

NAVIGATION IN THAI WATERS ACT (NO. 17),
B.E. 2560 (2017)

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 23rd Day of January B.E. 2560;

Being the 2nd 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 navigation in Thai waters;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows.

Section 1. This Act is called the “Navigation in Thai Waters Act (No. 17), B.E. 2560 (2017)”.

Section 2.¹ This Act shall come into force after thirty days as from the date of its publication in the Government Gazette.

Section 3. The Title of (c), River Encroachment, in Chapter VI, Miscellaneous Provisions, of Part I, General Provisions, of the Navigation in Thai Waters Act, B.E. 2456 (1913) shall be repealed and replaced by the following:

“(d/1) River Encroachment”.

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

¹ Published in Government Gazette, Vol. 134, Part 10a, dated 24th January 2017.

Section 4. The provisions of paragraph one of section 117 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) shall be repealed and replaced by the following:

“**Section 117 *bis*.** A person who is granted permission for the construction of a building or any other thing under section 117 shall pay annual remuneration in accordance with the rules and at the rates prescribed in the Ministerial Regulation, provided that the rates shall be not lower than fifty Baht a square metre and that, in the case of a building or any other thing which is, by its nature or purpose, for use in the operation of business, such person shall pay twice such rates.”

Section 5. The provisions of section 118 of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) shall be repealed and replaced by the following:

“**Section 118.** A person who violates section 117 or any person who, having been granted permission under section 117, constructs a building or any other thing in a manner not in conformity with the permission granted, shall be liable to imprisonment for a term not exceeding three years or to a fine, calculatable by reference to the area of the building or other thing, at the rate not lower than one thousand Baht a square metre but not exceeding twenty thousand Baht a square metre or to both and shall also be liable to a daily fine, calculatable by reference to the area of such building or thing, not exceeding twenty thousand Baht a square metre a day throughout the occurrence of the violation of the order of the marine official under section 118 *bis* paragraph one or until correct performance takes place.”

Section 6. The provisions of section 118 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) shall be repealed and replaced by the following:

“**Section 118 *bis*.** In the case where there occurs a violation of section 117 or where any person who has been granted permission under section 117 constructs a building or any other thing in a manner not in conformity with the permission granted, the marine official shall issue an order in writing demanding the owner or possessor of such building or other thing to complete correct demolition or rectification thereof within a specified period of time of not less than thirty days but not more than one year unless it is otherwise ordered by the Court. In the case where the owner or possessor of the building or other thing is not known, the marine official shall post such order at such building or other thing.

At the expiration of the period of time specified under paragraph one, if the owner or possessor of such building or other thing fails to comply with the order of the marine official, the marine official shall have the power to carry out demolition or rectification of such building or other thing forthwith and any person shall not use such building or other thing in whole or in part until the demolition or rectification is complete. In this regard, the owner or possessor of such building or other thing shall be responsible for expenses incurred in all operations of the marine official. In the case where only partial demolition needs to be carried out, if such demolition causes damage, in any manner whatsoever, to the part which does not need to be demolished, the marine official shall not be responsible for such damage, where such demolition has been carried out in accordance with a method expected to be taken by a reasonable person.

For the purpose of taking action under paragraph two, the marine official shall have the power to enter the owner's or possessor's place which is adjacent to the building or other thing required to be demolished or rectified during sunrise and sunset except that in the case where the action remains unaccomplished, the marine official shall have the power to continue the action after sunset.

In the case where the owner or possessor of the building or other thing under paragraph one is unknown, the marine official shall, upon completion of the demolition or rectification of the building or other thing, have the power to seize and retain it or sell it and hold proceeds therefrom instead. After deduction of expenses incurred in the demolition or rectification and the sale, any remaining sum shall become the State revenue.

In taking action by the marine official under this section, if the marine official performs the duty in good faith, the owner or possessor of such building or other thing may not claim damages against the marine official and the marine official shall have no liability in civil, criminal or disciplinary matters, but the injured person shall not be precluded from claiming damages from official bodies under the law on liability for wrongful acts of officials.”

