

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6185



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

The Philippines is a country composed of more than 7,000 islands and a coastline extending 36,289 kilometers. As an archipelagic country, fishing is naturally a major source of livelihood for many. The fisheries industry employs some 1.6 million Filipino fisheries operators nationwide. The fishing industry ranks as the second highest contributor in the agriculture sector with 16.5% gross value-added contribution in 2017. Fisheries production from the same year is at 4.3 million metric tons, which, translates to a total contribution of Php 243.9 billion in 2017. It is an increase of 6.55% from the Php 228.9 billion in 2016.

From a global standpoint, the Philippines is considered to be one of the top fish producing countries in the world, ranking 8th in 2016 with a total production of 4.2 million metric tons. These figures reflect the importance of the industry in the country's economy and its potential to grow.

At present, the Department of Agriculture is the main agency in charge of managing and utilizing our marine and aquatic resources. However, the Department's focus is primarily directed towards land-based agriculture. It is time that the State provides for a focused and specialized department dedicated to the needs and concerns of the fisheries and our aquatic resources.

Thus, it is proposed in this bill to create the Department of Fisheries and Aquatic Resources (DFAR) in order to strengthen its institutional capacity as the primary policy and regulatory body on fisheries and aquatic resources. Creating a department solely dedicated to the needs and concerns of the fisheries and aquatic resources of the country will be a significant step in order to better protect, utilize, maximize, and conserve the nation's aquatic resources as well as uphold the best interest of the fisher folk.

In view of the foregoing, the immediate enactment of this measure is sought.


RON P. SALO
KABAYAN Partylist

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AN ACT
CREATING THE DEPARTMENT OF FISHERIES AND AQUATIC RESOURCES,
PROVIDING FOR ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFORE AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the "Department of Fisheries and Aquatic Resources Act."

CHAPTER I
POLICIES AND DEFINITIONS

SEC. 2. Declaration of Policies. – It is hereby declared the policy of the State to protect and conserve the nation's marine wealth in its archipelagic waters, territorial sea and exclusive economic zone (EEZ) and reserve their use and enjoyment exclusively to Filipino citizens.

The State shall promote and ensure the sustainable development and management of all aquaculture, fisheries inland and marine resources in Philippine waters, including the exclusive economic zone (EEZ) and in the adjacent high seas in order to maintain a sound ecological balance, protect and enhance the quality of the environment, and ensure the country's food security and fish self-sufficiency.

It shall protect the rights of small-scale fishermen in the preferential use of communal marine, fisheries and aquatic resources. It shall also be the policy of the State to encourage private initiative in aquaculture and fisheries business ventures both in the production and in the exportation or importation of fish and fishery products and by-products. Towards this end, the State shall provide the fisherfolk, fish farmers, traders and other investors appropriate technical, financial, entrepreneurial and other support services in order to improve fish production and to uplift the lives of those dependent in the fish industry.

SEC. 3. Creation and Jurisdiction. – There is hereby created a Department of Fisheries and Aquatic Resources, hereinafter referred to as the Department,

which shall have primary responsibility and jurisdiction over the management, conservation, development, protection, utilization, and disposition of all aquaculture, fisheries, marine and aquatic resources of the country, including the habitats of fish and all other marine life and over activities, which impact on these habitats.

The jurisdiction and mandate of the Department of Agriculture over fisheries and aquatic resources are hereby transferred to the Department.

SEC. 4. *Mandate.* – The Department is mandated to ensure the country's fish self-sufficiency, and shall strive to make the country net exporter of aquaculture and fisheries products.

SEC. 5. *Definition of Terms.* – The following terms as used in this Act:

a) *Ancillary Industries* - firms or companies related to the supply, construction and maintenance of fishing vessels, gears, nets and other fishing paraphernalia; fishery machine shops; and other facilities such as hatcheries, nurseries, feed plants, cold storage and refrigeration, processing plants and other pre-harvest and post-harvest facilities;

b) *Aquaculture* - fishery operations involving all forms of raising and culturing fish and other fishery species in fresh, brackish and marine water areas;

c) *Aquatic Resources* - includes fish, all other aquatic flora and fauna and other living resources of the aquatic environment, including, but not limited to, salt and corals;

d) *Archipelagic waters* – the waters around, between, and connecting the islands of the Philippine Archipelago;

e) *Coastal Area/Zone* - is a band of dry land and adjacent ocean space (water and submerged land. in which terrestrial processes and uses directly affect oceanic processes and uses, and vice versa; its geographic extent may include areas within a landmark limit of one (1. kilometer from the shoreline at high tide to include mangrove swamps, brackish water ponds, nipa swamps, estuarine rivers, sandy beaches and other areas within a seaward limit of 200 meters isobath to include coral reefs, algal flats, seagrass beds and other soft-bottom areas;

f) *Code* – the Philippine Fisheries Code of 1998

g) *Commercial Fishing* - the taking of fishery species by passive or active gear for trade, business & profit beyond subsistence or sports fishing, to be further classified as:

