

# **Draft Constitution of the Kingdom of Thailand**

Constitution Drafting Committee, edition for review, 26 April 2007

## **Preamble**

Thailand has been under the rule of democratic government with the King as head of the state for more than 75 years, during which several constitutions were promulgated and amended. To ensure suitability with the situation in the country and change of time and by virtue of the provisions of the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. [Buddhist Era] 2549 on the establishment of the Constitutional Drafting Assembly and Constitution Drafting Committee in charge of drafting a new Constitution to direct the guidance for the administration of the country in the future, people have been allowed to extensively express their views and opinions about the new charter. Views and opinions of the people will be gathered for use in drafting of the new Constitution as prescribed by the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549.

The major objectives of the new draft Constitution are to further promote and protect people's right and liberty, encourage people's participation in the administration of the country, check and cross-examine the use of the state power; control the mechanisms of the legislative and administrative branches, and keep them well-balanced and effective under the democratic parliamentary form of administration with the King as head of the state; support honest and impartial operations of courts and independent organizations; and above all to emphasize the values of morality and ethics and virtuous guidance for the administration of the country's affairs.

After the completion of the drafting of a new Constitution, the Constitution Drafting Assembly will present the draft charter to the people and hold a referendum, the first of its kind in the country, to allow them to vote on it.

## **Chapter I**

### **General Provisions**

Section 1: Thailand is one and indivisible Kingdom.

Section 2: Thailand adopts a democratic form of government with the King as head of the state.

Section 3: Sovereign power belongs to the Thai people. The King as head of the state shall exercise such power through the National Legislative Assembly, Council of Ministers, courts, other constitutional organizations and state agencies in accordance with the rule of law.

Section 4: Human dignity, rights, liberty, and equality of the people shall be protected

by provisions of this Constitution in accordance with the tradition of the democratic form of government with the King as head of the state and international obligations, which Thailand has endorsed.

Section 5: The Thai people, irrespective of their origin, sex, or religion shall enjoy equal protection under the Constitution.

Section 6: The Constitution is the supreme law of the state. The provisions of any law, rule or regulations, which are contradictory to or inconsistent with this Constitution, shall not be enforced.

Section 7: When no provision of this Constitution is applicable to any case, it shall be decided in accordance with traditional practices in the democratic form of government with the King as head of the state.

## **Chapter II**

### **The King**

Section 8: The King shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the King to any sort of accusation or action.

Section 9: The King is a Buddhist and upholder of religions.

Section 10: The King holds the position of supreme leader of the Thai Armed Forces.

Section 11: The King has the prerogative power to create titles and confer decorations.

Section 12: The King selects and appoints qualified persons to become the president of the Privy Council and not more than 18 Privy Councilors. The Privy Council has the duty to render such advice to the King on all matters pertaining to his functions as he may consult, and other duties provided under this Constitution.

Section 13: Selection, appointment, or removal of a Privy Councilor shall depend entirely upon the King's pleasure.

The president of the National Assembly shall countersign the Royal Command appointing or removing the president of the Privy Council.

The president of the Privy Council shall countersign the Royal Command appointing or removing other Privy Councilors.

Section 14: A Privy Councilor shall not be a member of the House of Representatives, Senator, Election Commissioner, Ombudsman, member of the National Human Rights Commission, judge of the Constitutional Court, judge of an Administrative Court, member of the National Counter Corruption Commission, member of the State Audit Council, government official holding a permanent position or receiving salary, official of a state enterprise, other state officials or holder of other position of a member or official of a political party, and must not manifest loyalty to any political party.

Section 15: Before taking office, a Privy Councilor shall make a solemn declaration before the King in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to His Majesty the King and will faithfully perform my duties in the interests of the country and of the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every aspect."

Section 16: A Privy Councilor vacates office upon death, resignation, or removal by Royal Command.

Section 17: Appointment and removal of officials of the Royal Household and of the Royal Chief Aide-de-Camp shall depend entirely upon the King's pleasure.

Section 18: Whenever the King is absent from the Kingdom or unable to perform his functions for any reason whatsoever, the King will appoint a person as Regent, and the president of the National Assembly shall countersign the Royal Command therefore.

Section 19: In the case when the King does not appoint a Regent under Section 18, or the King is unable to appoint a Regent owing to his not being sui juris or any other reason whatsoever, the Privy Council shall submit the name of a person suitable to hold the office of Regent to the National Assembly for approval. Upon approval by the National Assembly, the president of the National Assembly shall make an announcement, in the name of the King, to appoint such a person as Regent.

During the expiration of the term of the House of Representatives or dissolution thereof, the Senate shall act as National Assembly in giving an approval under paragraph one.

Section 20: While there is no Regent under Section 18 or Section 19, the president of the Privy Council shall be Regent pro tempore.

In the case where the Regent appointed under Section 18 or Section 19 is unable to perform his or her duties, the president of the Privy Council shall act as Regent pro tempore.