Section 7. The following provisions shall be added as section 118 *quarter* in (d/1), River Encroachment, of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act:

“**Section 118 *quarter*.** If any marine official, licensing official or competent official of the Marine Department, having been notified in writing by any person that there is a violator of section 117, fails to take action in the execution of section 118 *bis* within sixty days as from the date of receipt of the notification, it shall be presumed that such person commits a serious disciplinary breach, unless there is a cause of necessity preventing the action and the matter has

been reported to the Minister of Transport for giving instructions or solving the problem. In such case, the Minister of Transport shall make such cause generally known to the public at intervals of three months until the completion of the action.”

Section 8. The Title of (d), Dumping Ballast into a River, Harbour Area or Anchorage, in Chapter VI, Miscellaneous Provisions, of Part I, General Provisions, of the Navigation in Thai Waters Act, B.E. 2456 (1913) shall be repealed and replaced by the following:

“(d/2) Dumping Ballast into a River, Harbour Area or Anchorage”.

Section 9. The provisions of section 163 of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 13), B.E. 2525 (1982) shall be repealed and replaced by the following:

“**Section 163.** The marine official and the vessel surveying official shall have the power to perform inspection and issue certificates on the matters as follows:

(1) certificates of vessel inspection for the purpose of permission for the use of vessels;

(2) certificates of vessel inspection for the purpose of registration of Thai vessels;

(3) certificates concerning safety of life at sea;

(4) load line certificates;

(5) certificates of inspection of any other matters prescribed in the Notification of the marine official in the implementation of international agreements to which Thailand is a party or by which Thailand is bound;

(6) certificates of inspection of any matters other than those in (5) as prescribed, with the approval of the Minister of Transport, in the Notification of the marine official to ensure consistency with international agreements.”

Section 10. The following provisions shall be added as section 163/1 of the Navigation in Thai Waters Act, B.E. 2456 (1913):

“**Section 163/1.** Rules, procedures, conditions and fees for the inspection and issuance of certificates under section 163 shall be in accordance with Regulations prescribed by the marine official with the approval of the Minister of Transport.

Regulations under paragraph one insofar as they are concerned with fishing vessels under the law on fisheries shall be issued upon prior consultation with the Department of Fisheries.

In the case where the owner or possessor of a vessel has had the vessel inspected by a vessel surveying institute designated by the marine official and a certificate has been issued, the owner or possessor of the vessel may submit, together with payment of a fee, an application to the marine official or the vessel surveying official under section 163 in order that such inspection and certificate shall be deemed to be the inspection and certificate issued under this Act.

Rules, procedures and conditions for the issuance of Notifications designating vessel surveying institutes under paragraph three shall be as prescribed by the Minister of Transport.”

Section 11. Section 165 of the Navigation in Thai Waters Act, B.E. 2456 (1913) shall be repealed.

Section 12. The following provisions shall be added as section 285/1 of the Navigation in Thai Waters Act, B.E. 2456 (1913):

“**Section 285/1.** The marine official shall have the power to issue seaman books upon request.

Rules, procedures, forms of the books and rates of fees for the issuance of seaman books shall be as prescribed in the Ministerial Regulation.”

Section 13. Certificates issued, under the provisions of section 163 of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended, by the marine official or vessel surveying officials or other persons authorised or entrusted by such officials prior to the date on which this Act comes into force shall be valid in accordance with the periods of time and conditions indicated in such certificates.

Section 14. Regulations on vessel inspection issued under the provisions of section 163 of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended which are in force on the day prior to the date on which this Act comes into force shall continue to be in force insofar as they are not contrary to or inconsistent with the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act.

When the marine official or the Department of Fisheries considers that any Regulations under paragraph one insofar as they are concerned with fishing vessels may be

contrary to or inconsistent with the law on fisheries, the marine official and the Department of Fisheries shall consult each other. If amendment thereto is required, the marine official shall take action within ninety days as from the date on which final agreement is reached.