- 1) Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT;
- 2) Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and
- 3) Large commercial fishing - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.

h) *Department*- refers to Department of Fisheries and Aquatic Resources;

i) *Endangered Rare and/or Threatened Species* - aquatic plants, animals, including some varieties of corals and sea shells in danger of extinction as provided for in existing fishery laws, rules and regulations or in the Protected Areas and Wildlife Bureau of the Department of Environment and Natural Resources (DENR. and in the Convention on the International Trade of Endangered Species of Flora and Fauna (CITES);

j) *Exclusive Economic Zone (EEZ)* - an area beyond and adjacent to the territorial sea which shall not extend beyond 200 nautical miles from the baselines as defined under existing laws;

k) *FARMCs* - the Fisheries and Aquatic Resources Management Councils;

l) *Fish and Fishery/Aquatic Products* - include not only finfish but also mollusks, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna and all other products of aquatic living resources in any form;

m) *Fish pen* - an artificial enclosure constructed within a body of water for culturing fish and fishery/aquatic resources made up of poles closely arranged in an enclosure with wooden materials, screen or nylon netting to prevent escape of fish;

n) *Fisherfolk* - people directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources;

o) *Fisherfolk Cooperative* - a duly registered association of fisherfolk with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertakings in accordance with universally accepted cooperative principles;

p) *Fisherfolk Organization* - an organized group, association, federation, alliance or an institution of fisherfolk which has at least fifteen (15) members, a set of officers, a constitution and by-laws, an organizational structure and a program of action;

q) *Fisheries* - refers to all activities relating to the act or business of fishing, culturing, preserving, processing, marketing, developing, conserving and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic resource thereof;

r) *Fisheries Adjudication Board*- shall perform quasi-judicial function and administrative adjudication and shall settle conflicts of resource use and allocation;

s) *Fisheries Attaché*- is a diplomat who collects, analyzes, and acts on information on fisheries and other related spheres in a foreign country or countries;

t) *Fish Pond* - a land-based facility enclosed with earthen or stone material to impound water for growing fish;

u) *Fishing Boat/Gear License* - a permit to operate specific types of fishing boat/gear for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources;

v) *Fishery Management Areas* - a bay, gulf, lake or any other fishery area which may be delineated for fishery resource management purposes;

w) *Fishery Operator* - one who owns and provides the means including land, labor, capital, fishing gears and vessels, but does not personally engage in fishery;

x) *Fishery Reserve* - a designated area where activities are regulated and set aside for educational and research purposes;

y) *Fishery Species* - all aquatic flora and fauna including, but not restricted to, fish, algae, coelenterates, mollusks, crustaceans, echinoderms and cetaceans;

z) *Fishing* - the taking of fishery species from their wild state of habitat, with or without the use of fishing vessels;

aa) *Fishing gear* - any instrument or device and its accessories utilized in taking fish and other fishery species:

- 1) Active fishing gear - is a fishing device characterized by gear movements, and/or the pursuit of the target species by towing, lifting, and pushing the gears, surrounding, covering, dredging, pumping and scaring the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, bag nets, paaling, drift gill net and tuna longline.
- 2) Passive fishing gear - is characterized by the absence of gear movements and/or the pursuit of the target species; such as, but not limited to, hook and line, fishpots, traps and gill nets across the path of the fish.

bb) *Fishing vessel* - any boat, ship or other watercraft equipped to be used for taking of fishery species or aiding or assisting one (1. or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing;

cc) *Fishworker* - a person regularly or not regularly employed in commercial fishing and related industries, whose income is either in wage, profit-sharing or stratified sharing basis, including those working in fish pens, fish cages, fish corrals/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or trawlers, or fish processing and/or packing plants. Excluded from this category are administrators, security guards and overseers;

dd) *Food Security* - refers to any plan, policy or strategy aimed at ensuring adequate supplies of appropriate food at affordable prices. Food security may be

