

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 45 OF 2009
ON
AMENDMENT TO LAW NUMBER 31 OF 2004
ON FISHERIES

BY THE BLESSINGS OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that the waters existing under the sovereignty of the Unitary State of the Republic of Indonesia and Indonesian Exclusive Economic Zone (*Zona Ekonomi Eksklusif Indonesia*) as well as high seas, contain a very potential fish resources and aquaculture area constitute a blessing from the Almighty God having been entrusted to the People of Indonesia which has the Pancasila's Life Philosophy and the 1945 Constitution of the Republic of Indonesia, by taking into account carrying capacity and sustainability thereof to be utilized as much as possible for the prosperity and welfare of the people of Indonesia;
 - b. that utilization of fish resources has not yet given sustainable and fair increasing of standard of living through optimum fisheries management, supervision, and law enforcement system;
 - c. that Law Number 31 of 2004 on Fisheries has not yet been able to anticipate the development of technology and legal needs in managing and utilizing fish resources potential;

- d. that based on considerations as referred to in point a, point b, and point c, it is necessary to establish Law on Amendment to Law Number 31 of 2004 on Fisheries;

Observing : Article 20, Article 21, and Article 33 section (3) of the 1945 Constitution of the Republic of Indonesia;

With the Joint Approval of
THE HOUSE OF REPRESENTATIVES
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact : LAW ON AMENDMENT TO LAW NUMBER 31 OF 2004 ON FISHERIES.

ARTICLE I

Some provisions in Law Number 31 of 2004 on Fisheries (State Gazette of the Republic of Indonesia of 2004 Number 118, Supplement to the State Gazette of the Republic of Indonesia Number 4433) are amended as follows:

1. Provisions of Article 1 point 11 and point 24 are amended, so that it reads as follows:

Article 1

In this Law:

1. Fisheries mean all activities relating to the management and utilization of fish resources and its environment, starting from pre-production, production, processing until marketing, executed in a fisheries business system.
2. Fish resources mean potential of all kinds of fish.
3. Fish resources environment means any waters as a place of existence of fish resources, including its biota and its surrounding natural factors.
4. Fish means all kinds of organisms which are all or part of their cycle of life in waters Area.

5. Fishing means an activity to catch fish at waters area which is not being cultured, by using any tools or by method, including activities by ship for loading, transporting, storing, handling, processing and/or preserving fish.
6. Aquaculture means any activity to culture, raise, and/or breed fish and harvest its products in a controlled environment, including any activity using ship for loading, transporting, storing, refrigerating, handling, processing and/or preserving them.
7. Fisheries Management means all undertakings, including integrated process in collecting information, analysis, planning, consultation, decision making, allocation of fish resources, and law implementation & law enforcement of legislation in the field of fisheries, performed by the government or other authority which are directed to achieve sustainable waters biological resources productivity and agreed objectives.
8. Fish resources conservation means protection, preservation, and utilization of fish resources, including ecosystem, species, and genetic, in order to ensure its existence, availability and sustainability by consistently maintaining and increasing the quality of value and diversity of fish resources.
9. Fishery vessel means any ship, boat, or other floating gears used for fishing, supporting the operation for fishing, aquaculture, fish transportation, fish processing, fisheries training, and fisheries research/exploration.
10. Fisher means any person whose livelihood is fishing.
11. Small Fisher means any person whose livelihood is fishing in order to fulfill his/her daily needs by using fishery vessel with maximum capacity of 5 (five) gross ton (GT).
12. Fish Farmer means any person whose livelihood is to conduct the aquaculture.

13. Small Fish-Farmer means any person whose livelihood is to conduct the aquaculture in order to fulfill his/her daily needs.
14. Every person means any individual or corporation.
15. Corporation means any group of persons and/or any wealth which are well organized either a legal entity or non-legal entity.
16. Fisheries business license (*Surat Izin Usaha Perikanan*), hereinafter referred to as SIUP, means a written license which must be obtained by a fisheries company to operate fisheries business by using production facility specified in the said license.
17. License to fish (*Surat Izin Penangkapan Ikan*), hereinafter referred to as SIPI means a written license which must be obtained by every fishery vessel to fish, which constitutes an integral part of SIUP.
18. Fish Carrier License (*Surat Izin Kapal Pengangkut Ikan*), hereinafter referred to as SIKPI means a written license which must be obtained by every fishery vessel to carry fish.
19. Indonesian territorial sea means the sea area of 12 (twelve) nautical miles width which is measured from the archipelagic base line of Indonesia.
20. Indonesian waters mean the Indonesian sea territorial including its archipelagic waters and internal waters.
21. Indonesian Exclusive Economic Zone (*Zona Ekonomi Eksklusif Indonesia*), hereinafter referred to as ZEEI, means the outside area which borders on Indonesian territorial sea as stipulated by virtue of the prevailing laws on Indonesian waters covering the seabed, its subsoil thereof, and the water above it with the outer border 200 (two hundred) nautical miles measured from the base line of the Indonesian territorial sea.

22. High seas mean part of the sea which does not include in ZEEI, Indonesian territorial sea, Indonesian archipelagic waters and Indonesian internal waters.
 23. Fishing port means a place consisting of land with waters surrounding it and certain borders as a place for government activity and fisheries business system activity used as a place for the fishery vessel to moor, dock and/or load and unload fish equipped with navigation safety and fisheries support activity.
 24. Minister means the minister in charge of fisheries affairs.
 25. Government means the Central Government.
 26. Local Government means the Provincial Government and/or Regency/Municipal Government.
2. Provisions of Article 2 are amended so that it reads as follows:

Article 2

Fisheries management is conducted based on the principles of:

- a. benefit;
 - b. justice;
 - c. cooperation;
 - d. partnership;
 - e. independence;
 - f. distribution;
 - g. integrity;
 - h. openness;
 - i. efficiency;
 - j. sustainability; and
 - k. sustainable development.
3. Provisions of Article 7 are amended so that it reads as follows:

Article 7

- (1) Within the framework of supporting fish resources management policy, the Minister determines:
 - a. fisheries management plan;
 - b. potential and allocation of fish resources in the fisheries management area of the Republic of Indonesia;
 - c. total allowable catch in the fisheries management area of the Republic of Indonesia;
 - d. potential and allocation of aquaculture area in the fisheries management area of the Republic of Indonesia;
 - e. potential and allocation of broodstock and juvenile in the fisheries management area of the Republic of Indonesia;
 - f. type, number, and size of fishing gear;
 - g. type, number, size and placement of fishing accessories;
 - h. region, strip, and time or season of fishing;
 - i. requirements or standard of operating procedure for fishing;
 - j. fishing ports;
 - k. fishery vessel monitoring system;
 - l. new fish species for aquaculture;
 - m. fish species and re-stocking area as well as capture-based aquaculture;
 - n. aquaculture and its protection;
 - o. protection against pollution and damage of fish resources and its environment;
 - p. rehabilitation and increase of fish resources and its environment;
 - q. minimum size or weight of fish species allowed to catch;
 - r. marine conservation area;
 - s. epidemic and area of epidemic of fish disease;
 - t. fish species prohibited from being traded, imported and exported to and from the territory of the Republic of Indonesia; and
 - u. protected fish species.