Section 15. Pending the issuance of the Ministerial Regulation issued under the provisions of section 285/1 of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act, the Rule of the Marine Department on rules and procedures for the issuance of seaman books for persons working on board the vessel, B.E. 2558 (2015) shall apply to the issuance of seaman books for the time being until the Ministerial Regulation under section 285/1 is issued, provided that such Ministerial Regulation shall be issued within one year as from the date on which this Act comes into force.

Section 16. Seaman books issued by the marine official or other persons authorised or entrusted by the marine official prior to the date on which this Act comes into force shall be deemed to be seaman books under the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act and shall be valid in accordance with the periods of time and conditions indicated in such books.

Section 17. The Ministerial Regulations issued under the provisions of section 117 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) shall continue to be in force insofar as they are not contrary to or inconsistent with section 117 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act until the Ministerial Regulation issued under the provisions of section 117 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act comes into force, provided that such Ministerial Regulation shall be issued within one year as from the date on which this Act comes into force.

Section 18. Within one hundred twenty days as from the date on which this Act comes into force, if the person or possessor of a building or any other thing which was constructed prior to the date on which this Act comes into force in violation of section 117 of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) or a person who, having been granted permission under section 117 of such Act, constructed a building or any other thing in a manner not in conformity with the permission granted has notified the marine official of such violation or construction not in conformity with the permission granted, the marine official shall, within sixty days as from the date of receipt of the notification, issue an order in writing demanding the owner or possessor of such building or other thing to complete demolition or rectification thereof within a specified period of time, which

shall not be less than thirty days but not more than one year, unless it is otherwise ordered by the Court.

In the case where the building or other thing under paragraph one is the one in respect of which permission may be granted under section 118 *bis* paragraph five of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) and the owner or possessor has agreed to pay a fine as determined by the marine official, which shall not be less than five hundred Baht a square metre but not more than ten thousand Baht a square metre, the marine official may issue a licence to the owner or possessor and, upon permission being granted, remuneration shall be paid in the double amount of that under section 117 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992).

In the absence of notification within the time limit or compliance with the order of the marine official under paragraph one or paragraph two, the marine official shall take action under section 118 *bis* of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by this Act without issuing any order in writing under section 118 *bis* paragraph one.

Section 19. Subject to section 18 paragraph one, in the case where a building or any other thing under section 18 has been constructed in a manner constituting encroachment over, in or beneath sea water or a reservoir or a lake, if such building or other thing is, by nature, the one in respect of which permission may not be granted under section 118 *bis* paragraph five of the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended by the Navigation in Thai Waters Act (No. 14), B.E. 2535 (1992) and is located in a public domain of the State, such building or other thing shall become property of the State as from the date of the expiration of the period of time in the marine official's order under section 18, where the marine official, with the approval of the Permanent Secretary for Transport, considers that demolition of such encroaching building or other thing with a view to restoration to the original condition is impossible or entails unreasonable expenses.

In the consideration by the marine official under paragraph one, the marine official shall submit an opinion to the Permanent Secretary for Transport within ninety days as from the date of the expiration of the period of time in the marine official's order under section 18 and the Permanent Secretary for Transport shall complete the consideration within ninety days as from the date of receipt of the opinion of the marine official, provided that the Permanent Secretary for Transport may also consult the Permanent Secretary for Finance, the Permanent Secretary for Natural Resources and Environment and the Permanent Secretary for Interior.

Section 20. All proceedings or cases pursued under the Navigation in Thai Waters Act, B.E. 2456 (1913) as amended prior to the date on which this Act comes into force shall continue to be pursued in accordance with the law in force on the day prior to the date on which this Act comes into force until their completion or until they become final.

Section 21. The Minister of Transport shall have charge and control of the execution of this Act.

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

Office of the Council of State