achieved through self-sufficiency (i.e. ensuring adequate food supplies from domestic production), through self-reliance (i.e. ensuring adequate food supplies through a combination of domestic production and importation), or through pure importation;

ee) *Inland Fishery* - the freshwater fishery and brackish water fishponds;

ff) *Lake* - an inland body of water, an expanded part of a river, a reservoir formed by a dam, or a lake basin intermittently or formerly covered by water;

gg) *Monitoring, control and surveillance* –

- 1) *Monitoring* - the requirement of continuously observing: (1) fishing effort which can be expressed by the number of days or hours of fishing, number of fishing gears and number of fisherfolk; (2) characteristics of fishery resources; and (3) resource yields (catch);
- 2) *Control* - the regulatory conditions (legal framework) under which the exploitation, utilization and disposition of the resources may be conducted; and
- 3) *Surveillance* - the degree and types of observations required to maintain compliance with regulations.

hh) *Municipal fisherfolk* - persons who are directly or indirectly engaged in municipal fishing and other related fishing activities;

ii) *Municipal fishing* - refers to fishing within municipal waters using fishing vessels of three (3) gross tons or less, or fishing not requiring the use of fishing vessels;

jj) *Municipal waters* - include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities;

kk) *Person* - natural or juridical entities such as individuals, associations, partnership, cooperatives or corporations;

ll) *Philippine waters* - include all bodies of water within the Philippine territory such as lakes, rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, and barangays and the waters around, between and connecting the islands of the archipelago regardless of their breadth and dimensions, the territorial sea, the sea beds, the insular shelves, and all other waters

over which the Philippines has sovereignty and jurisdiction including the 200-nautical miles Exclusive Economic Zone and the continental shelf;

mm) *Public waters* - waters open of right to the use of the general public;

nn) *Secretary* - the Secretary of the Department; and

oo) *Self-sufficiency* – the state of being able to provide for oneself without the necessity of aid from other persons or states; and

pp) *Territorial seas* - any area of water over which a state has jurisdiction, including internal waters, the territorial sea, the contiguous zone, the exclusive economic zone and potentially the continental shelf.

CHAPTER II THE DEPARTMENT

SEC. 6. Powers and Functions. - To accomplish its mandate, the Department shall have the following powers and functions:

a) Promotion of Aquaculture and Fisheries Production

- i. Formulate and implement a short-term, medium term and long-term Comprehensive National Fisheries Industry Development Plan;
- ii. Formulate and implement a Comprehensive Fishery Research and Development Program, such as, but not limited to, sea farming, sea ranching, tropical/ornamental fish and seaweed culture, aimed at increasing resource productivity, improving resource use efficiency, and ensuring the long-term sustainability of the country's fishery and aquatic resources;
- iii. Provide extensive development support services to fishermen and organizations of fishermen, as well as those involved in fisheries production in all aspects, including production, processing and marketing;
- iv. Promote the sustainable development, management and production of aquaculture and fisheries products;
- v. Provide advisory services and technical assistance on the improvement of quality of fish from the time it is caught (i.e. on-board fishing vessel, at landing areas, fish markets, to the processing plants and to the distribution and marketing chain);
- vi. Coordinate efforts relating to fishery production undertaken by the primary fishery producers, LGUs, FARMCs, fishery and organizations/cooperatives;

- vii. Advise and coordinate with LGUs on the maintenance of proper sanitation and hygienic practices in fish markets and fish landing areas;
- viii. Coordinate with LGUs and other concerned agencies for the establishment of productivity enhancing and market development programs in fishing communities to enable women to engage in other fisheries/economic activities and contribute significantly to development efforts;
- ix. Develop value-added fishery-products for domestic consumption and export;
- x. Assist the LGUs in developing their technical capability in the development, management, regulation, conservation, and protection of the fishery resources;
- xi. Adopt and implement a national plan of action to manage fishing capacity, implement the international code of conduct for responsible fisheries, and declare fishery management areas as over-exploited in coordination with the LGUs and FARMCs;
- xii. Establish and maintain a Philippine Fisheries and Aquatic Resources Information System (PFARIS) that will function as the principal repository and information server of all aquaculture, fisheries and marine resources and their habitats, all matters pertaining to aquaculture and fisheries production, processing, distribution, marketing, policies and research results and technological advancements;
- xiii. Develop and implement a Monitoring Control and Surveillance System (MCSS) for Philippine fisheries and oceans at the national and regional levels to ensure that the fisheries and marine resources in Philippine waters are judiciously and sustainably utilized and managed. For this purpose, Fisheries Control and Surveillance Center is hereby created as government-owned and controlled corporation;
- xiv. Engage in the conservation, protection and rehabilitation of rare, threatened and endangered aquatic species as it may determine, including their habitats and designate marine and other aquatic areas as protected areas for the special purposes stated in the notice of declaration in compliance with the relevant provisions of international treaties and agreements such as, but not limited to, the Convention on the International Trade in Endangered Species [CITES] of Wild Flora and Fauna, United Nations Convention on the Law of the Sea [UNCLOS], and Convention on Biological Diversity [CBD]. For this purpose, the Aquatic Protected Areas and Wildlife Service is hereby created;
- xv. Establish and implement, a National Marketing Assistance Program, aimed at ensuring the generation of the highest possible income for