- (2) Every person who undertakes and/or performs fisheries management is obligated to comply with the provisions as referred to in section (1) on:
 - a. type, number and size of fishing gear;
 - b. type, number, size and placement of fishing accessories;
 - c. region, strip and time or season of fishing;
 - d. requirements or standard operating procedure for fishing;
 - e. fishery vessel monitoring system;
 - f. new fish species for aquaculture;
 - g. fish species and re-stocking area as well as capture-based aquaculture;
 - h. aquaculture and its protection;
 - i. protection against pollution and damage of the fish resources as well as its environment;
 - j. minimum size or weight of fish species allowed to catch;
 - k. marine conservation area;
 - l. epidemic and area of epidemic of fish disease;
 - m. fish species prohibited from being traded, imported and exported to and from the territory of the Republic of Indonesia; and
 - n. protected fish species.
- (3) Obligation to adhere to provisions regarding fishery vessel monitoring system as referred to in section (2) point e, is not applicable to small fishers and/or small fish-farmers.
- (4) The Minister determines the potential and quantity of fish allowed to catch as referred to in section (1) point b and point c after considering the recommendation from the national committee which makes research on fish resources.
- (5) The national committee as referred to in section (4) is formed by the Minister and consists of experts in their respective fields of related institutions.

- (6) The Minister determines the protected fish species and marine conservation area for the interest of sciences, culture, tourism, and/or fish resources sustainability and/or its environment.
4. Provisions of Article 9 are amended so that it reads as follows:

Article 9

- (1) Every person is prohibited from owning, possessing, carrying and/or using fishing gear and/or fishing gear accessories hampering and damaging the fish resources sustainability on board a fishing vessel in the fisheries management area of the Republic of Indonesia.
 - (2) Provisions regarding fishing gears and/or fishing accessories hampering and damaging the fish resources sustainability as referred to in section (1) are regulated by the Ministerial Regulation.
5. Provisions of Article 14 section (3) are amended, so that it reads as follows:

Article 14

- (1) The Government regulates and/or develops the benefit of genetic resources relating to fish resources within the framework of preservation of ecosystem and selective breeding of fish resources.
- (2) Every person is required to preserve genetic resources related to fish resources.
- (3) The Government controls importation and/or exportation of new species of fish from and to overseas and/or inter-islands traffic in order to secure genetic resources sustainability related to fish resources.
- (4) Every person is prohibited from damaging genetic resources related to fish resources.

- (5) Further provisions regarding the utilization and preservation of genetic fish resources as referred to in section (1), section (2) and section (3) are regulated by Government Regulation.
6. Between Article 15 and Article 16, 1 (one) Article is inserted, namely Article 15A so that it reads as follows:

Article 15A

The Government regulates control of quality of broodstock and fish seed being cultured.

7. Provisions of Article 18 are added by 2 (two) sections namely section (3) and section (4) so that it reads as follows:

Article 18

- (1) The Government regulates and fosters the management of water and area of aquaculture.
 - (2) The regulation and fostering of the management of water and area of aquaculture as referred to in section (1) are done within the framework of ensuring water quantity and water quality for the interest of aquaculture.
 - (3) Implementation of the management of water and area of aquaculture are executed by the local government.
 - (4) Further provisions regarding the management of the water and area of aquaculture as referred to in section (1) and section (2) are regulated by a Government Regulation.
8. Provisions of Article 23 are added by 1 (one) section namely section (3), so that it reads as follows:

Article 23

- (1) Every person is prohibited from using raw materials, food supplement materials, auxiliary materials,

and/or any devices which may jeopardize human health and/or the environment in performing fish handling and processing.

- (2) The Government determines raw materials, food supplement materials, auxiliary materials and/or any devices which may jeopardize human health and/or the environment as referred to in section (1).
- (3) The Government disseminates the raw materials, food supplement materials, auxiliary materials, and/or any devices which may jeopardize human health and/or the environment.

9. Provisions of Article 25 are amended so that it reads as follows:

Article 25

- (1) Fisheries business is performed by fisheries business system covering pre-production, production, processing and marketing.
 - (2) Further provisions regarding pre-production, production, processing, and marketing as referred to in section (1) are regulated in a Ministerial Regulation.
10. Between Article 25 and Article 26, 3 (three) articles are inserted namely Article 25A, Article 25B, and Article 25C, so that they read as follows:

Article 25A

- (1) Fisheries business actor, in performing fisheries business, must take into account quality standard of fisheries products.
- (2) The Government and local governments foster and facilitate development of fisheries business in order to fulfill quality standard of fisheries products.
- (3) Further provisions regarding quality standard of fisheries products are regulated in a Ministerial Regulation.

Article 25B

- (1) The Government is required to organize and facilitate marketing activity for fisheries business either in the home country or overseas.
- (2) Exportation of fisheries business production overseas is made if domestic production and supply have fulfilled national consumption need.
- (3) The Government is required to create fair fisheries business climate in accordance with the legislation.

Article 25C

- (1) The Government fosters and facilitates the development of national fisheries industry by prioritizing the use of domestic raw materials and human resources.
 - (2) The Government establishes fair cooperation and partnership between fisheries industries, fishers and/or fisheries cooperatives.
 - (3) Provisions regarding fostering, granting of facility, cooperation, and partnership as referred to in section (1) and section (2) are made in accordance with the legislation.
11. Provisions of Article 27 section (1), section (2), and section (3) are amended, as well as added by 1 (one) section namely section (5), so that it reads as follows:

Article 27

- (1) Every person who owns and/or operates fishing vessel flying Indonesian flag used for fishing in the fisheries management area of the Republic of Indonesia and/or in the high seas is obligated to have SIPI.
- (2) Every person who owns and/or operates fishing vessel flying foreign flag used for fishing in ZEEI is obligated to have SIPI.
- (3) Every person who operates fishing vessel flying Indonesian flag in the fisheries management area of

the Republic of Indonesia or operates fishing vessel flying foreign flag in ZEEI must bring original SIPI.

- (4) Fishing vessel flying Indonesian flag fishing in the jurisdiction of another country first must obtain approval from the Government.
 - (5) Obligation to own SIPI as referred to in section (1) and/or bring original SIPI as referred to in section (3) are not applicable to small fishers.
12. Provisions of Article 28 section (1) and section (2) are amended, and added with 2 (two) sections namely section (3) and section (4), so that it reads as follows:

Article 28

- (1) Every person who owns and/or operates fish carrier in the fisheries management area of the Republic of Indonesia is obligated to have SIKPI.
 - (2) Every person who owns and/or operates fish carrier flying foreign flag used for carrying fish in the fisheries management area of the Republic of Indonesia is obligated to have SIKPI.
 - (3) Every person who operates fish carrier in the fisheries management area of the Republic of Indonesia is obligated to bring original SIKPI;
 - (4) Obligation to own SIKPI as referred to in section (1) and/or bring original SIKPI as referred to in section (3), are not applicable to small fishers and/or small-fish farmers.
13. Between Article 28 and Article 29 1 (one) article is inserted namely Article 28A, so that it reads as follows:

Article 28A

Every person is prohibited from:

- a. falsifying SIUP, SIPI, and SIKPI; and/or
- b. using fake SIUP, SIPI and SIKPI.

