposes of seeking advice from the public, local communities or those with an interest in a specific matter on any matter or issue which arises under this Act.

Section 23. Regulations and notifications which may be issued under this Act shall only be issued following, to the extent that is reasonable and feasible, consultation with all persons and communities that may be affected by them, and, where appropriate, consultation between the appropriate provincial governors and the Department of Fisheries and consultation between the Department of Fisheries and other Ministries which have an interest.

In the creation of regulations and notifications that affect a specific province or limited geographical area, the Department of Fisheries shall, to the extent that it is reasonable and feasible, defer to the interests of the local population and their representatives.

Sub-Chapter III: Licences, Permits and Written Permissions

Section 24. For any licence or permit required by this Act, and for greater certainty, for a local fishing permit, a fishing gear permit, an overseas fishing permit, an aquaculture permit and a fisheries export permit, the Minister by regulation or the Director-General by notification shall establish:

- (a) the competent officials with the authority to grant a licence or permit or the Local Fishery Committee with the authority to grant a local fishing permit;
- (b) the forms and information that must be provided by a person requesting a licence or permit;
- (c) the conditions, requirements and criteria that must be met before a licence or permit will be issued by a competent official or a Local Fishery Committee;
- (d) any fee that may be payable to obtain a licence or permit;
- (e) the time period for which a licence or permit shall be valid;
- (f) the conditions, requirements and criteria that will apply to the possessor of a licence or permit; and
- (g) the amount and kind of security or surety that a person requesting a licence or permit may be required to provide, the appropriate safeguards for any security or surety held by the Department, the conditions that must be met for the return or release of the security or surety, and the situations which will lead to the forfeiture to the Department of any security or surety.

Section 25. For any written permission provided for in this Act, the Minister by regulation or the Director-General by notification may establish:

- (a) where the Act directs that the written permission is to be from a competent official, the competent officials with the authority to issue the written permission;
- (b) where the Act directs that the written permission is to be from the Director-General, to which competent official, if any, the Director-General delegates his authority to issue a written permission;
- (c) the forms and information that must be provided by a person requesting a written permission;
- (d) the conditions, requirements and criteria that must be met before a written permission will be issued;
- (e) any fee that may be payable to obtain a written permission;
- (f) the time period for which a written permission shall be valid; and
- (g) the conditions, requirements and criteria that will apply to the possessor of a written permission;

Section 26. A licence, permit or written permission is deemed to be forfeited and no longer valid if:

- (a) the possessor of a licence, permit or written permission is not the person named on the licence, permit or written permission;
- (b) the person who requested the licence, permit or written permission provided false information in order to obtain the licence, permit or written permission;
- (c) the possessor of a licence, permit or written permission has contravened, failed to comply with or breached a condition of the licence, permit or written permission or a provision of this Act;
- (d) the time period for which a licence, permit or written permission was granted has expired; or

(e) in exceptional circumstances, the Director-General in writing directs that such is the case.

A licence, permit or written permission deemed forfeited and invalid under paragraph one may be reinstated at such time and on such conditions as the Director-General in writing directs.

Sub-Chapter IV: Fisherman Not in Good Standing

Section 27. A licence, permit or written permission required or provided for in this Act shall be issued or granted only to a person who is a fisherman in good standing.

Section 28. All persons are fisherman in good standing unless the fisherman has become a fisherman not in good standing.

Section 29. A person is a fisherman not in good standing where:

(a) as a consequence of a violation of a provision of this Act that person becomes a fisherman not in good standing; or

(b) any licence, permit or written permission given to that person has been deemed to be forfeited or no longer valid pursuant to Section 26, except where the licence, permit or written permission became invalid because of

(i) the time period for which the licence, permit or written permission was granted expired; or

(ii) the Director-General had directed that the licence, permit or written permission was no longer valid.

Section 30. Subject to Section 31, a person shall remain as a fisherman not in good standing until:

(a) one year has elapsed from the event which led to the person becoming a fisherman not in good standing; or

(b) in exceptional circumstances, the Director-General issues a notification directing that a person is a fisherman in good standing.

Section 31. Where this Act stipulates that, as a consequence of a violation of a provision of this Act, a person shall be a fisherman not in good standing for a defined period of time, the person shall remain a fisherman not in good standing until the expiration of that time period.

Section 32. The Department of Fisheries shall establish and maintain a list of fisherman not in good standing.

The list of fisherman not in good standing shall include the name of the person, the date when the person was put on the list, and the reason the person was put on the list.

The name of a person shall be entered on the list of fisherman not in good standing every time it is required by Section 29 even if the name of that person is already on the list.

It is the responsibility of the Director-General, provincial governors, Local Fishery Committees, authorized enforcement officers, competent officials and members of the Department of Fisheries to work together in providing the necessary information for the maintenance, updating, and reviewing of the list of fisherman not in good standing.

Sub-Chapter V: The National Fishery Policy Committee

Section 33. For the purposes of this Act, the National Fishery Policy Committee means the committee established by the government of Thailand comprised of senior representatives from the relevant Ministries and departments with an interest in aquatic resources and such other members as are appropriate, with the mandate, amongst other things, of:

- (a) enhancing inter-Ministerial and inter-departmental coordination and cooperation related to matters which arise under this Act;
- (b) assisting in the application and implementation of this Act; and
- (c) encouraging and facilitating the involvement of persons, communities, and organizations which represent persons and organizations in matters which arise under this Act.

Section 34. The Minister, Director-General and provincial governors may consult with and seek the advice of the National Fishery Policy Committee respecting any matter that arises pursuant to this Act.

Section 35. Advice, recommendations or directions provided by the National Fishery Policy Committee to the Minister, Director-General, provincial governors or Department of Fisheries respecting any matter that arises from this Act shall, to the extent that is reasonable and feasible, be adopted and implemented by the Minister, Director-General, provincial governors or Department of Fisheries.

For greater certainty, in determining whether to adopt or implement the advice, recommendations or directions provided by the National Fishery Policy Committee, the principles stated in Chapter One of this Act and the responsibilities that arise from this Act shall be paramount.