While being Regent under paragraph one or acting as Regent under paragraph two, the president of the Privy Council shall not perform his or her duty as president of the Privy Council. In such case, the Privy Council shall select a Privy Councilor to act as president of the Privy Council pro tempore.

Section 21: Before taking office, the Regent appointed under Section 18 or Section 19 shall make a solemn declaration before the National Assembly in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to His Majesty the King and will faithfully perform my duties in the interests of the country and of the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every aspect."

During the expiration of the term of the House of Representatives or dissolution thereof, the Senate shall act as the National Assembly under this section.

Section 22: Subject to Section 23, succession to the throne shall be in accordance with the Palace Law on Succession, B.E. 2467.

Amendment of the Palace Law on Succession, B.E. 2467 shall be the prerogative of the King. At the initiative of the King, the Privy Council shall draft the Palace Law

Amendment and shall present it to the King for his consideration. When the King has already approved the draft Palace Law Amendment and put his signature thereon, the president of the Privy Council shall notify the president of the National Assembly for informing the National Assembly. The president of the National Assembly shall countersign the Royal Command, and the Palace Law Amendment shall have the force of law upon its publication in the Government Gazette.

During the expiration of the term of the House of Representatives or dissolution thereof, the Senate shall act as the National Assembly in acknowledging the matter under paragraph two.

Section 23: In the case where the Throne becomes vacant and the King has already appointed his heir to the Throne under the Palace Law on Succession, B.E. 2467, the Council of Ministers shall notify the president of the National Assembly. The president of the National Assembly shall convoke the National Assembly for acknowledgement thereof, and the president of the National Assembly shall invite such heir to ascend the Throne and proclaim such heir as King.

In the case where the Throne becomes vacant and the King has not appointed His heir under paragraph one, the Privy Council shall submit the name of the successor to the Throne under Section 22 to the Council of Ministers for further submission to the National Assembly for approval. For this purpose, the name of a princess may be submitted. Upon the approval of the National Assembly, the president of the National Assembly shall invite such successor to ascend the Throne and proclaim such successor as King.

During the expiration of the term of the House of Representatives or dissolution thereof, the Senate shall act as the National Assembly in acknowledging the matter under paragraph one or in giving an approval under paragraph two.

Section 24: Pending the proclamation of the name of the heir or the successor to the Throne under Section 23, the president of the Privy Council shall be Regent pro tempore. In the case where the Throne becomes vacant while the Regent has been appointed under Section 18 or Section 19 or while the president of the Privy Council is acting as Regent under Section 20 paragraph one, such Regent, as the case may be, shall continue to be Regent until the proclamation of the name of the heir or successor to ascend the Throne as King.

In the case where the Regent, who has been appointed and continues to be the Regent under paragraph one, is unable to perform his or her duties, the president of the Privy Council shall act as Regent pro tempore.

In the case where the president of the Privy Council is the Regent under paragraph one or acts as Regent pro tempore under paragraph two, the provisions of Section 20 paragraph three shall apply.

Section 25: In the case where the Privy Council will have to perform the duties under Section 19 or Section 23 paragraph two, or the president of the Privy Council will have to perform his or her duties under Section 20 paragraph one or paragraph two or Section 24 paragraph two, and during that time there is no president of the Privy Council or the president of the Privy Council is unable to perform his or her duties, the remaining Privy

Councilors shall elect one among themselves to act as president of the Privy Council or to perform the duties under Section 20 paragraph one or paragraph two or Section 24 paragraph three, as the case may be.

### **Chapter III**

#### **Rights and Liberties of Thai People**

##### **Part 1**

Section 26: In exercising powers of all state authorities, regard shall be given to human dignity, rights, and liberties in accordance with the provisions of this Constitution.

Section 27: Rights and liberties recognized by this Constitution expressly, by implication, or by decisions of the Constitutional Court shall be protected and directly binding on the National Assembly, Council of Ministers, courts, and other state organs in enacting, applying, and interpreting laws.

Section 28: A person can invoke human dignity or exercise his or her rights and liberties in so far as it is not in violation of rights and liberties of other persons or contrary to this Constitution or good morals.

A person whose rights and liberties recognized by this Constitution are violated can invoke the provisions of this Constitution to bring lawsuit or to defend himself or herself in the court.

A person can invoke his or her judicial right to directly compel the State to comply with the provisions of this clause in exercising his or her rights and liberties as long as such rights and liberties are recognized by law and this Constitution.

A person has the right to receive assistance and support from the state in exercise his or her rights stipulated under this clause.

Section 29: Restriction of such rights and liberties as recognized by the Constitution shall not be imposed on a person except by virtue of provisions of the law which must not affect the essential substances of such rights and liberties.

The law under paragraph one shall be enacted as necessary for general application and shall not be intended to apply to any particular case or person; provided that the provision of the Constitution authorizing its enactment shall also be mentioned therein. Provisions of paragraph one and paragraph two shall apply mutatis mutandis to rules or regulations issued by virtue of the provisions of the law.

##### **Part 2**

##### **Equality**

Section 30: All persons are equal before the law and shall enjoy equal protection under the law.