14. Provisions of Article 32 are amended so that it reads as follows:

Article 32

Further provisions regarding issuance, procedure, and requirement for SIUP, SIPI, and SIKPI granting are regulated by a Ministerial Regulation.

15. Between Article 35 and Article 36, 1 (one) article is inserted namely Article 35A, so that it reads as follows:

Article 35A

- (1) Fishery vessel flying Indonesian flag fishing in the fisheries management area of the Republic of Indonesia is obligated to employ ship captain and ship's crew of Indonesian nationality.
 - (2) Fishery vessel flying foreign flag fishing in the ZEEI is obligated to employ ship's crew of Indonesian nationality at least 70% (seventy percent) of total ship's crew.
 - (3) Violation against provisions on employment of ship's crew as referred to in section (2) is subject to administrative sanctions in the form of warning, license freezing or license revocation.
 - (4) Further provisions regarding imposition of administrative sanction as referred to in section (3) are regulated in a Ministerial Regulation.
16. Provisions of Article 36 are amended so that it reads as follows:

Article 36

- (1) Fishery vessels owned by Indonesian citizen operated in the fisheries management area of the Republic of Indonesia and high seas are required to prior be registered as Indonesian fishery vessels.

- (2) Registration of fishery vessels as referred to in section (1) is completed with documents in the form of:
 - a. evidence of ownership;
 - b. owner identity; and
 - c. certificate of measurement.
 - (3) Registration of fishery vessel purchased or acquired from overseas and has been registered in the country of origin to be registered as Indonesian fishery vessels, other than those completed by the documents as referred to in section (2) must also be completed with deletion certificate from register of vessels issued by the country of origin.
 - (4) The fishery vessel having been registered as referred to in section (1) is given certificate of nationality in accordance with the provisions of legislation.
 - (5) Further provisions regarding registration as referred to in section (1), section (2) and section (3) are regulated by a Ministerial Regulation.
17. Provisions of Article 41 are amended so that it reads as follows:

Article 41

- (1) The Government organizes and fosters fishing ports management.
- (2) To organize and foster fishing ports management as referred to in section (1), the Minister determines:
 - a. master plan of fishing ports nationally;
 - b. classification of fishing ports;
 - c. fishing ports management;
 - d. requirements and/or technical standard in planning, development, operation, fostering and supervision of fishing ports;
 - e. working and operational area of fishing ports consisting of certain waters and land being working and operation area of fishing port; and

- f. fishing ports which are not built by the Government.
 - (3) Every fishing vessel and fish carrier must put the captured fish ashore at the specified fishing ports or other designated ports.
 - (4) Every person who owns and/or operates fishing vessel and/or fish carrier that does not load and unload the captured fish at the specified fishing ports or other designated ports as referred to in section (3) is subject to administrative sanctions in the form of warning, license freezing or license revocation.
 - (5) Further provisions regarding imposition of administrative sanction as referred to in section (4) are regulated in a Ministerial Regulation.
18. Between Article 41 and Article 42, 1 (one) article is inserted namely Article 41A, so that it reads as follows:

Article 41A

- (1) Fishing port has government and exploitation functions to support any activity relating to management and utilization of fish resources and its environment starting from pre-production, production, processing to marketing.
- (2) Fishing port function in supporting activity relating to management and utilization of fish resources and its environment as referred to in section (1) may be in terms of:
 - a. mooring and docking service of fishery vessel;
 - b. loading and unloading service;
 - c. service of fostering fisheries products quality and processing;
 - d. marketing and distribution of fish;
 - e. data collection of fish catch and fisheries product;
 - f. place for extension and development of fisher society;

- g. operation of fishery vessel;
- h. place to supervise and control fish resources;
- i. implementation of port authority;
- j. place to implement fish quarantine function;
- k. publication of mooring and docking service of fishery vessel and fisheries surveillance vessel ;
- l. place for publication of marine and fisheries research results;
- m. monitoring of coastal area and marine tourism; and/or
- n. environmental control.

19. Provisions of Article 42 are amended so that it reads as follows:

Article 42

- (1) Within the framework of fishery vessel operation safety, a harbormaster is appointed at the fishing port.

- (2) Harbormaster in the fishing port has the following tasks and authorities:
 - a. issuing sailing permit;
 - b. arranging arrival and departure of fishery vessel;
 - c. re-checking completeness of fishery vessel documents;
 - d. checking technical and nautical fishery vessel and checking fishing gear, and fishing accessories;
 - e. checking and ratifying seafarer employment agreement;
 - f. checking log book of fish catching and carrying;
 - g. controlling maneuver and traffic of fishery vessel in fishing port;
 - h. supervising piloting activity;
 - i. supervising fueling;

- j. supervising construction of fishing port facility;
 - k. providing search and rescue assistance;
 - l. being in charge of controlling over pollution and fire extinguishment in fishing port;
 - m. supervising implementation of maritime environment protection;
 - n. checking the fulfillment of requirement of fishery vessel manning;
 - o. issuing Certificate on Report of Arrival and Departure of Vessel; and
 - p. checking catch certificate.
- (3) Every fishery vessel which will sail for fishing and/or carrying fish from fishing port is obligated to have Sailing Permit issued by harbormaster in fishing port.
- (4) The harbormaster of the fishing ports as referred to in section (1) is appointed by the Minister who is in charge of shipping affairs.
- (5) In performing task in fishing port, the harbormaster is coordinated by official in charge of local fishing port.
- (6) Further provisions regarding office of harbormaster in fishing port are performed in accordance with the provisions of legislation.
20. Provisions of Article 43 are amended so that it reads as follows:

Article 43

Every fishery vessel which performs fisheries activity is obligated to have a certificate of operation worthiness for the fishery vessel from the fisheries inspector without subjecting to any fee.

21. Provisions of Article 44 section (1) are amended so that it reads as follows:

Article 44

- (1) Sailing Permit as referred to in article 42 section (2) point a is issued by the harbormaster after the fishery vessel obtained certificate of operation worthiness.
- (2) The certificate of operation worthiness as referred to in section (1) is issued by the fisheries inspector after the administrative requirements and technical worthiness have been met.
- (3) Further provisions regarding administrative requirements and technical worthiness as referred to in section (2) are regulated by a Ministerial Regulation.