Sub-Chapter VI: Statistics and Research

Section 36. The Department of Fisheries shall collect and analyze statistical, scientific and other information on aquatic resources and related activities including all information and statistics useful for the management of aquatic resources.

Section 37. It is prohibited for a person engaged in harvesting aquatic resources and related activities, including aquaculture, not to supply such information regarding such activities in such form as the Department of Fisheries may require.

The Director-General may issue notifications stipulating the precise information that must be provided, the manner in which the information must be provided, when the information must be provided, which persons have the responsibility for providing the information and other requirements respecting statistics gathering.

Section 38. The Minister and Director-General may enter into arrangements or agreements with other States, either directly or through international organizations, providing for the exchange of aquatic resource data and scientific information and for the harmonization of systems for its collection.

Section 39. The Department of Fisheries may conduct research related to aquatic resources in Thai waters and, where appropriate, participate in research activities directly or in cooperation with other States and international organizations.

Sub-Chapter VII: General Prohibitions

Section 40. No person shall, intentionally or unintentionally, release, introduce or cause to be released or introduced into Thai waters any substance that is poisonous or harmful to aquatic resources unless the person has in their possession a written permission for such a release given to that person by a competent official.

Section 41. No person shall, intentionally or unintentionally, use electricity or explosives in a manner that is harmful to aquatic resources in Thai waters unless the person has in their possession a written permission for such a use given to that person by a competent official.

Section 42. No person shall, intentionally or unintentionally, destroy, disturb, interfere with or alter, either directly or indirectly, the habitat of an aquatic resource unless the person has in their possession a written permission for such destruction, disturbance, interference or alteration given to that person by a competent official.

For greater certainty, paragraph one includes, but is not limited to:

- (a) any use of or activity on privately-owned property which destroys, disturbs, interferes with or alters the habitat of an aquatic resource;
- (b) any alteration of water levels in Thai waters; or
- (c) the erection of any device which has the effect of altering water levels, the flow of water or the quality of water in Thai waters.

Section 43. It is prohibited for a person to import, sell, own, control, possess, or engage in aquaculture respecting an aquatic resource which, because of disease, genetic structure or its not being native to Thai waters, does or may create a hazard to the health of humans or other aquatic resources or to the environment unless the person has in their possession a written permission for such activity given to that person by the Director-General.

Section 44. No person may harvest aquatic resources or engage in any activity inconsistent with regulations and notifications issued pursuant to this Act.

Section 45. It is prohibited for the possessor of a local fishing permit, fishing gear permit, an overseas fishing permit, an aquaculture permit, a fisheries export permit, or any licence, permit or written permission provided for under this Act, to transfer to another person, to duplicate or make a copy of a local fishing permit, a fishing gear permit, an overseas fishing permit, an aquaculture permit, a fisheries export permit, or any licence, permit or written permission for under this Act.

Section 46. It is prohibited for a person to be the recipient of or be in possession of a local fishing permit, a fishing gear permit, an overseas fishing permit, an aquaculture permit, a fisheries export permit, or any licence, permit or written permission provided for under this Act, which they have not received from a competent official.

Section 47. It is prohibited for a person to be the recipient of or be in possession of a copied or fraudulent local fishing permit, fishing gear permit, overseas fishing permit, aquaculture permit, a fisheries export permit, or any licence, permit or written permission provided for under this Act.

Section 48. No person shall import, export, attempt to export, handle, transport, transship, process, sell, store or have in his possession an aquatic resource or aquatic resource product,

or enter into a contract to do any of the above, where the person knew, ought to have known, or did not inquire respecting whether the aquatic resource had been harvested in a manner inconsistent with this Act unless the person has in their possession a written permission for such activity given to that person by the Director-General.

Section 49. No person shall give, offer, or attempt to give a gift or consideration to a competent official or an authorized fisheries officer as an inducement or reward for doing or not doing his duties under this Act.

Section 50. No competent official or authorized fisheries officer shall accept, obtain, or attempt to obtain any gift or consideration from a person as an inducement or reward for doing or not doing his duties under this Act.

CHAPTER V: COMMUNITY-BASED MANAGEMENT

Section 51. The Minister by regulation or the Director-General by notification may:

- (a) designate any area of the Inland Fishery Zone or the Coastal Marine Fishery Zone as a designated community fishery area;
- (b) alter or revoke the designation of a designated community fishery area;
- (c) establish criteria for when an area of the Inland Fishery Zone or the Coastal Marine Fishery Zone can become a designated community fishery area; and
- (d) establish one or more processes by which members of the public can initiate and participate in decision-making regarding the establishment of criteria for and the creation of a designated community fishery area.

The Minister or Director-General shall, to the extent that is reasonable and feasible, consult with all persons, communities and other Ministries and departments that may be affected by the creation, alteration or revocation of a designated community fishery area.

Where regulations and notifications have been issued pursuant to paragraph one, special attention shall be given publicizing the regulations and notifications and making their contents known to all persons and communities who may be affected by them.

Section 52. Unless there is a regulation or notification to the contrary,

- (a) all the provisions of this Act apply within a designated community fishery area;
- (b) all aquatic resources within a designated community fishery area are subject to the rules of the designated community fishery area; and
- (c) a person not a member of a designated community is prohibited from harvesting aquatic resources in that designated community fishery area.

Section 53. For a designated community fishery area, the Minister may issue regulations and the Director-General and, with the approval of the Minister, the provincial governor within his jurisdiction, may issue notifications relating to:

- (a) which persons shall be part of the designated community for the purposes of decision-making and harvesting;
- (b) the creation of procedures for determining which persons shall be part of designated community for the purposes of decision-making and harvesting;
- (c) whether all or only some of the aquatic resources and the habitat of aquatic resources within a designated community fishery area will be subject to the rules adopted for the designated community fishery area;

(d) the manner in which decisions respecting the management and harvesting of the aquatic resources and the management and protection of the habitat of aquatic resources within a designated community fishery area shall be made, including but not limited to: the uses, types and specifications of fishing gear, open and closed seasons, habitat protection, who can harvest an aquatic resource and the amount of resource that can be harvested;

(e) the manner in which enforcement may take place, including the authority to seize, arrest, detain and penalize both members and non-members of the designated community for the breach of rules established for a designated community fishery area;

(f) the penalties that are to exist for the breach of rules established for a designated community area; and

(g) which specific provisions of this Act, if any, will not have application within a designated community fishery area.