fisherfolk and fishery-related enterprises, matching supply and demand in both domestic and foreign markets;

xvi. Establish and administer a fisheries modernization credit program to fishery projects of fisherfolk, fish farmers, fish processors, commercial fishers and other qualified borrowers; and

xvii. Establish research institutes for fisheries and aquatic resources production, development, management, conservation, and protection.

b) Supervision, Enforcement and Regulation

i. Supervise and monitor the country's production of aquaculture and fisheries products;

ii. Enforce all fishery laws, rules and regulations through its fishery officers and guardians;

iii. Enforce all laws, as well as formulate and enforce all rules and regulations governing the conservation and management of fishery resources, except in municipal waters, and to settle conflicts of resource use and allocation in consultation with the NFARMC, LGUs and local FARMCs;

iv. Issue rules, regulations and guidelines for the protection and promotion of aquaculture, fisheries, marine and aquatic resources of the country, including the habitats of fish and all other marine life and over activities, which impact on these habitats;

v. Regulate the capture and/or production of fish and fishery products in public waters;

vi. Regulate the leasing of fishponds to qualified persons and fisherfolk organizations/cooperatives. They Department may collect reasonable fees from the lease agreements;

vii. Arrest, search and seize, through its authorized and designated law enforcement officers, deputized government officials and employees, *punong* barangays and officers and members of fisherfolk associations who have undergone training on law enforcement all those violating fishery laws;

viii. Issue licenses for the operation of commercial fishing vessels;

ix. Issue identification cards free of charge to fishworkers engaged in commercial fishing;

x. Implement an inspection system for import and export of fishery/aquatic products and fish processing establishments, consistent with international standards to ensure product quality and safety;

- xi. Formulate and implement rules and regulations for the conservation and management of straddling fish stocks, highly migratory fish stocks and threatened living marine resources such as sharks, rays and *ludong*, *inter alia*, in the Philippine Exclusive Economic Zone, territorial sea, archipelagic and internal waters, in coordination with LGUs and integrated/municipal/city Fisheries and Aquatic Resources Management Councils;
- xii. Train, designate and deploy fisheries observers in Philippine flagged fishing vessels engaged in commercial fishing in Philippine waters or distant water fishing to ensure compliance with conservation and management measures adopted by RFMOS and by the Department;
- xiii. Adopt an appropriate monitoring, control, surveillance and traceability system for municipal fishing vessels supplying exporters with concurrence of the local government units; and
- xiv. Prescribe rules, regulations, procedures and guidelines concerning the classification, establishment, construction, maintenance and operation of all fishing ports, landing sites, fish markets and the operation of business therein, including manual of procedure in the conduct of monitoring and inspection thereof.

c) Quasi-judicial Functions

- i. Perform quasi-judicial function or administrative adjudication under Chapter III of this Act, and settle conflicts of resource use and allocation;
- ii. Hear and decide administrative cases before it;
- iii. Determine the appropriate levels of administrative and other sanctions concerning violations of fisheries laws, rules and regulations, particularly for serious violations that deprive offenders of economic benefits;
- iv. Initiate the criminal prosecution of offenses committed in violation of this Code; and
- v. Oversee the country's Fisheries Management Areas which shall be managed by FMA Boards. The FMA Boards shall have rule-making, enforcement and quasi-judicial powers in their respective jurisdiction. Decisions of FMA Boards shall be appealed to the Fisheries Adjudication Board.

d) Other Powers and Functions

- i. Exercise jurisdiction over all Philippine flagged fishing vessels operating in areas governed by a Regional Fisheries Management

Organization (RFMO), in the high seas, or in waters of other coastal states;