22. Provisions of Article 46 are amended so that it reads as follows:

Article 46

- (1) The Government and local governments formulate and develop fisheries statistical data and information as well as organize collection, processing, analysis, storing, presentation, and distribution of potential data, data updating of fish movement, means and infrastructure, production, handling, processing and marketing fish, as well as economic social data which is connected with the implementation of fish resources management and fisheries business system development.
- (2) The Government and local governments establish fisheries data and information center to organize fisheries statistical data and information system.

23. Between Article 46 and Article 47, 1 (one) article is inserted namely Article 46A, so that it reads as follows:

Article 46A

The Government ensures confidentiality of fisheries data and information relating to data of log book of fish

catching and carrying, data as obtained by observer, and company's data under fisheries business licensing.

24. Provisions of Article 48 section (1) are amended, and between section (1) and section (2), 1 (one) section is inserted namely section (1a), so that it reads as follows:

Article 48

- (1) Every person who obtains direct benefit from fish resources and its environment in the fisheries management area of the Republic of Indonesia is subject to fisheries levy.
- (1a) Fisheries levy as referred to in section (1) constitutes non-tax state revenue.
- (2) Fisheries levy as referred to in section (1) is not subject to small fishers and small-fish farmers.

25. Provisions of Article 50 are amended so that it reads as follows:

Article 50

Fisheries levy as referred to in Article 48 and Article 49 is used for fisheries development as well as activity of conservation of fish resources and its environment.

26. Provision of Article 65 section (1) is deleted so Article 65 reads as follows:

Article 65

The Government may assign Local Government to carry out auxiliary in the field of fisheries.

27. Provisions of Article 66 section (2) and section (3) are amended, so that it reads as follows:

Article 66

- (1) Fisheries surveillance is performed by fisheries inspector.

- (2) The fisheries inspector duty is to surveil orderly implementation of legislation in fisheries sectors.
 - (3) Surveillance on orderly implementation of legislation as referred to in section (2) covers:
 - a. fishing activity;
 - b. aquaculture, hatchery;
 - c. processing, distribution of import and export of fish;
 - d. quality of fisheries product;
 - e. distribution of import and export of fish medicines;
 - f. conservation;
 - g. pollution due to human act;
 - h. genetic resources;
 - i. research and development of fisheries; and
 - j. fish being produced from genetic engineering.
28. Between Article 66 and Article 67, 3 (three) articles are inserted namely Article 66A, Article 66B, and Article 66C, so that it reads as follows:

Article 66A

- (1) Fisheries inspector as referred to in Article 66 is a civil servant working in fisheries sector who is appointed by the minister or by official delegated by the minister.
- (2) Fisheries inspector as referred to in section (1) can be educated to become Fisheries Civil Servant Investigator.
- (3) Fisheries inspector as referred to in section (2) may be designated as functional official of fisheries inspector.
- (4) Further provisions regarding functional position of fisheries inspector as referred to in section (3) are regulated by a Ministerial Regulation.

Article 66B

- (1) Fisheries inspector as referred to in Article 66 performs task within:

- a. fisheries management area of the Republic of Indonesia;
 - b. fishery vessel;
 - c. fishing port and/or other designated ports;
 - d. private fishing port;
 - e. fisheries activity center;
 - f. fish hatchery area;
 - g. aquaculture area;
 - h. fish processing unit; and/or
 - i. marine conservation area.
- (2) Further provisions regarding implementation of task of fisheries inspector as referred to in section (1) are regulated in a Ministerial Regulation.

Article 66C

- (1) In performing task as referred to in Article 66, the fisheries inspector is authorized to:
- a. enter and inspect any place in which fisheries business activity is performed;
 - b. check completeness and validity of fisheries business document;
 - c. inspect fisheries business activity;
 - d. inspect means and infrastructure in use for fisheries activity;
 - e. verify completeness and validity of SIPI and SIKPI;
 - f. record inspection findings;
 - g. take fish sample and/or material needed for purpose of laboratory test;
 - h. check equipment and functionality of fishery vessel monitoring system;
 - i. halt, inspect, bring, detain and arrest any vessel and/or person alleged or reasonably alleged to commit criminal act on fisheries in fisheries management area of the Republic of Indonesia and bring the vessel and/or person to port in

which such case can further be proceeded by investigator;

- j. submit recommendation to permit/license grantor to give sanction in accordance with the provisions of legislation;
- k. take special act against any fishery vessel trying to escape and/or fight back and/or endanger safety of fisheries inspector vessel and/or fishery vessel's crew; and/or
- l. take any accountable act by law.

(2) The fisheries inspectors as referred to in section (1) may, in performing their task, be equipped with fisheries surveillance vessel, firearms, and/or self-protective device.

29. Provisions of Article 69 are amended so that it reads as follows:

Article 69

- (1) Fisheries surveillance vessel functions to perform surveillance and law enforcement in fisheries sectors within the fisheries management area of the Republic of Indonesia.
- (2) Fisheries surveillance vessel as referred to in section (1) may be equipped with firearms.
- (3) Fisheries surveillance vessel may halt, inspect, bring, and detain any vessel suspiciously or allegedly committing any violation in the fisheries management area of the Republic of Indonesia to the nearest port for further processing.
- (4) The investigator and/or fisheries inspector may, in performing function as referred to in section (1), take any special act in terms of burning and/or sinking of fishery vessel flying foreign flag based on adequate preliminary evidence.

30. Provisions of Article 71 are amended so that it reads as follows:

Article 71

- (1) This Law establishes fisheries courts which are authorized to examine, hear, and adjudicate criminal act in on fisheries.
- (2) The fisheries courts as referred to in section (1) are special courts under the domain of district courts.
- (3) The fisheries courts as referred to in section (1) will be established at the District Courts of North Jakarta, Medan, Pontianak, Bitung and Tual.
- (4) Fisheries courts as referred to in section (1) are domicile within district court.
- (5) The establishment of the fisheries courts is done in stages in accordance with the necessity determined by a Presidential Decree.

31. Between Article 71 and Article 72, 1 (one) article is inserted namely Article 71A, so that it reads as follows:

Article 71A

The fisheries courts are authorized to examine, hear, and adjudicate criminal act on fisheries committed in fisheries management area of the Republic of Indonesia, either committed by Indonesian nationality or foreign nationality.

32. Provisions of Article 73 are amended so that it reads as follows:

Article 73

- (1) Investigation of criminal act on fisheries in fisheries management area of the Republic of Indonesia is performed by the Fisheries Civil Servant Investigator, Investigator of Indonesian Navy officers, and/or Investigator of National Police of the Republic of Indonesia.
- (2) In addition to Investigator of Indonesian Navy officers, Fisheries Civil Servant Investigators are

authorized to do investigation against criminal act on fisheries committed in ZEEI.