Regulations and notifications under paragraph one shall only be issued following, to the extent that is reasonable and feasible, consultation among the appropriate divisions of the Department of Fisheries and with all individuals, communities, and other Ministries and departments that may be affected by them.

Where regulations and notifications have been issued pursuant to paragraph one, special attention shall be given to publicizing the regulations and notifications and making their contents known to all persons and communities who may be affected by them.

CHAPTER VI: THE INLAND FISHERY ZONE

Section 54. Unless a regulation or notification exists to the contrary, it is prohibited for a person to use a motorized vessel in the harvesting of aquatic resources in the Inland Fishery Zone unless that person has in their possession a valid local fishing permit.

Section 55. The competent official or the Local Fishery Committee with the authority to grant a local fishing permit shall not issue a local fishing permit to a person unless:

(a) the person requesting the local fishing permit is the owner or the master of the vessel for which the local fishing permit is intended;

(b) the person requesting the local fishing permit has filled in the forms and provided the information as required by this Act;

(c) the person requesting the local fishing permit and met all the conditions, requirements and criteria established under this Act for the issuance of a local fishing permit;

(d) the person requesting the local fishing permit is a fisherman in good standing;

(e) any fee payable has been paid; and

(f) the person requesting the local fishing permit has demonstrated an understanding of the conditions of the local fishing permit.

Section 56. The Director-General or, with the approval of the Minister, the provincial governor within his jurisdiction, may by notification designate any area of the Inland Fishery Zone as a preservation fishery area.

Preservation fishery areas may be those areas lying within or adjoining to the compound of a monastery or place of worship, a navigational lock, dam, water treatment facility, or any other facility where it is inappropriate or dangerous for harvesting of aquatic resources to occur.

Section 57. No person may harvest aquatic resources within a preservation fishery area unless the person has in their possession a written permission for such harvesting given to that person by a competent official.

Section 58. No person shall erect, peg down, maintain, place or build stationary fishing gear in the Inland Fishery Zone unless the person has in their possession a written permission for such activity given to that person by a competent official.

CHAPTER VII: THE COASTAL MARINE FISHERY ZONE

Section 59. No person shall harvest aquatic resources within the Coastal Marine Fishery Zone unless

- (a) the person engaged in the harvesting is a small-scale fisherman, or
- (b) the person has in their possession a written permission for such activity given to that person by the Local Fishery Committee which has the authority to issue local fishing permits for the area or, where no Local Fishery Committee exists, by a competent official.

Section 60. Unless a regulation or notification exists to the contrary, it is prohibited for a person to use a motorized vessel in the harvesting of aquatic resources in the Coastal Marine Fishery Zone unless that person has in their possession a valid local fishing permit.

Section 61. The competent official or the Local Fishery Committee with the authority to grant a local fishing permit shall not issue a local fishing permit to a person unless:

- (a) the person requesting the local fishing permit is the owner or the master of the vessel for which the local fishing permit is intended;
- (b) the person requesting the local fishing permit has filled in the forms and provided the information as required by this Act;
- (c) the person requesting the local fishing permit has met all the conditions, requirements and criteria established under this Act for the issuance of a local fishing permit;
- (d) the person requesting the local fishing permit is a fisherman in good standing;
- (e) any fee payable has been paid; and
- (f) the person requesting the local fishing permit has demonstrated an understanding of the conditions of the local fishing permit.

CHAPTER VIII: THE COMMERCIAL MARINE FISHERY ZONE

Section 62. Pursuant to Section 15, paragraph 1, the Minister by regulation or the Director-General by notification may require all fishing vessels engaged in harvesting aquatic resources and related activities in the Commercial Marine Fishery Zone to have a valid fishing vessel licence or permit.

When a fishing vessel licence or permit system is adopted, the regulations and notifications creating the fishing vessel licence or permit system shall take precedence and override the provisions of Chapter Eight relating to the fishing gear permit.

Section 63. No person shall harvest aquatic resources in the Commercial Marine Fishery Zone unless that person has in their possession a valid fishing gear permit specific to the fishing gear in use, about to be used, or used in the act of harvesting.

For greater certainty, where the physical characteristics of fishing gear or the manner in which fishing gear has been used in harvesting an aquatic resource does not comply fully with the detail and conditions of a valid fishing gear permit, there has been a breach of paragraph one.

Section 64. All fishing gear that is used or are capable of being used in the act of harvesting an aquatic resource in the Commercial Marine Fishery Zone requires a fishing gear permit unless there is a regulation or notification to the contrary.

Section 65. The competent official with the authority to grant a fishing gear permit shall not issue a fishing gear permit to a person unless:

(a) the person requesting the permit is the owner or the master of the vessel which is going to use the fishing gear for which the permit is intended;

(b) the person requesting the fishing gear permit has filled in the forms and provided the information as required by this Act;

(c) the person requesting the fishing gear permit has satisfied and met all the conditions, requirements and criteria established under this Act for the issuance of a fishing gear permit;

(d) the fishing gear for which the fishing gear permit is intended is of a type or kind that the Minister or Director-General has listed in a regulation or notification as one for which a fishing gear permit may be issued;

(e) the person requesting the fishing gear permit is a fisherman in good standing;

(f) any fee payable has been paid; and

(g) the person requesting the fishing gear permit has demonstrated an understanding of the conditions of the fishing gear permit.

Section 66. A person who is an owner or master of a Thai flag fishing vessel may require and have multiple fishing gear permits.

CHAPTER IX: OVERSEAS MARINE FISHERY ACTIVITY

Section 67. The Minister and Director-General, in consultation and cooperation with organizations which represent those persons with an interest in having Thai flag fishing vessels harvest or acquire aquatic resources in non-Thai waters, and in consultation and cooperation with other Ministries and departments, are to seek opportunities for Thai flag fishing vessels to harvest, purchase or transship aquatic resources in non-Thai waters and may enter into agreements to accomplish these purposes.