- ii. Monitor the implementation of joint fishing agreements between Filipino citizens and foreigners who conduct fishing activities in international waters, and ensure that such agreements are not contrary to Philippine commitments under treaties or international agreements to which the Philippines is a party thereto;
- iii. Establish a corps of specialists in collaboration with the Department of National Defense, Department of the Interior and Local Government, Department of Foreign Affairs for the efficient monitoring, control and surveillance of fishing activities within Philippine territorial waters and provide the necessary facilities, equipment and training therefor;
- iv. Establish and maintain Fisheries Attaché in strategic countries to promote and engage in economic and trade cooperation including negotiating bilateral and multilateral trade agreements, promoting the exports of fish and fishery products and facilitating professional contacts, exchanges, and technology transfer;
- v. Promote international economic and technical cooperation in the fisheries and oceans sectors and in integrated oceans management, especially within the ASEAN region;
- vi. Acquire, build, maintain, operate, purchase, lease or dispose equipment such as fishing vessels, fishing gears, and refrigerated trucks, ice plants and cold chain facilities, laboratories, communication, and aquaculture facilities;
- vii. Acquire, build, maintain, operate, purchase or lease facilities such as shipyards, fish ports, detention centers, and impoundment facilities, and in consideration of which, projects or infrastructure developments may be undertaken in a Public-Private Partnerships (PPPs) scheme; and
- viii. Perform such other powers and functions which are necessary and relevant in order to achieve its mandate.

SEC. 7. Structural Organization. – The Department shall consist of the Office of the Secretary and three Undersecretaries supported by three Assistant Secretaries.

The Office of Secretary shall be supported by bureaus, divisions, services, and institutes.

SEC. 8. Secretary of the Department. – The Secretary of Fisheries and Aquatic Resources, hereinafter referred to as the Secretary, shall be appointed by the President of the Philippines.

SEC. 9. Functions of the Secretary. – The Secretary shall have the following functions:

- a) Supervision and control of the Department and the Bureaus, Offices, Services and Institutes under it;
- b) Authority and responsibility for the performance of the powers and functions of the Department;
- c) Advise the President on the promulgation of the policies, rules and regulations, and other issuance relative to the sustainable development and management of fisheries and ocean resources;
- d) Establish management policies and standards for the efficient and effective operation of the Department in accordance with the programs of the government;
- e) Promulgate rules and regulations and other issuance in carrying out the Department's mandate objectives, policies, plans, programs and projects; and
- f) Perform such other functions as may be provided by law or assigned by the President.

SEC. 10. Undersecretaries. – The Secretary shall be assisted by three (3) Undersecretaries, specifically the Undersecretary for Operations and Technical Support Services, the Undersecretary for Regulations, Law Enforcement and other Administrative Support Services, and the Undersecretary for Fisheries Production and Utilization, who shall be appointed by the President upon recommendation of the Secretary.

The Offices of the Undersecretaries shall assist the Secretary in the exercise of the Department's mandate and in the discharge of its powers and functions. The office shall:

- a) Provide periodic reports and advice to the Secretary on the plans, programs, offices and their respective functions under their defined areas of responsibility and recommend measures towards greater effectiveness and efficiency;
- b) To the extent granted by the Secretary, exercise delegated authority on matters related to the functions and activities of the units under their defined areas of responsibility; and
- c) Perform other functions as may be provided by law or assigned by the Secretary.

SEC. 11. Office of the Undersecretary for Operations and Technical Services. – The Office of the Undersecretary for Operation and Technical Support Services shall provide advice to the Secretary and be responsible for the

development of national aquaculture and marine capture fisheries policies and their integration and translation into the National Aquaculture and Fisheries Management Plan. The Office shall provide periodic public reports of achievements in aquaculture, marine capture fisheries and postharvest.

The Undersecretary for Operations and Technical Services shall have supervision over the operations of the Regional Offices.

SEC. 12. Office of the Undersecretary for Regulations, Law Enforcement & Other Administrative Support Services. – The Office of the Undersecretary for Regulations, Law Enforcement and Other Administrative Support Services shall provide leadership in the translation and implementation of the National Aquaculture and Fisheries Management Plan (NAFMP) and the Comprehensive National Fisheries Industry Development Plan (CNFIDP) into operational plans and programs, Comprehensive Post Harvest, Marketing and Ancillary Industry Planning (CPHMAIP) and National Tuna Management Plan (NTMP).

SEC. 13. Office of the Undersecretary for Fisheries Production and Utilization. – The Office of the Undersecretary for Fisheries Production and Utilization shall study and develop technologies for fresh water, brackish water and marine sustainable culture/farming of aquatic organisms. It shall also develop National Aquatic Animal and Plant Health.