- (3) Investigation against criminal act on fisheries committed in fishing port is prioritized to be performed by Fisheries Civil Servant Investigator.
 - (4) Investigator as referred to in section (1) may make coordination in handling criminal act investigation on fisheries.
 - (5) To make coordination in handling of criminal act on fisheries as referred to in section (4), the Minister establishes coordination forum.
33. Between Article 73 and Article 74, 2 (two) articles are inserted namely Article 73A and Article 73B, so that it reads as follows:

Article 73A

Investigators as referred to in Article 73 are authorized to:

- a. receive report or complaint from any individual regarding occurrence of criminal act on fisheries;
- b. summon and investigate any suspect and/or witness for testimony purpose;
- c. bring and present any individual as suspect and/or witness for testimony purpose;
- d. search fisheries' means and infrastructure alleged to use or become place of committing criminal act on fisheries;
- e. halt, inspect, detain, bring, and/or detain vessel and/or person alleged to commit criminal act on fisheries;
- f. check completeness and validity of fisheries business documents;
- g. take picture of suspect and/or evidence of criminal act on fisheries ;
- h. summon expert necessary in relation to criminal act on fisheries;
- i. draw up and sign minutes of investigation;

- j. seize evidence in use and/or criminal act assets;
- k. stop investigation; and
- l. take any other accountable act by law.

Article 73B

- (1) Investigator as referred to in Article 73 notifies the commencement of investigation to public prosecutor at least 7 (seven) days as of finding of criminal act on fisheries.
 - (2) For the interest of investigation, the investigator may detain suspect to a maximum of 20 (twenty) days.
 - (3) Period as referred to in section (2) can be extended by public prosecutor at least 10 (ten) days if it is needed for the interest of unaccomplished investigation.
 - (4) The provisions as referred to in section (2) and section (3), does not rule out the possibility of the suspect to be released from the detention if the interest of the investigation has been fulfilled prior to the end of the period of such detention.
 - (5) After the 30 (thirty) days has come to an end, the investigators must have released the suspect from the detention by law.
 - (6) The investigator as referred to in Article 73A submits the investigation findings to public prosecutor not later than 30 (thirty) days as of notice of commencement of investigation.
34. Provisions of Article 75 are amended so that it reads as follows:

Article 75

- (1) Prosecution against criminal act on fisheries is done by the public prosecutor assigned by the Attorney General.
- (2) The public prosecutor of criminal case on fisheries as referred to in section (1) must:

- a. have experience as public prosecutor for at least 2 (two) years;
- b. have participated in technical education and training in the field of fisheries ; and
- c. be capable and have high moral integrity during his or her assignment of duty.

35. Provision of Article 76 is added 1 (one) section namely section (9), so that it reads as follows:

Article 76

- (1) After receiving the result of investigator from the investigators, the public prosecutor is obligated to notify the result of his or her examination within 5 (five) days as of the date of acceptance of the documents of investigation.
- (2) In the event the result of investigation is not completely submitted, the public prosecutor must return the documents of the case to the investigators accompanied by instructions about any matters which must be completed.
- (3) Within the period of not later than 10 (ten) days upon the date of acceptance of the documents, the investigators must resubmit the documents of the case to the public prosecutor.
- (4) The investigation is considered complete if within 5 (five) days, the public prosecutor does not return the result of investigation, or if prior to the end of the time limit, there is a notification on such matter from the public prosecutor to the investigators.
- (5) In the event that the public prosecutor declares that the result of investigation is complete, within the period of not later than 10 (ten) days upon the date of acceptance of the documents from the investigators having been declared complete, the public prosecutor must delegate the case to the fisheries court.

- (6) For the interest of prosecution, the public prosecutor has the authority to detain or continue detaining for 10 (ten) days.
 - (7) The period as referred to in section (6) may be extended by the authorized Chief Justice of the District Court not later than 10 (ten) days, if required for the interest of ongoing examination.
 - (8) The provisions as referred to in section (6) and section (7) do not rule out the possibility of the suspect to be released from detention if the interest of examination has been fulfilled prior to the end of the period of the detention.
 - (9) Public prosecutor submits archives to chief judge of the district court of the relative competence not later than 30 (thirty) days upon the date of acceptance of the documents from the investigators having been declared complete.
36. Between Part Two and Part Three, 1 (one) part is inserted namely Part Two A, so that it reads as follows:

Part Two A

Evidence

Article 76A

Object and/or instrument used in and/or resulted from criminal act on fisheries can be seized for nation or destroyed after obtaining approval from chief judge of the district court.

Article 76B

- (1) Evidence resulted from criminal act on fisheries which is vulnerable and requiring high cost of maintenance can be auctioned with approval from the chief judge of the district court.
- (2) Evidence resulted from criminal act on fisheries which is vulnerable as referred to in section (1) in

terms of fish species is first partially allocated for the interest of verification before court.

Article 76C

- (1) The seized object and/or instruments resulted from criminal act on fisheries as referred to in Article 76A can be auctioned for the interest of nation.
- (2) Auction is made by state auction board in accordance with the provisions of legislation.
- (3) Money earned from auction of seized object/instrument resulted from criminal act on fisheries is deposited to state treasury office being non-tax state revenue.
- (4) Law enforcers in the field of fisheries succeeding in performing their tasks appropriately and any party that is rendering a service in the effort to save state assets are provided with appreciation in accordance with the provisions of legislation.
- (5) The seized object and/or instrument resulted from criminal act on fisheries which is in terms of fishery vessel can be delivered to fisher joint business group and/or fisheries cooperatives.
- (6) Further provisions regarding granting of appreciation are regulated by a Government Regulation.

37. Between Article 78 and Article 79, 1 (one) article is inserted namely Article 78A, so that it reads as follows:

Article 78A

- (1) Sub-clerical office of fisheries courts chaired by a vice clerk is established in every district court already having fisheries court.
- (2) The vice clerk as referred to in section (1), in performing his/her tasks, is assisted by several substitute clerks.
- (3) Vice clerk and substitute clerks of fisheries court are from the district court.

- (4) Provisions regarding requirement, procedure for appointment, and discharge of vice clerk and substitute clerks of fisheries courts as well as organization structure, tasks, and work procedure for sub-clerk office of the fisheries courts are regulated by regulation of the Supreme Court in accordance with the provisions of legislation.
38. Between Article 83 and Article 84, 1 (one) article is inserted namely Article 83A, so that it reads as follows:

Article 83A

- (1) In addition to those as stipulated as suspect in criminal act on fisheries or other criminal acts, the other vessel's crew can be repatriated including those who are foreign citizen.
- (2) Repatriation of vessel's crew of foreign citizen as referred to in section (1) is made by institution in charge of immigration sector through embassy or representative of country of origin of the vessel's crew.
- (3) Provisions regarding repatriation of vessel's crew of foreign citizen as referred to in section (1) are performed in accordance with the provisions of legislation.
39. Provisions of Article 85 are amended so that it reads as follows:

Article 85

Any person who intentionally owns, possesses, carries, and/or uses the fishing gear and/or fishing gear accessories hampering and damaging the fish resources sustainability on board a fishing vessel in the fisheries management area of the Republic of Indonesia as referred to in Article 9 is sentenced to imprisonment for a maximum of 5 (five) years and fined for a maximum of Rp2,000,000,000.00 (two billion rupiah).