Section 68. An agreement entered into by the Minister, Director-General or other authorized representative of the government of Thailand with a foreign State, a department within a foreign State or a foreign fishing company or enterprise is an approved overseas fishing plan.

The Minister or Director-General may determine that an agreement entered into by a person who is an owner or master of a Thai flag fishing vessel, a fisheries organization, a company or other enterprise which operates in Thailand, with a foreign State, a department within a foreign State or a foreign fishing company or enterprise is an approved overseas fishing plan.

The Minister or Director-General may determine that a plan presented by an owner or master of a Thai flag fishing vessel, a fisheries organization, a company or other

enterprise which operates in Thailand to harvest aquatic resources in the high seas is an approved overseas fishing plan provided:

(a) the proposed harvesting activity will not contravene obligations that exist on Thailand through international arrangements; and

(b) the proposed harvesting activity will not undermine the effectiveness of any international arrangements that may exist respecting either the area where it is proposed that the Thai flag fishing vessels are to operate or the species that are proposed to be harvested by the Thai flag fishing vessels.

Section 69. It is prohibited for a Thai flag fishing vessel, its owner, master and crew, to harvest, purchase or transship aquatic resources in non-Thai waters unless the Thai flag fishing vessel is in possession of a valid overseas fishing permit.

Section 70. A Thai flag fishing vessel, its owner, master and crew, when operating outside Thai waters, are to follow:

(a) the applicable laws of Thailand, including this Act;

(b) the laws of the state recognized by the government of Thailand as having jurisdiction over the waters where the Thai flag fishing vessel is located or operating; and

(c) the obligations that exist on Thailand through international arrangements which have established conservation and management measures respecting either the waters where the Thai flag fishing vessel is located or operating or the activity of the Thai flag fishing vessel.

Section 71. It is prohibited for a Thai flag fishing vessel, its owner, master or crew, to harvest aquatic resources in non-Thai waters:

(a) in contravention of the law of the foreign state recognized by the government of Thailand as having jurisdiction over the waters where the contravention occurred; or

(b) in contravention of obligations that exist on Thailand through international arrangements which have established conservation and management measures respecting either the waters where the Thai flag fishing vessel is located or operating or the activity of the Thai flag fishing vessel.

Section 72. It is prohibited for a Thai flag fishing vessel, its owner, master and crew, to harvest aquatic resources in non-Thai waters in contravention of an approved overseas fishing plan.

Section 73. The Minister by regulation and the Director-General by notification may, in cooperation with other ministries and departments, establish tax, customs or other benefits that may be given to holders of valid overseas fishing permits.

Section 74. In addition to other conditions that may exist in an overseas fishing permit, it is a condition of all overseas fishing permits that the holder must comply with:

(a) all the laws of a foreign state and the conservation and management measures of international arrangements that are applicable to the activities covered by the overseas fishing permit; and

(b) all the conditions, contents, rules and procedures of the approved overseas fishing plan.

Section 75. The competent official with the authority to grant an overseas fishing permit shall not issue an overseas fishing permit to a person unless:

- (a) the person requesting an overseas fishing permit is the owner or the master of the vessel for which the overseas fishing permit is intended;
- (b) the person requesting the overseas fishing permit has filled in the forms and provided the information as required by regulation or notification;
- (c) the person requesting the overseas fishing permit is entitled to be a participant in an approved overseas fishing plan;
- (d) the person requesting the overseas fishing permit has met all the conditions, requirements and criteria established under this Act for the issuance of an overseas fishing permit;
- (e) the person requesting the overseas fishing permit is a fisherman in good standing;
- (f) the person requesting the overseas fishing permit has provided any security or surety required by regulations and notifications;
- (g) any fee payable has been paid; and
- (h) the person requesting the overseas fishing permit has demonstrated an understanding of the conditions of the overseas fishing permit including the condition that the person, and all those engaged in the activity covered by the overseas fishing permit, must comply with all foreign laws applicable to the overseas fishing permit.

Section 76. An Overseas Fisheries Committee composed of equal numbers of representatives from either the Department of Fisheries or other Ministries and from organizations which represent those persons with an interest in overseas marine fishery activities may be established to provide advice to:

- (a) the Minister and Director-General respecting the approval of overseas fishing plans under Section 68;
- (b) competent officials with the authority to grant overseas fishing permits respecting the issuance of and conditions that may be attached to overseas fishing permits under Section 75; and
- (c) the Minister, Director-General and the Department of Fisheries on other matters and issues regarding overseas marine fishery activities.

Section 77. It is prohibited for an owner, owner's representative or master of a Thai flag fishing vessel that has been apprehended, seized or arrested in non-Thai waters not to secure the release of the master and crew.

Section 78. In addition to any penalty that may be imposed pursuant to Section 127, the owner, owner's representative or master who breaches Section 77 is required to compensate the government of Thailand for all costs incurred by the government of Thailand in securing the release of the master and crew and returning the master and crew to Thailand.

CHAPTER X: FOREIGN FISHING ACTIVITY IN THAI WATERS

Section 79. It is prohibited for a foreign fishing vessel to engage in the harvesting of aquatic resources in Thai waters without the written permission of the Director-General.

Section 80. In addition to requirements and conditions that may be established for a written permission for foreign vessels to harvest in Thai waters pursuant to regulations and notifications issued under Section 25, the Director-General shall:

(a) on a case-by-case basis, determine the conditions, criteria, fees and other requirements that a foreign fishing vessel must meet before the Director-General will issue a written permission for a foreign fishing vessel to engage in harvesting aquatic resources in Thai waters;

(b) indicate the conditions and the provisions of this Act with which the foreign fishing vessel must comply; and

(c) withdraw the written permission if a foreign fishing vessel breaches a condition of the written permission or any provision of this Act.

Section 81. At any time and for any reason, the Director-General may withdraw a written permission that has been given to a foreign fishing vessel.

Section 82. No person may use a foreign flag vessel or otherwise import aquatic resources or aquatic resource products into Thailand where the aquatic resource has been harvested:

(a) in contravention of the laws of a foreign state recognized by the government of Thailand as having jurisdiction over the waters where the harvesting occurred; or

(b) in contravention of obligations that exist on Thailand or the State of the foreign flag vessel through international arrangements respecting the aquatic resource.

