

# The Fact Sheet No.1

## Personal Document Retention among Migrant Workers Employed on Fishing Vessels



# Can I Get My Document Back?



Pay off the debt first!!



No! I paid I keep.



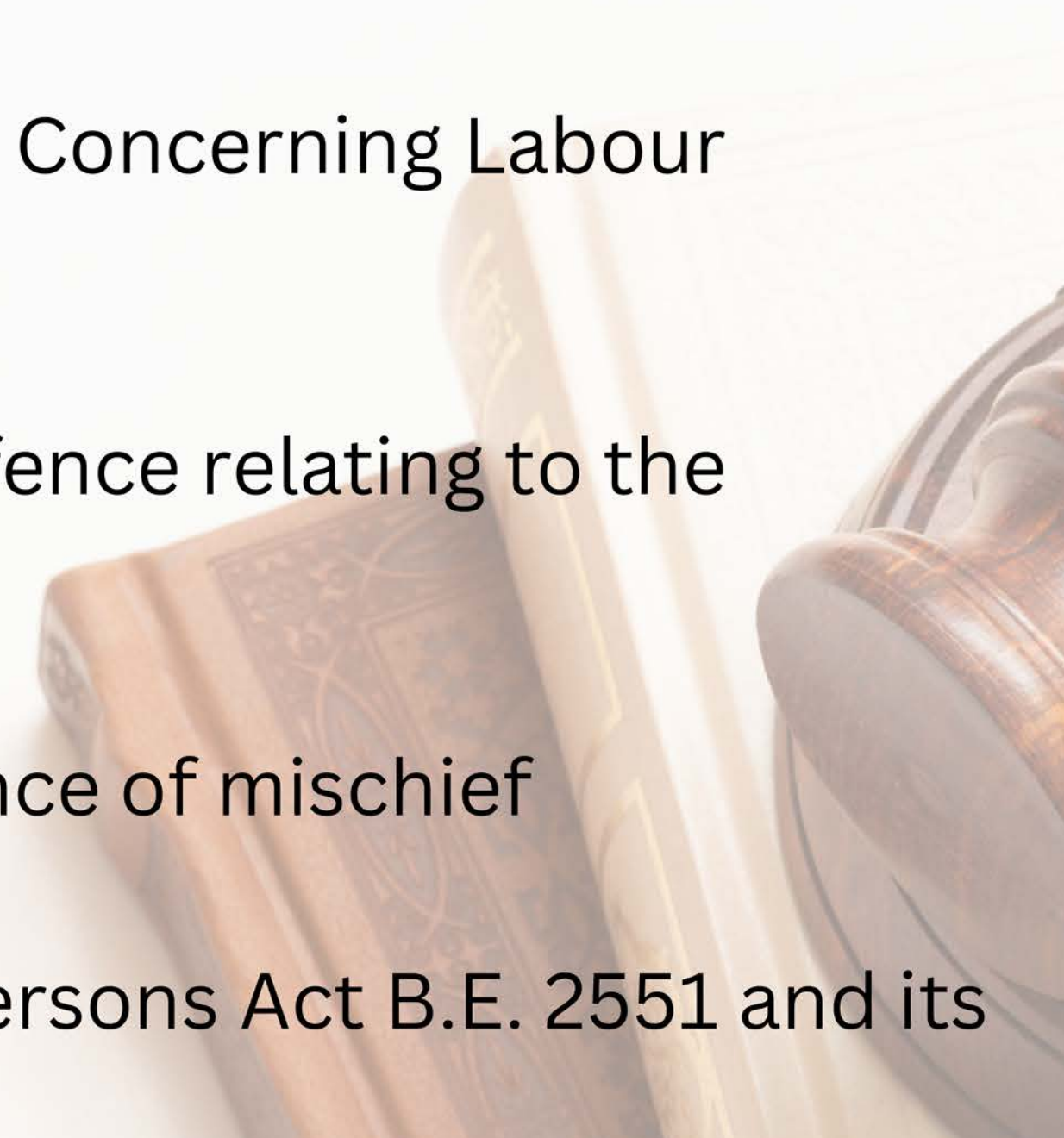
No! I afraid you can't keep it safe.



No! if you get it you will work with other, right?



# Laws concerning personal document retention

- 1. Section 131** of the Royal Ordinance Concerning the Management of Foreign Workers' Employment B.E. 2560 and its amendments
  - 2. Article 14** of the Ministerial Regulation Concerning Labour Protection in the Sea Fishery Sector
  - 3. Section 269/5** of the Penal Code on offence relating to the electronic card
  - 4. Section 358** of the Penal Code on offence of mischief
  - 5. Section 6/1** of the Anti-Trafficking in Persons Act B.E. 2551 and its amendments
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# 1. The Royal Ordinance Concerning the Management of Foreign Workers' Employment B.E. 2560 and its amendments

## Section 131

**Any person who confiscates a work permit or identification card of a foreigner shall be liable to**

- Imprisonment not exceeding 6 months
- Or fine 10,000 - 100,000 baht

## Exception

- A foreigner agrees to be kept document
- The keeper must agree and facilitate to access all times as requested



## 2. The Ministerial Regulation Concerning Labour Protection in the Sea Fishery Sector B.E.'s Article 14

- An employer is required to make payment via bank account
- The bank book and ATM card are often kept
- Payment is usually made by cash



### 3. The Penal Code Section 265/5

**Whoever uses the electronic card of other person wrongfully**  
in a manner likely to cause detriment of other person or people,

#### Penalty

- Imprisonment not more than 5 years
- Or fined not more than 100,000 Baht
- Or both fined and imprisonment.



## 4. Penal Code : OFFENCE OF MISCHIEF

### Section 358

Whoever, damaging, destroying, causing the depreciation of value or **rendering useless the property** belonging to the other person or which the other person to be the co-owner,

Such person to be said to commit mischief,  
Penalty

- Imprisonment not more than 3 years
- Or fined not more than 60,000 Baht
- Or both fined and imprisonment.

The employer intentionally seizes the documents without returning them to the employee

as a result

**the employee is unable to use them or unable to have them renewed in time**

and their right to remain in Thailand is therefore deprived.



**EXPIRED**

## 5. Section 6/1 of the Anti-Trafficking in Persons Act B.E. 2551 and its amendments

### Section 6/1

Whoever forces another person to work or provide service using any of the following means;

- (1) Threaten to cause injury to life, body, liberty, reputation or property of the person threatened or any other person;
- (2) Intimidation;
- (3) Use of force;
- **(4) Retention of identity documents;**
- (5) Use the accumulated debt burden incurred by such person or any other person as the unlawful obligation;
- (6) Causing such person to be in an irresistible situation,

**The person shall be held punishable as committing an offence of forced labour or service.**

### Number of Forced Labour Case indicted by the Public Prosecutor

Year	Forced Labour (Fisheries)
2020	5
2021	4
2022	3
2023	1

Source: Department of the Trafficking in Person Litigation



# Recommendations

1. The authorities should **raise awareness** about the penalty of document retention and **ensure compliance** with the law.
2. The DOE should review / establish guidelines concerning document retention including guideline for case interview, referring the case and recording of the case under the section 131.
3. The PIPO inspection, especially concerning document confiscation and **payment** should be reviewed
4. In case of the termination/expiration of the work permit, if cause is not the fault of the employee, the DOE should allow to renew or extend of the permission.