SEC. 14. Assistant Secretaries. – The Secretary shall be assisted by three (3) Assistant Secretaries who shall be appointed by the President upon recommendation of the Secretary.

SEC. 15. Functions of the Assistant Secretaries. – Each of the undersecretaries shall be assisted by an Assistant Secretary who shall have the following functions:

- a) Provide periodic reports and advice to the Undersecretary on the programs and offices under their defined and designated areas of responsibility and recommend measures towards greater effectiveness and efficiency;
- b) Exercise supervision and control over the programs, budget, officers and personnel of the offices, services, operating units under their defined and designated areas of responsibility;
- c) To the extent granted or delegated by the Secretary, exercise delegated authority on matters related to the functions and activities of the units under their defined areas of responsibility; and
- d) Perform other functions as may be provided by law or assigned by the Secretary.

SEC. 16. Qualifications and Appointment. – No person shall be appointed Undersecretary of the Department unless he is a Filipino citizen; must have a degree in law or a master's degree in fisheries, public administration, management,

economics or other equivalent relevant disciplines; has relevant experience in administration and management for at least ten (10) years; and has general practical knowledge of fisheries. The Secretary and Undersecretaries shall be appointed by the President of the Philippines in the manner prescribed by law.

No person shall be appointed Assistant Secretary, Bureau Director and Assistant Bureau Director unless he is a Filipino citizen; must have a degree in law or at least a master's degree in fisheries, public administration, management, economics, statistics, engineering, law or other equivalent relevant disciplines; with at least seven (7) years relevant experience, either in the public or private sector, in administration and management, in marine fisheries research and development, or in the aquaculture and fisheries industries. The Bureau Director, Assistant Bureau Director, Regional Executive Director or Assistant Regional Executive Director shall be appointed by the Secretary upon the recommendation of the Undersecretary concerned.

No person shall be appointed Regional Executive Director or Assistant Regional Executive Director, unless he is a Filipino citizen; has any of the educational qualifications above prescribed for Assistant Secretary, Bureau Director or Assistant Bureau Director; and with at least five (5) years relevant experience either in the public or private sector, in administration and management, fisheries research and development, or in the aquaculture and fisheries industries.

All other officials and employees of the Department shall be appointed in accordance with Civil Service laws, rules and regulations.

SEC. 17. Regional Offices, Provincial and Municipal and Functions. – In the same manner, as mandated in Section 66 RA 8550, as amended by RA 10654, the Department shall establish regional, provincial and municipal offices as may be appropriate and necessary to carry out effectively and efficiently the provisions of this Code. Each Regional Office shall be headed by a Regional Executive Director, who shall be assisted by an Assistant Regional Executive Director. Each regional office shall have support staff and line divisions as may be necessary which shall have the following duties and responsibilities:

- a) Provide efficient and effective front-line service to the aquaculture, fishery and aquatic industry sectors, particularly to the municipal fishermen;
- b) Implement in its area of jurisdiction, the laws, policies, plans, programs, projects, rules and regulations of the Department;
- c) Coordinate with the Regional office of the other departments, offices and agencies in the region; and
- d) Perform other functions as may be provided by law or assigned by the Secretary.

CHAPTER III FISHERIES ADJUDICATION BOARD

SEC. 18. Fisheries Adjudication Board. – The Department is hereby empowered to hear and impose administrative fines and penalties provided in Republic Act No. 8550, as amended by RA 10654 or "*The Philippine Fisheries Code of 1998*", herein referred to as the Code.

For this purpose, the Department shall organize a Fisheries Adjudication Board, herein after referred to as the Board, which shall original jurisdiction to hear and adjudicate cases arising from violations of the Philippine Fisheries Code of 1998, and other fishery laws, rules and regulations.

The Board shall be composed of a Chairman and four (4) members. The Chairman shall be designated by the Secretary from any of the Undersecretaries or Assistant Secretaries of the Department. The four (4) other members of the Board shall be appointed by the Secretary and shall have a rank equivalent to a Director IV. Except for the Chairman, the four (4) other members of the Board shall serve for a non-renewable term of six (6) years. The Board shall be supported by a sufficient number of staff to enable it to perform its mandate.

The Board shall promulgate its rules and regulations for the conduct of administrative adjudication and the disposition of confiscated catch, gears, equipment and other paraphernalia. It shall also issue subpoena duces tecum and ad testificandum in administrative cases before it.