CHAPTER XI: AQUACULTURE

Section 83. The Minister may issue regulations and the Director-General and, with the approval of the Minister, the provincial governor within his jurisdiction, may issue notifications respecting any matter that arises relating to aquaculture, aquaculture facilities, and the activity of aquaculture, including:

(a) the size and location of aquaculture activities and facilities;

(b) the manner in which aquaculture activities must take place and the operation of aquaculture facilities;

(c) the type, operation and location of equipment required including the training that operators of such equipment must have;

(d) the required processes and monitoring of aquaculture activities and facilities;

(e) the quality and type of feed used for aquaculture;

(f) the prohibition of aquaculture activities respecting certain aquatic resources;

(g) ornamental live fish;

(h) hatcheries and other sources of aquatic resources for aquaculture purposes including the importation of aquatic resources for aquaculture purposes;

(i) measures to prevent, eliminate or control diseases that may affect aquatic resources;

(j) the use, monitoring and testing of chemicals, antibiotics, biotechnology and genetically modified organisms;

(k) all matters relating to the control and avoidance of environmental degradation and interference with users of adjacent lands and waters;

(l) the restoration of aquaculture facilities when aquaculture activities have ceased; and

(m) any other matter regarding the activity of aquaculture or an aquaculture facility.

Regulations and notifications under paragraph one shall only be issued following, the extent that is reasonable and feasible, consultation with persons, communities and other Ministries and departments that may be affected by them.

Section 84. It is prohibited for a person to engage in aquaculture for which an aquaculture permit is necessary unless the person has a valid aquaculture permit.

Section 85. No person shall, intentionally or unintentionally, engage in aquaculture which destroys, disturbs, interferes with or alters, either directly or indirectly, the habitat of an aquatic resource unless the person has in their possession a written permission for such aquaculture activity given to that person by a competent official.

Section 86. In addition to regulations and notifications that may be made respecting an aquaculture permit under Section 24, the Minister by regulation and the Director-General, and, with the approval of the Minister, the provincial governor within his jurisdiction, by notification may establish:

(a) the type, size, activities, and location of aquaculture activities and facilities which do not require an aquaculture permit;

(b) the conditions that must exist and the criteria that must be met by an aquaculture activity and facility relating to the control and avoidance of environmental degradation and interference with users of adjacent lands and waters before an aquaculture permit will be issued;

(c) the conditions that must exist and the criteria that must be met by an aquaculture activity and facility including limits on type, size, location, equipment and other matters before an aquaculture permit will be issued; and

(d) the conditions that will attach to an aquaculture permit relating to the above subject matters including the time, place, aquatic specie, and equipment that may be used and the processes and monitoring that must be undertaken.

Section 87. A competent official with the authority to grant an aquaculture permit shall not issue an aquaculture permit to a person unless:

(a) the person requesting the aquaculture permit is the owner or the intended operator of the aquaculture activity and facility for which the aquaculture permit is intended;

(b) the person requesting the aquaculture permit has filled in the forms and provided the information as required by regulations and notifications under this Act;

(c) the aquaculture activity or facility for which the aquaculture permit is requested is of a kind or type for which an aquaculture permit may be issued;

(d) the person requesting the aquaculture permit has demonstrated that the proposed activity and facility meets the conditions and criteria relating to the control and avoidance of environmental degradation and interference with users of adjacent lands and waters set out by regulations and notifications under this Act;

(e) the person requesting the aquaculture permit has met all the conditions, requirements and criteria established under this Act for the issuance of an aquaculture permit;

(f) the competent official is of the view that the issuing of the aquaculture permit is not inconsistent with any Act, regulation and notification or any policy of another Ministry or department;

(g) the person requesting the aquaculture permit is a fisherman in good standing;

(h) any fee payable has been paid; and

(i) the person requesting the aquaculture permit has demonstrated an understanding of the conditions of the aquaculture permit.

Section 88. Notwithstanding the authority granted to an authorized fisheries officer under Section 102, a competent official may:

- (a) monitor, inspect and visit all aquaculture facilities, regardless of whether the aquaculture activity in question requires an aquaculture permit;
- (b) request, require the production of, require regular reporting of, inspect, and copy any information and documents from the owner of or a person in authority at an aquaculture facility; and
- (c) request and take samples of the water, feed, soil, and species found at an aquaculture facility.

CHAPTER XII: PROTECTED SPECIES AND PROTECTION AREAS

Section 89. No person in Thailand, in Thai waters or onboard a Thai flag fishing vessel in non-Thai waters shall harvest, import, export, destroy, disturb, interfere with, or have in their possession a protected aquatic resource, or any parts thereof, unless the person has in their possession a written permission for such activity given to that person by the Director-General.

Section 90. No person shall harvest aquatic resources or take any action that results in the destruction, disturbance, or interference with aquatic resources within a fisheries protection area, unless the person has in their possession a written permission for such activity given to that person by the Director-General or the activity is expressly permitted by a regulation or notification issued pursuant to Section 91.

Section 91. The Minister by regulation and the Director-General by notification may:

- (a) designate any aquatic resource as a protected aquatic resource;
- (b) designate any area of Thai waters as a fisheries protection area;
- (c) indicate what activities are permissible within a specific fisheries protection area;
- (d) establish criteria for when an aquatic resource should be designated as a protected aquatic resource;
- (e) establish criteria for when an area of Thai waters should be designated as a fisheries protection area; and
- (f) establish one or more processes by which members of the public can initiate and participate in decision-making regarding the establishment of criteria for and the designation of protected aquatic resources and fisheries protection areas.

In the preparation, adoption and issuance of regulations and notifications under paragraph one, the Minister and Director-General shall take into account, consult and coordinate with other relevant Ministries and departments.

CHAPTER XIII: HEALTH, QUALITY AND EXPORT

Section 92. All persons who import, harvest, sell, handle, store, transport, export, or process aquatic resources or aquatic resource products should ensure that the aquatic resources and aquatic resource products comply with all consumer health and food safety laws, regulations and notifications.