40. Provisions of Article 93 are amended so that it reads as follows:

Article 93

- (1) Any person possessing and/or operating fishing vessel flying Indonesian flag used for fishing in the fisheries management area of the Republic of Indonesia and/or high sea without possessing SIPI as referred to in Article 27 section (1) is sentenced to imprisonment for a maximum of 6 (six) years and fined for a maximum of Rp2,000,000,000.00 (two billion rupiah).
- (2) Any person possessing and/or operating fishing vessel flying foreign flag used for fishing in ZEEI without possessing SIPI as referred to in Article 27 section (2) is sentenced to imprisonment for a maximum of 6 (six) years and fined for a maximum of Rp20,000,000,000.00 (twenty billion rupiah).
- (3) Any person operating fishing vessel flying Indonesian flag in the fisheries management area of the Republic of Indonesia but not carrying original SIPI as referred to in Article 27 section (3) is sentenced to imprisonment for a maximum of 6 (six) years and fined for a maximum of Rp2,000,000,000.00 (two billion rupiah).
- (4) Any person operating fishing vessel flying foreign flag in ZEEI, but not carrying original SIPI as referred to in Article 27 section (3) is sentenced to imprisonment for a maximum of 6 (six) years and fined for a maximum of Rp20,000,000,000.00 (twenty billion rupiah).

41. Between Article 94 and Article 95, 1 (one) article is inserted namely Article 94A so that it reads as follows:

Article 94A

Any person falsifying and/or using fake SIUP, SIPI, and SIKPI as referred to in Article 28A is sentenced to

imprisonment for a maximum of 7 (seven) years and fined for a maximum of Rp3,000,000,000.00 (three billion rupiah).

42. Article 98 is amended so that it reads as follows:

Article 98

Fishery vessel captain without obtaining the sailing permit as referred to in Article 42 section (3) is sentenced to imprisonment for a maximum of 1 (one) year and fined for a maximum of Rp200,000,000.00 (two hundred million rupiah).

43. Between Article 100 and Article 101, 4 (four) articles are inserted namely Article 100A, Article 100B, Article 100C, and Article 100D so that they read as follows:

Article 100A

In the event of the criminal acts as referred to in Article 28A, falsification of approval as referred to in Article 35 section (1), and falsification of registration as referred to in Article 36 involves any official, then the criminal sanction is added with 1/3 (one third) out of major criminal sanction as threatened to the official.

Article 100B

In the event of the criminal acts as referred to in Article 8, Article 9, Article 12, Article 14, section (4), Article 16 section (1), Article 20, section (3), Article 21, Article 23 section (1), Article 26 section (1), Article 27 section (1), Article 27 section (3), Article 28 section (1), Article 28 section (3), Article 35 section (1), Article 36 section (1), Article 38, Article 42 section (3), or Article 55 section (1) committed by small fishers and/or small-fish farmers are sentenced to imprisonment for a maximum of 1 (one) year or fined for a maximum of Rp250,000,000.00 (two hundred fifty million rupiah).

Article 100C

In the event that the criminal acts as referred to in Article 7 section (2) committed by small fishers and/or small-fish farmers are subject to fine for a maximum of Rp100,000,000.00 (one hundred million rupiah).

Article 100D

In the event that the court passes an adjudication of fine, then the fine is required to be deposited to state treasury office as non-tax state revenue of the ministry in charge of the fisheries sector.

44. Provisions of Article 105 are deleted.
45. Provisions of Article 110 are amended so that it reads as follows:

Article 110

At the time this Law comes into force:

- a. Law Number 9 of 1985 on Fisheries (State Gazette of the Republic of Indonesia Number 46 of 1985 Number 46, Supplement to the State Gazette of the Republic of Indonesia Number 3299); and
- b. Provisions regarding the investigation as regulated in Article 14 and provisions regarding the imposition of fine as referred to in Article 16 section (1) of Law Number 5 of 1983 on Indonesian Exclusive Economic Zone (State Gazette of the Republic of Indonesia of 1983 Number 44, Supplement to the State Gazette of the Republic of Indonesia Number 3260) especially those in connection with criminal act on fisheries;

are repealed and declared ineffective.

46. Between Article 110 and Article 111, 1 (one) article is inserted namely Article 110A, so that it reads as follows:

Article 110A

All Government Regulations as mandated to implement this Law must be issued not later than 1 (one) year as of the promulgation of this Law.

ARTICLE II

This Law comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 29 October 2009

PRESIDENT OF THE REPUBLIC OF INDONESIA

signed

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
on 29 October 2009

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

signed

PATRIALIS AKBAR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2009 NUMBER 154

Jakarta, 15 December 2020

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia
DIRECTOR GENERAL OF LEGISLATION,



WIDODO EKATJAHJANA

ELUCIDATION OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 45 OF 2009
ON
AMENDMENT TO LAW NUMBER 31 OF 2004
ON FISHERIES

I. GENERAL

Indonesia as an archipelagic country, which most of its area consists of sea, has considerable and diverse potency of fisheries. The fisheries potency is economic potency which is able to be utilized for state future, as backbone of national development. Optimum utilization is directed to exploit fish resources by taking into account existing supporting capacity and its preservation to improve people's prosperity, improve standard of living of small-fisher and small-fish farmer, increase state revenue from foreign exchange, provide work opportunity, improve productivity, value added and competitiveness of fisheries products as well as secure fish resources sustainability, fish cultivation area and spatial plan. It means that utilization of fisheries resources should be proportionate to its supporting capacity, so that expectedly, it could give sustainable benefit. One of them is by the way of controlling over fisheries business through fisheries management arrangement.

United Nations Convention on the Law of the Sea 1982 already ratified by Law Number 17 of 1985 on Ratification of United Nations Convention on the Law of the Sea 1982, provides Indonesia with sovereign rights to do utilization, conservation and fish resources management in Exclusive Economic Zone (EEZ) Indonesia, and High Seas performed based on the prevailing international requirements and standard.

Therefore, it is necessary establish legal basis of fish resources management which is able to accommodate all aspects of fish resources

management and anticipate the development of the need for law and technology. Enactment of Law Number 31 of 2004 on Fisheries can expectedly anticipate and simultaneously serve as solution to significant change in the field of fisheries, either those relating to availability of fish resources, preservation of fish resources environment, or development of fisheries management method which is getting more effective, efficient, and modern.

On the other side, there are some issues in the fisheries development which needs all party's attention, either the government, public or other party relating to fisheries development. The issues are among others existence of excessive fishing, fish theft, and other illegal fishing which is not only inflicting a loss to the country, but also threatening the interest of fisher and fish farmer, industrial climate, and national fisheries business. The issue should be resolved seriously, so that law enforcement in the field of fisheries would become very important and strategic in the framework of supporting controllable and sustainable fisheries development. Legal certainty would be an absolute condition which is necessary in handling criminal act in fisheries sector.