Sec. 19. Appeal of the Decision of the Board. – Except for cases initiated by the Secretary himself, the decision of the Board may be appealed to the Secretary of the Department within thirty (30) days from receipt by the parties of the decision. In cases where the Secretary initiated the case, the same shall be directly appealed to the Office of the President.

SEC. 20. Commencement of Summary Administrative Action. – The Secretary, on his own instance, or upon verified complaint by any person, institute administrative proceedings with the Board against any person who violates the Philippine Fisheries Code of 1998, and other fishery laws, rules and regulations.

SEC. 21. Power to Issue Cease and Desist Orders and to Summarily Evict Without the Necessity of Judicial Order. – The Board shall, subject to the requirements of administrative due process, issue cease and desist order/s upon violator/s and to summarily eject, without the necessity of judicial order, the holder of FLA, other tenurial instrument, permit or license from areas of the public domain covered by such FLA, tenurial instrument, permit or license.

SEC. 22. Authority of the Board or their Duly Authorized Representative to Issue Notice of Violation and Order Confiscation. – In all cases of violations of the Code or other fishery laws, rules and regulations, the Board or their duly authorized representative, may issue notice of violation and order the confiscation of any fish, fishery species or aquatic resources illegally caught, taken or gathered, and all equipment, paraphernalia and gears in favor of the Department, academic

institutions or LGUs and to dispose of the same in accordance with pertinent laws, rules, regulations and policies on the matter.

SEC. 23. Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions, and Preliminary Mandatory Injunctions. – No injunction or restraining order from the Municipal Trial Courts and Regional Trial Courts shall lie against the decision of the Board.

SEC. 24. Accompanying Administrative Sanctions for Serious Violations. – The Board may impose the following additional sanctions to the administrative penalties imposed for serious violations:

- 1) confiscation of fishing gear;
- 2) impoundment of fishing vessel;
- 3) temporary suspension or permanent revocation of license or permit;
- 4) temporary or permanent ban from the availment of applicable duty and tax rebates;
- 5) inclusion in the IUU fishing vessel list;
- 6) denial of entry and other port services;
- 7) blacklisting; and
- 8) increase in the amount of fines but not to exceed five (5) times the value of the catch. In case of repeated violations within a five-year period, the amount of fine may be increased up to eight (8) times the value of the catch.

During the pendency of the administrative, the Board may impound the vessel/conveyance, gear and other paraphernalia used in the commission of the offense.

In applying these accompanying sanctions, the Board shall take into account the seriousness of the violation as defined in Paragraph 82 of Section 4 of the Code, the habituality or repetition of violation, manner of commission of the offense, severity of the impact on the fishery resources and habitat, socioeconomic impact, cases of concealment or destruction of evidence, eluding arrest, resisting lawful orders, and other analogous circumstances.

The overall level of sanctions and accompanying sanctions shall be calculated in a manner that is proportionate, effective and dissuasive to deprive the offender of the economic benefits derived from the serious violation.

SEC. 25. Lien Upon Personal and Immovable Properties of Violators. – Fines and penalties imposed pursuant to the Code shall constitute a lien upon the personal and immovable properties of the violator.

SEC. 26. Community Service. – In case the offender is a municipal fisherfolk or has no property over which the Board may impose the fines and penalties prescribed for the offense, community service may be rendered in lieu of the fine.

The Board shall promulgate the rules and regulations for this purpose, taking into account that the service should be rendered in accordance with needs of the

community where the offense is committed and computed based on the fine and the prevailing minimum wage in the community, among others.

SEC. 27. Fisheries National Administrative Register. – The Board shall create a Fisheries National Administrative Register, which shall be accessible on-line. All decisions, resolutions or orders involving violations of the Code, particularly serious violations committed by Philippine flagged vessels or by Philippine nationals and cases on poaching or involving foreigners, including the penalties imposed shall be uploaded.

CHAPTER IV MISCELLANEOUS PROVISIONS

SEC. 28. Abolition, Transfer and Merger. – The Bureau of Fisheries and Aquatic Resources (BFAR) that was reconstituted by Republic Act No. 8550, as amended by RA 10654, is hereby abolished and its relevant functions, appropriations, records, properties, equipment and personnel are hereby transferred to the Department: Provided, however, that no official or employee of the BFAR shall be demoted or laid off in the implementation of this Section.

The position of Undersecretary for Fisheries and Aquatic Resources in the Department of Agriculture created under Section 63 of Republic Act No. 8550 is hereby abolished.