Section 93. For the purposes of this Chapter, “consumer health and food safety laws, regulations and notifications” means all acts, including this Act and the Food Act, and all regulations and notifications issued under this Act, the Food Act, or other acts which deal

with or establish requirements for quality and standards for food, packaging, labeling and consumer health protection.

Section 94. For the purposes of this Chapter, “Food Act” means the Food Act, B.E. 2522 or any act which replaces or repeals the Food Act, B.E. 2522.

Section 95. The Minister may issue regulations and the Director-General may issue notifications relating to:

(a) quality and health standards for aquatic resources and aquatic resource products;

(b) quality management programmes (QMPs), hazard analysis and critical control point (HACCP), ISO and processes intended to accomplish and verify quality and health standards for aquatic resources and aquatic resource products;

(c) conditions, criteria, processes and standards applicable to the importing, sale, handling, storing, transporting, exporting or processing of aquatic resources and aquatic resource products;

(d) conditions, criteria, processes and standards applicable to premises, vehicles, or vessels where aquatic resources or aquatic resource products are sold, stored, transported, or processed;

(e) the appointment, authority and power of competent officials to carrying out the goals of this Chapter including the authority and power to inspect, obtain samples, seize and take action respecting aquatic resources, aquatic resource products and premises; and

(f) any matter respecting the health, safety and quality of aquatic resources and aquatic resource products.

Regulations and notifications under paragraph one shall only be issued following consultation between the Department of Fisheries and the Minister, departments and agencies with responsibilities under the Food Act and other Ministries and departments that have an interest.

Section 96. A person is prohibited from importing, harvesting, selling, making available for sale, handling, storing, transporting, exporting or processing aquatic resources or aquatic resource products which do not comply with regulations and notifications issued pursuant to Section 95.

Section 97. A person is prohibited from controlling, operating, facilitating, or supervising a premise, vehicle, or vessel which does not comply with regulations and notifications issued pursuant to Section 95.

Section 98. It is prohibited for a person to export or attempt to export aquatic resources or aquatic resource products for which a fisheries export permit is necessary unless that person has a valid fisheries export permit.

Section 99. In addition to regulations and notifications that may be made respecting a fisheries export permit under Section 24, the Minister by regulation and the Director-General by notification may establish:

(a) for which aquatic resources and aquatic resource products a fisheries export permit is necessary;

(b) for which export destinations a fisheries export permit is necessary;

(c) the conditions that must exist and the criteria that must be met by an aquatic resource and aquatic resource product respecting the quality, health, safety, labelling, packaging, and product standards before a fisheries export permit will be issued; and

(d) the conditions that must exist and the criteria that must be met by the person requesting the fisheries export permit respecting whether the aquatic resource to be exported was harvested in a manner consistent with sustainable practices and with this Act before a fisheries export permit will be issued.

Section 100. A competent official with the authority to grant a fisheries export permit shall not issue a fisheries export permit unless:

(a) the person requesting the fisheries export permit is the owner or the named exporter of the aquatic resource or aquatic resource product for which the fisheries export permit is intended;

(b) the person requesting the fisheries export permit has filled in the forms and provided the information as required by this Act;

(c) the competent official believes that the aquatic resource or aquatic resource product for which the fisheries export permit is requested has met all the conditions and criteria respecting quality, health, safety, labelling, packaging, and product standards as required by this Act;

(d) the competent official believes that the aquatic resource and aquatic resource product for which the fisheries export permit is requested has met all the conditions and criteria respecting whether the aquatic resource was harvested consistent with sustainable practices and with this Act as required by this Act;

(e) the person requesting the fisheries export permit has satisfied and met all the conditions, requirements and criteria established under this Act for the issuance of a fisheries export permit;

(f) the person requesting the fisheries export permit and the person who harvested the fish for which the fisheries export permit is requested are fisherman in good standing;

(g) any fee payable has been paid; and

(h) the person requesting the fisheries export permit has demonstrated an understanding of the conditions of the fisheries export permit.

CHAPTER XIV: MONITORING, CONTROL AND SURVEILLANCE

Section 101. The Minister by regulation or notification shall appoint persons as authorized fisheries officers for the purposes of carrying out the responsibilities assigned in this Chapter.

Only those persons who have received training or have a demonstrated expertise respecting fisheries monitoring, control and surveillance procedures and practices and the contents of this Act may be appointed as an authorized fisheries officer.

At the time of appointment, an authorized fisheries officer shall be issued with appropriate identification documents, badges or insignia which clearly indicate that the person is an authorized fisheries officer.

Section 102. An authorized fisheries officer may:

(a) request and require the production of any information and documents related to any matter that arises under this Act from any person, including the owner, master or crew of a fishing vessel, and the owner or person in authority of an aquaculture facility, fishing gear, premise, or vehicle;

(b) stop, board, enter, search, inspect and stay on board any fishing vessel in Thai waters and any Thai flag fishing vessel outside those waters;

(c) stop, search, and inspect any person which he has reason to believe is, has been or is intending to:

(i) harvest aquatic resources,

(ii) engage in an activity related to the harvesting of aquatic resources, or

(iii) destroy, disturb, interfere with or alter the habitat of an aquatic

resource;

(d) question any person who may be capable of providing any information that may be required for an inspection or investigation;

(e) search, enter, and inspect any aquaculture facility, premise, dwelling house, or vehicle where he has reason to believe an offence against this Act is, has or may be committed or where he has reason to believe that evidence of an offence against this Act may be found;

(f) seize, take, detain, remove and secure any aquatic resources, aquatic resource products, fishing gear, fishing vessels, vehicles, explosives, substances potentially dangerous to aquatic resources, documents, or equipment that he has reason to believe have been taken, used, is being used or is intended to be used in or in relation to the commission of an offence against this Act or he has reason to believe provides evidence of an offence against this Act;

(g) seize and destroy aquatic resources which he has reason to believe have been, are or may be involved in an offence of Section 43;

(h) order and take appropriate action to ensure the immediate cessation of aquaculture activities where he has reason to believe an offence under this Act is, has or may be committed and he believes the cessation of aquaculture activities is necessary to protect the health of humans, aquatic resources or the environment;

(i) order the master of any fishing vessel to bring the vessel to a specified port or to a point at sea for inspection;

(j) detain or arrest a person whom he has reason to believe has committed, is committing or is about to commit an offence against this Act;

(k) utilize audio or visual means to record and document the carrying out of any action permitted by this Section; and

(l) prepare or create a file, dossier, and written record, which may include audio and visual information, related to any action allowed by this Section.