However, in its reality, Law Number 31 of 2004 on Fisheries has not yet been able to anticipate the development of technology as well as development of legal need in the framework of management and utilization of fish resources potency and has not yet been able to overcome the issue. Therefore, it is necessary to make a change to some substances, either those relating to management, bureaucracy, or legal aspect.

Weaknesses to fisheries management aspect are among others non-available of inter-agency coordination mechanism relating to fisheries management. While in bureaucracy aspect, there is a conflict of interest in fisheries management. Weakness in legal aspect is among others law enforcement, sanction formulation, and jurisdiction or relative competence of the court of first instance against criminal act on fisheries occurring beyond authority of the court of first instance.

In consideration of some weaknesses as contained in Law Number 31 of 2004 on Fisheries, it is necessary to make amendment to the Law, consisting of:

First, regarding supervision and law enforcement relating to inter-investigating institutions coordination mechanism in handling the

criminal act investigation on fisheries, application of sanction (criminal or fine), law of procedure, particularly those relating to determination of period of case examination, and facility in law enforcement on fisheries, including possibility of applying legal act in terms of sinking of foreign vessel operating in the fisheries management area of the Republic of Indonesia.

Second is fisheries management issue of among others fishing port, conservation, permit, and office of the harbormaster.

Third, it is necessary to expand jurisdiction of fisheries tribunal so as to cover the entire territory of fisheries management area of the Republic of Indonesia.

Besides, the amendment to Law Number 31 of 2004 on Fisheries is also favorable to small fisher and small-fish farmer, among others: in permit aspect, obligation to apply provision on utilization fishery vessel monitoring system, fisheries levy, and criminal sanction imposition.

II. ARTICLE BY ARTICLE

Article I

Point 1

Article 1

Sufficiently clear.

Point 2

Article 2

Point a

The term “principle of benefit” means principle indicating that fisheries management must be able to give profit and benefit to the most extent possible for prosperity and wealth of people.

Point b

The term “principle of justice” means fisheries management must be able to give same opportunity and chance proportionally to all citizens, nothing excepted.

Point c

The term “principle of cooperation” means fisheries management must be able to engage all stakeholders in order to attain prosperity for fisheries society.

Point d

The term “principle of partnership” means fisheries management is made by approach of businessperson network strength and resources considering equality aspect in doing business proportionally.

Point e

The term “principle of independence” means fisheries management is made by optimizing existing fisheries potency.

Point f

The term “principle of distribution” means fisheries management is made proportionally and equally, by taking into account small fisher and small-fish farmer.

Point g

The term “principle of integrity” means fisheries management performed integrated from upstream to downstream in the framework of improving efficiency and productivity.

Point h

The term “principle of openness” means fisheries management is made by taking into account people’s aspiration and supported by availability of information that can be accessed by public.

Point i

The term “principle of efficiency” means fisheries management is made appropriately, properly and efficiently to obtain maximum results.

Point j

The term “principle of sustainability” means fisheries management is made optimally by keeping taking into account fish resources sustainability aspect.

Point k

The term “principle of sustainable development” means fisheries management is made by good planning and

able to improve prosperity as well as wealth of people by prioritizing preservation of environmental function at present and in the future.

Point 3

Article 7

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Point k

The term “fishery vessel monitoring system” means one of forms of monitoring system in the field of fishing by using fishing vessel monitoring equipment as already determined, such as fishery vessel monitoring system/VMS.

Point l

In the framework of improving productivity of a certain waters, spreading of new species of fish could be made, which is possible to result in

negative impact to local fish resources sustainability so that it is necessary to consider that spreading of new species of fish could adapt to local fish resources environment and/or not harming the genuine of the fish resources.

Point m

The term “aquaculture-based fish capture” means catching of fish resources proliferating from re-spreading.

Point n

Following the development of technology, aquaculture is no longer limited to pond or aquaculture pond, but also in river, lake and sea. Since these waters relate to public interest, it is necessary to designate location and extent of area as well as procedure in use in order not to disturb public interest.

Besides, it is necessary to stipulate provisions aiming at protecting the aquaculture, for example, pollution of fish resources environment.

Point o

Sufficiently clear.

Point p

There are some ways to try in performing rehabilitation and improving fish resources and its environment, among others, by planting or reforestation of mangrove, placement of artificial reef, and construction of place for vessel to shelter or proliferate, improvement of waters fertility by the way of fertilizing or addition of type of food, construction of fish migration line, or waters base dredging.

Point q

Sufficiently clear.

Point r

The term “marine conservation area” means protected marine area, managed by zoning

system, to materialize sustainable fish resources management and its environment.

Point s

Stipulation of epidemic and area of epidemic of fish disease is aimed at making people know that there is an epidemic in the area, and stipulating prevention steps from spreading of fish epidemic from one area to another area.

Point t

Sufficiently clear.

Point u

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

The term “experts” consists of expert, academician, and official of relevant government institution having competence in fish resources sector.

Section (6)

The term “fish species” means:

- a. fin fish (*pisces*);
- b. shrimps, small crabs, crabs and other similar animal (*crustacea*);
- c. mussels, oysters, squids, octopus, snails and other similar animals (*mollusca*);
- d. jelly fish and other similar animals (*coelenterata*);
- e. sea cucumbers, sea urchin and other similar animals (*echinodermata*);
- f. frogs and other similar animals (*amphibia*);
- g. crocodiles, turtles, tortoises, monitor lizards, snakes, and other similar animals (*reptilia*);
- h. whales, dolphins, porpoises, dugongs and other similar animals (*mammalia*);

- i. seaweeds and other plants living in water (*algae*);
and
- j. other water biota relating to the foregoing species;
all include the parts thereof and protected fish.

Point 4

Article 9

Fishing gear and/or fishing accessories hampering and damaging the fish resources sustainability are among others include trawl net or large trawling net, and/or compressor.

Point 5

Article 14

Section (1)

The term “genetic resources” means substance existing in group of living creatures and means a resource or generative characteristics which may be utilized and developed or assembled into new leading species, to protect the existing genetic resources so that it will not be lost, extinct or damaged, other than to protect the ecosystem.

Section (2)

Sufficiently clear.

Section (3)

The term “new species of fish” means non-original fish and/or fish not originating from nature (land and sea territory of Indonesia) familiar and/or known to be introduced into the Indonesian Fisheries management area or fish as a result of purification, either locally or abroad.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Point 6

Article 15A

Sufficiently clear.

Point 7

Article 18

Section (1)

Management of water and area of aquaculture is aimed at optimizing distribution and water utilization, according to technical need of fish cultivation and avoiding any use of land which may harm aquaculture, including availability of greenbelt.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Point 8

Article 23

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Obligation to disseminate raw materials, food supplements materials, auxiliary materials, and/or jeopardized devices, including allowable materials or devices.

Point 9

Article 25

Sufficiently clear.

Point 10

Article 25A

Sufficiently clear.

Article 25B

Sufficiently clear.