The National and Municipal Fisheries and Aquatic Resources Management Councils created by the Republic Act No. 8550, as amended by RA 10654 shall be transferred to the Office of the Secretary of the Department.

The National Fisheries Research and Development Institute created by the Republic Act No. 8550 is transferred to the Department and shall serve as its principal research arm.

The Philippine Fisheries Development Authority created by Presidential Decree No. 977 including its relevant functions, appropriations, records, properties, equipment and personnel, is hereby transferred to the Department of Fisheries and Aquatic Resources as an attached agency under the Office of the Secretary: Provided, however, that the Secretary of the Department of Aquaculture and Fisheries Resources shall be the new Chairman of the PFDA Board. Provided, further, that no official or employee of the PFDA shall be demoted or laid off in the implementation of this Section.

The Philippine Technical and Administrative Committee of the Southeast Asian Fisheries Development Center, Aquaculture Department (SEAFDEC/AQD) is hereby attached to the Department of Fisheries and Aquatic Resources.

The fisheries-related sections of the Bureau of Agricultural Research and the Agricultural Training Institute of the Department of Agriculture are hereby abolished and all fisheries aquatic wildlife protection and protected seascapes, and other related functions of the DENR under Executive Orders No. 192 and 292, except the

functions of the enforcement of water pollution laws, rules and regulations, are hereby transferred to the Department of Fisheries and Aquatic Resources. The regulatory and certification functions on the pre-packaged and processed fish and fishery products of Food and Drug Authority are hereby transferred to the Department.

SEC. 29. *Transitory Provisions.* – In accomplishing the acts of organizing the Department as herein prescribed, the following provisions shall be complied with:

- a) The transfer of a government unit or agency shall include the function, appropriations, funds, records, equipment, facilities, choses in action, rights, other assets and liabilities, if any, of the transferred unit or agency as well as the personnel thereof, as may be necessary, who shall, pending reappointment, continue to perform their respective duties and responsibilities and receive the corresponding salaries and benefits in a hold-over capacity.
- b) The transfer of functions which results in the change of agency management, choses in action, rights, and other assets as may be necessary to the proper discharge of the transferred functions. Its personnel shall, pending complete transfer, continue to perform their duties and responsibilities.
- c) The transfer of functions which results in the change of agency management, choses in action, rights, and other assets as may be necessary to the proper discharge of the transferred functions. Its personnel shall, pending complete transfer, continue to perform their duties and responsibilities.

SEC. 30. *Absorption, Separation and Retirement from Service.* – The existing employees of the transferred, consolidated, and merged agencies under this ACT shall enjoy security of tenure and shall be absorbed by the Department, in accordance with their staffing patterns and the selection process as prescribed under Republic Act. No. 6656 or the Government Reorganization Law.

Employees who are affected by the creation of the Department and are separated from service within six (6) months from the effectivity of this Act as a result of the organization and reorganization under this Act, shall receive separation benefits under Republic Act No. 6656, or the Government Reorganization Law, and other applicable laws, rules and regulations: *Provided*, That those who are qualified to retire and receive retirement benefits under existing retirement laws shall be allowed to retire.

SEC. 31. *Structure and Staffing Pattern.* – Subject to the approval of the DBM, the Department shall determine its organizational structure and create new divisions or units as it may deem necessary, and shall appoint officers and employees of the Department in accordance with Civil Service laws, rules, and regulations. Republic Act No. 6656, or the Government Reorganization Law shall govern the organization of the Department, and the reorganization of affected agencies.

SEC. 32. Appropriations. – The amount needed for the initial implementation of this Act shall be taken from the current year's appropriations of the agencies, entities, divisions, sections or bodies abolished or transferred to the Department by virtue of this Act. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 33. Implementing Rules and Regulations. – The Secretary of the Department of Fisheries and Aquatic Resources, in consultation with concerned government agencies and stakeholders, including members of the academe and the fishing industry, shall formulate rules and regulations for the full implementation of this Act within one hundred twenty (120) days from his appointment as Secretary. Such rules and regulations shall take effect upon publication in a newspaper of general circulation.

SEC. 34. Separability Clause. – If any portion or provision of this Act is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue in full force and effect.

SEC. 35. Repealing Clause. – All laws, decrees, orders, rules and regulations or parts thereof inconsistent with the Act or rules and regulations promulgated pursuant thereto are hereby repealed or amended accordingly.

SEC. 36. Effectivity Clause. – This Act shall take effect fifteen (15) days after publication in two (2) national newspapers of general circulation.

Approved.