Section 103. The exercise of any authority granted to an authorized fisheries officer under Section 102 respecting a designated community fishery area shall take into account any regulation and notification issued pursuant to Section 53 (e).

Section 104. An authorized fisheries officer may exercise the authority granted by Section 102 in respect to a Thai flag fishing vessel operating, or which has been operating, outside Thai waters.

Section 105. An authorized fisheries officer may exercise the authority granted by Section 102 in respect of any vessel and all persons on board any vessel located within a port or landing area in Thailand.

Section 106. Any policies, practices or guidelines respecting the exercise of the authority granted to an authorized fisheries officer under Section 102 shall only be adopted and implemented following consultation, to the extent that is reasonable and feasible, with all persons and communities that may be affected by them.

Any policies, practices or guidelines adopted and implemented pursuant to paragraph one shall, to the extent that is reasonable and feasible, be communicated to all persons and communities that may be affected by them.

Policies, practices or guidelines adopted pursuant to paragraph one regarding fishing vessels in the Coastal Marine Fishery Zone and the Commercial Marine Fishery Zone shall, to the extent that it is reasonable and feasible, be consistent with internationally-accepted practices regarding the boarding, inspecting, seizing and arresting of fishing vessels at sea.

Section 107. In the exercise of any authority granted under Section 102, an authorized fisheries officer shall:

- (a) clearly identify himself as an authorized fisheries officer;
- (b) take only those actions which are justified by the situation and which are consistent with the authority granted by Section 102;
- (c) act respectfully and with courtesy;
- (d) use only the amount of force called for by the situation;
- (e) take note of and, where possible, record all facts, evidence and conditions;
- (f) comply with any policies, practices or guidelines that have been adopted respecting the exercise of authority under Section 102;
- (g) cooperate with other law enforcement agencies; and
- (h) not abuse the authority granted under Section 102.

Section 108. A person arrested or detained by an authorized fisheries officer pursuant to Section 102 shall be delivered into the custody of the appropriate authority for receipt of complaints and evidence under the Criminal Procedure Code as soon as is reasonably possible.

Section 109. Subject to paragraph two, any item seized by an authorized fisheries officer pursuant to Section 102 shall be delivered into the custody of a competent official.

Aquatic resources or aquatic resource products seized pursuant to Section 102 may be sold by the Director-General or, where the person alleged to have violated this Act is a small-scale fisherman, by the Provincial Governor with jurisdiction where the alleged offence took place offence and the proceeds held in a secure Bank account until the final disposal of the case.

Section 110. The Director-General or, where the person alleged to have violated this Act is a small-scale fisherman, the Provincial Governor with jurisdiction where the alleged offence took place may order the release of any item seized on receipt of a bond or other security of an amount equivalent to the greater of the value of the item seized or the maximum fine payable for the offence, and such bond or security shall be held in a secure Bank account until the final disposal of the case.

Section 111. Where an authorized fisheries officer has ordered or taken action to cease aquaculture activities pursuant to Section 102, the order or action shall be reviewed within 10 days by the Director-General who may:

- (a) continue the order or the action ceasing the aquaculture activity; or
- (b) order that the aquaculture activity can recommence.

Section 112. Where, pursuant to this Act, there has been a seizure of an item or an arrest of a person, a competent official or an authorized fisheries officer shall forward to the

appropriate prosecution authorities any file, dossier or written record which relates to the seizure or arrest.

Section 113. No person shall refuse, prohibit, prevent, or interfere with a competent official or an authorized fisheries officer exercising authority pursuant to this Act.

Section 114. No person shall refuse, deny, or prevent a request or requirement to produce information and documents made by a competent official or an authorized fisheries officer exercising authority pursuant to this Act.

Section 115. No person shall destroy, disfigure, hide or alter documents, fishing gear, aquatic resources or other items that may be evidence of a violation of a provision of this Act.

Section 116. In addition to regulations and notifications that may be made under Sections 15 and 83 respecting matters arising under this Chapter, the Minister may issue regulations and the Director-General and, with the approval of the Minister, the provincial governor within his jurisdiction, may issue notifications relating to:

(a) information, documents, protocols, communications equipment, observers, and related items that all persons engaged in activities subject to this Act must possess and follow in order to facilitate appropriate compliance with and enforcement of this Act; and

(b) the procedures and processes that authorized fisheries officers are to follow respecting the exercise of authority granted under Section 102.

Section 117. The Minister or Director General by notification may appoint a person to be a fishery observer and to perform the following functions:

(a) to observe the harvesting, handling, processing and related activities of aquatic resources and to record data concerning such operations;

(b) to collect and record biological information and all other information related to activities governed by this Act;

(c) to collect samples of the aquatic resources harvested; and

(d) to report the observations and information obtained pursuant to this Section.

Section 118. The Minister or Director-General may require a possessor of a fishing gear permit, an overseas fishing permit, or any licence, permit or written permission that may be provided for under this Act related to harvesting of aquatic resources, to carry a fishery observer on board a fishing vessel and to allow the fishery observer full access to all parts of the vessel, to all harvested aquatic resources and to all documents necessary for the fishery observer to carry out the tasks assigned under Section 117.

CHAPTER XV: JURISDICTION AND PENALTIES

Section 119. Any Provincial Court in Thailand shall have jurisdiction regarding an offence under this Act where the offence takes place in Thai waters or beyond Thai waters outside the jurisdiction of specific Provincial Courts.

Section 120. Any aquatic resources, fishing gear, fishing vessels and other articles which are not easy to produce or bring before a Court are not required to be produced or brought before the Court as exhibits; instead, a written report, photographs or other supporting documents

relating to these articles and how the articles have been administered may be submitted to and accepted by the Court.