Article 25C

Section (1)

Fisheries industry is among others include industry operating in provision of facility and means of fish capture and fisheries processing industry.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Point 11

Article 27

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The term “original SIPI” means SIPI which is not photocopy and/or copy which is identical to the original one, or as drawn up by incompetent official.

The term “bringing original SIPI” means obligation of every person to put and/or maintain original SIPI on fishing vessel which is under operation.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Point 12

Article 28

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The term “original SIKPI” means SIKPI which is not photocopy and/or copy which is identical to the

original one, or as drawn up by incompetent official.

The term “bringing original SIKPI” we mean obligation of every person to put and/or maintain original SIKPI on fishing vessel which is under operation.

Section (4)

Sufficiently clear.

Point 13

Article 28A

Sufficiently clear.

Point 14

Article 32

Sufficiently clear.

Point 15

Article 35A

Sufficiently clear.

Point 16

Article 36

Section (1)

Registration of fishery vessel is contained in book in use to fulfill requirement of issuance of SIPI or SIKPI. The said ship book does not serve as deed of vessel registration being requirement to issue Certificate of nationality of Indonesian Vessel for any vessel flying Indonesian flag as its national flag.

Section (2)

Registration of fishery vessel is equipped with documents, among others indicating Name of Vessel, Register Number, Radio connecting sign, place of vessel building, type of vessel, Method and type of fishing gear, Tonnage, Length, Depth, engine power, Vessel drawing, Name and address of owner, Name of Company using the vessel, an History of ownership as contained in ship book.

Section (3)

Sufficiently clear.

Section (4)

Fishery vessel which certificate of nationality is going to be processed is first be registered in ship book.

Section (5)

Sufficiently clear.

Point 17

Article 41

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Classification of fishing ports includes among others ocean fishing ports, national fishing ports and coastal fishing ports.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

For support and smooth operation of fishing ports, working area and operation area borders are stipulated in geographic coordinate.

If the working and operation area of fishing ports are bordering to and/or have similar interest with the other agency, stipulation of the borders is made through coordination with the relevant institution.

Point f

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “load and unload the captured fish” also means including putting a shore of fish.

Section (5)

Sufficiently clear.

Point 18

Article 41A

Sufficiently clear.

Point 19

Article 42

Section (1)

The term “harbormaster in the fishing port” means harbormaster as placed specially in fishing ports for administrative arrangement and to perform function of maintaining shipping safety.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

The term “log book” means written daily report of master regarding fishing or fish carrying activity.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Point k

Sufficiently clear.

Point l

Sufficiently clear.

Point m

Sufficiently clear.

Point n

Sufficiently clear.

Point o

Sufficiently clear.

Point p

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Proposal to appoint harbormaster is first coordinated with the Minister.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Point 20

Article 43

Sufficiently clear.

Point 21

Article 44

Sufficiently clear.

Point 22

Article 46

Section (1)

In the framework of arrangement of plan of development of fisheries data and information system and statistics into the progress thereof, data on

techniques, production, processing, marketing of fish, and socio-economic data describing about utilization of the available fish resources is established.

The data and information are among others:

- a. types, quantity, and size of fishery vessel;
- b. types, quantity, and size of fishing gear;
- c. fishing ground and fishing season;
- d. total capture or total output of aquaculture;
- e. size of area and fisheries management area;
- f. total fishers and fish farmers;
- g. species of existing fish;
- h. size of captured fish and spawning season;
- i. data on export and import of fisheries commodities; and
- j. information on certain requirements relating to standards of export.

Section (2)

Sufficiently clear.

Point 23

Article 46A

Sufficiently clear.

Point 24

Article 48

Section (1)

Any persons operating fishing or aquaculture in the seas or other waters in fisheries management area of the Republic of Indonesia will be subject to fisheries levy because they have directly enjoyed the benefit of fish resources and/or the environment thereof.

Section (1a)

Sufficiently clear.

Section (2)

Sufficiently clear.

Point 25

Article 50

Sufficiently clear.

Point 26

Article 65

Sufficiently clear.

Point 27

Article 66

Sufficiently clear.

Point 28

Article 66A

Sufficiently clear.

Article 66B

Sufficiently clear.

Article 66C

Sufficiently clear.

Point 29

Article 69

Section (1)

The term "fisheries surveillance vessel" means a government ship with special signs to conduct surveillance and law enforcement in the field of fisheries.

Section (2)

Sufficiently clear.

Section (3)

Detention of vessel is implemented in the framework of an act of bringing a vessel to the nearest port and/or waiting for the temporary following processes.

Section (4)

The term "adequate preliminary evidence" means preliminary evidence to allege any criminal act on fisheries by fishery vessel flying foreign flag, for

example, the fishery vessel flying foreign flag has no SIPI and SIKPI, and obviously capture and/or transport fish when entering into fisheries management area of the Republic of Indonesia.

This provision indicates that the special act cannot be made inappropriately, but it is only made if the fisheries investigator and/or inspector believe that the fishery vessel flying foreign flag really commits criminal act on fisheries.

Point 30

Article 71

Sufficiently clear.

Point 31

Article 71A

Sufficiently clear.

Point 32

Article 73

Section (1)

Sufficiently clear.

Section (2)

Investigation performed by Fisheries Civil Servant Investigators is coordinative with Navy Investigator for more efficient and effective investigation based on Joint Standing Procedure.

Section (3)

Sufficiently clear.

Section (4)

Coordination is required not only for smooth implementation of task of investigator, but also it is aimed at facilitating communication and data exchange, information, and other things so needed in the framework of effectiveness and efficiency of handling and/or resolution of criminal act on fisheries.

Section (5)

Coordination forum to handle criminal act on fisheries as referred to in this provision is enable any region to establish the same pursuant to need.

Point 33

Article 73A

Sufficiently clear.

Article 73B

Sufficiently clear.

Point 34

Article 75

Section (1)

Principally, appointment of public prosecutor is authority of Attorney General. However, on behalf of Attorney General, it is enable to delegate or assign to official within Attorney General's Office of the Republic of Indonesia according to his/her competence, taking into account total cases that must be handled are quite high and spreading throughout the territory of the Republic of Indonesia and considering business and intensity of Attorney General.

Section (2)

Sufficiently clear.

Point 35

Article 76

Sufficiently clear.

Point 36

Article 76A

Sufficiently clear.

Article 76B

Sufficiently clear.

Article 76C

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “appreciation” means among others in terms of incentive, certificate and promotion.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Point 37

Article 78A

Sufficiently clear.

Point 38

Article 83A

Sufficiently clear.

Point 39

Article 85

Sufficiently clear.

Point 40

Article 93

Sufficiently clear.

Point 41

Article 94A

Sufficiently clear.

Point 42

Article 98

Sufficiently clear.

Point 43

Article 100A

Sufficiently clear.

Article 100B

Sufficiently clear.

Article 100C

Sufficiently clear.

Article 100D

Sufficiently clear.

Point 44

Sufficiently clear.

Point 45

Article 110

Sufficiently clear.

Point 46

Article 110A

Sufficiently clear.

Article II

Sufficiently clear.