Section 121. Whoever violates Sections 37 paragraph one or 114 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both.

Section 122. Whoever violates Sections 40 or 41 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and shall be a fisherman not in good standing for a minimum of ___ months and a maximum of ___ years.

Section 123. Whoever violates Sections 42, 57, or 58 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and may be a fisherman not in good standing for a maximum of ___ months.

Section 124. Whoever violates Sections 54 or 60 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and may be a fisherman not in good standing for a maximum of ___ months.

Section 125. Whoever violates Sections 45, 46, 47, 48, 49, 50, 59, 63, 69, 71, 72, or 84 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and shall be a fisherman not in good standing for a minimum of ___ months and a maximum of ___ years.

Section 126. Whoever violates Section 43 shall be punished by a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and may be a fisherman not in good standing for a maximum of ___ months.

Section 127. Whoever violates Section 77 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both.

Section 128. Whoever violates Section 79 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both.

Section 129. Whoever violates Section 115 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and may be a fisherman not in good standing for a maximum of ___ months.

Section 130. Whoever violates Sections 85 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and may be a fisherman not in good standing for a maximum of ___ months.

Section 131. Whoever violates Section 44 shall be punished with a fine not exceeding _____ bath or with imprisonment not exceeding _____ or both and may be a fisherman not in good standing for a maximum of ___ months.

Section 132. Whoever violates Sections 89 or 90 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and shall be a fisherman not in good standing for a minimum of ___ months and a maximum of ___ years.

Section 133. Whoever violates Sections 96, 97 or 98 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both.

Section 134. Whoever violates Section 113 shall be punished with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both and shall be a fisherman not in good standing for a minimum of ___ months and a maximum of ___ years.

Section 135. Unless there is a regulation or notification to the contrary issued pursuant to Section 53 (f), whoever violates Section 52 (c):

- (a) shall be punishable with a fine not exceeding _____ baht or with imprisonment not exceeding _____ or both;
- (b) may be a fisherman not in good standing for a maximum of _____; and
- (c) shall be subject to Sections 139 and 140.

Section 136. The Director-General or, where the person alleged to have violated this Act is a small-scale fisherman, the Provincial Governor with jurisdiction where the alleged offence took place, may elect not to proceed with prosecution if :

- (a) the alleged offender pays two-thirds of the maximum fine that applies to the offence;
- (b) where the provision breached provides for a minimum period for a person to be a fisherman not in good standing, the alleged offender accepts to be a fisherman not in good standing for that minimum period; and
- (c) all items for which forfeiture is required pursuant to Section 137 and 139 are forfeited.

Section 137. Fishing vessels, fishing gear, aquatic resources, aquatic resource products, the proceeds from sale of aquatic resources and aquatic resource products undertaken pursuant to Section 109, any bond or security posted pursuant to Section 110, and other things used in or acquired through the commission of an offence of Sections 40, 41, 43, 58, 59, 79, or 89 shall be forfeited by the Court.

Section 138. Fishing vessels, fishing gear, aquatic resources, aquatic resource products, the proceeds from sale of aquatic resources and aquatic resource products undertaken pursuant to Section 109, any bond or security posted pursuant to Section 110, and other things used in or acquired through the commission of an offence of Sections 42, 44, 45, 46, 47, 48, 84, or 85 may be forfeited by the Court.

Section 139. Aquatic resources, aquatic resource products, and the proceeds from sale of aquatic resources and aquatic resource products undertaken pursuant to Section 109, acquired through or involved in the commission of an offence of Sections 54, 57, 60, 63, 69, 71, 72, 90, 96 or 98 shall be forfeited by the Court.

Section 140. Fishing vessels, fishing gear and other things used in the commission of an offence of Sections 54, 57, 60, 63, 69, 71, 72 or 90 and any bond or security posted pursuant to Section 110 related to these offences may be forfeited by the Court.

Section 141. A premise, vehicle or vessel involved in the commission of an offence of Section 97 and any bond or security posted pursuant to Section 110 may be forfeited by the Court.

Section 142. There shall be a forfeit of a fishing vessel, fishing gear, aquatic resource product, premise, vehicle or other thing forfeited pursuant to Sections 137, 138, 139, 140 or 141 even if the owner of the item is not the convicted person unless the owner of the item can prove that he had no knowledge that the item was being used or would be used for the purpose of or in connection with the commission of the offence in question and that all reasonable steps had been taken by the owner to prevent the item from being used for or in connection with activities in contravention of this Act.

Section 143. Any fishing vessel, fishing gear, aquatic resource, aquatic resource product, proceeds from sale of aquatic resources and aquatic resource products undertaken pursuant to Section 109, premise, vehicle or other thing forfeited by the Court pursuant to Sections 137, 138, 139, 140 and 141 or forfeited by agreement pursuant to Section 136 shall be dealt with or disposed of as the Director-General may direct.

CHAPTER XVI: MISCELLANEOUS

Section 144. No suit, prosecution or other proceeding shall lie against a competent official, an authorized fisheries officer, a member of the Department of Fisheries, the Director-General, Minister or provincial governor, or anyone acting under their authority, for anything which is done in good faith in pursuance of this Act.

Section 145. The Department of Fisheries shall make every effort to provide accurate and timely maps and nautical charts which show:

- (a) the Inland Fishery Zone, the Coastal Marine Fishery Zone and the Commercial Marine Fishery Zone;
- (b) areas under the jurisdiction of Local Fishery Committees;
- (c) designated community fishery areas;
- (d) preservation fishery areas;
- (e) fisheries protection areas;
- (f) the location and times of areas closed to the harvesting of aquatic resources;
- and
- (g) such other information relating to this Act that is conveniently conveyed on a map or nautical chart.

Section 146. All regulations and notifications made pursuant to this Act shall be made in writing and as widely disseminate as is reasonable and feasible.

The Department of Fisheries shall make every effort to inform and communicate the contents of this Act, including all regulations and notifications, to all those who have an interest in or may be affected by this Act.

Notwithstanding paragraphs 1 and 2, it is the responsibility of all those who are or may be affected by this Act to comply with this Act.