Men and women shall enjoy equal rights.

Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or health condition, personal status, economic or social standing, religious belief, education, or constitutional political views, shall not be permitted.

Measures determined by the state in order to eliminate obstacles to or promote persons' ability to exercise their rights and liberties like other persons shall not be deemed as unjust discrimination under paragraph three.

Section 31: Members of the armed forces or police force, government officials, officials or employees of state agencies, state enterprises or local government organizations shall enjoy the same rights and liberties under the Constitution as those enjoyed by other persons, unless such enjoyment is restricted by law, by-law, or regulation issued by virtue of the law specially enacted in regard to politics, efficiency, discipline or ethics.

### **Part 3**

#### **People's Rights and Liberties**

Section 32: A person shall enjoy the rights and liberty in his or her life and person.

Torture, brutal act, or punishment by cruel or inhuman means shall not be permitted; provided, however, that punishment by death penalty as provided by law shall not be deemed as punishment by cruel or inhuman means under this paragraph.

No arrest, detention, or search of person or acts affecting the rights and liberty under paragraph one shall not be made except by virtue of the law.

In the case of the act affecting the rights and liberty under paragraph one, an affected person, public prosecutor, or other persons acting on behalf of the affected person have the right to seek court action to stop such an action.

Section 33: A person shall enjoy the liberty of dwelling.

A person is protected for his or her peaceful habitation and for possession of his or her dwelling place. Entry into a dwelling place without consent of its occupants or the search thereof shall not be made without court order or other necessities as prescribed by law.

Section 34: A person shall enjoy the liberty of traveling and the liberty of making the choice of his or her residence within the Kingdom.

Restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security of the state, public order, public welfare, town and country planning, or welfare of the youth.

No person of Thai nationality shall be deported or prohibited from entering the Kingdom.

Section 35: A person's family rights, dignity, reputation, or the right of privacy shall be protected.

Assertion or circulation of a statement or picture in any manner whatsoever to the

public and disclosure of personal information without the consent of the information owner, which violates or affects a person's family rights, dignity, reputation or the right of privacy, shall not be made except in the case which is beneficial to the public.

Section 36: A person shall enjoy the liberty of communication by lawful means.

Censorship, detention or disclosure of communication between persons including any other act disclosing a statement in communication between persons shall not be made except by virtue of the provisions of the law specifically enacted for security of the state or maintaining public order or good morals.

Section 37: A person shall enjoy full liberty to profess a religion, a religious sect or creed, and observe religious precepts or exercise a form of worship in accordance with his or her belief.

Section 38: Forced labor shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of war or armed conflict, or when a state of emergency or martial law is declared.

## **Part 4**

### **Justice Procedure Rights**

Section 39: No person shall be inflicted with a criminal punishment unless he or she has committed an act which the law in force at the time of commission provides to be an offense and imposes punishment, and the punishment to be inflicted on such a person shall not be heavier than that provided by the law in force at the time of committing the offense. The suspect or the accused in a criminal case shall be presumed innocent. Before the passing of a final judgment convicting a person for committing an offence, such a person shall be not be treated as a convict.

Section 40: A person shall have the rights to justice as follows:

(1) Right to an uncomplicated, convenient, quick, thorough access to justice procedure with an expenditure as the case may be.

(2) Basic rights in judicial process which must at least guarantee an open court hearing; right to factual information and sufficient cross-examination of documents; right to present facts, witness or evidence, and express his or her dissent or disagreement with judges or arbitrators; right to require full quorum of judges or arbitrators in the hearing of his or her case; and right to hear the clarification of court decision, judgment, or order.

(3) A person has the right to demand impartial trial of his or her case in due time and with expenditure as the case may be.

(4) An affected person, accused person, plaintiff, defendant, and party to a case have the right to receive proper treatment during the justice procedure which includes the right to expeditious interrogation and the right not to give any testimony against oneself.

(5) An affected person, defendant, and witness have the right to receive due protection, aid, emolument, and compensation from the state.

(6) Children, youths, women, and disabled persons are eligible for due protection during judicial procedure.

## **Part 5**

### **Right in Property**

Section 41: The property right of a person is protected. The extent and the restriction of such right shall be in accordance with the provisions of law. Succession is protected. The right of succession of a person shall be in accordance with the provisions of law.

Section 42: The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the purpose of public utilities, necessary national defense, exploitation of national resources, town and country planning, promotion and preservation of quality of the environment, agricultural or industrial development, land reforms, or other public interests, and fair compensation shall be paid in due time to the owner thereof as well as to all persons having the rights thereof, who suffer loss by such expropriation, as provided by law.

The amount of compensation under paragraph one shall be fairly assessed with due regard to the normal purchase prices, mode of acquisition, nature and location of the immovable property, and loss of the person whose property or rights thereto is expropriated.

The law on expropriation of immovable property shall specify the purpose of the expropriation and shall clearly determine the period of time to fulfill that purpose. If the immovable property is not used to fulfill such a purpose within such period of time, it shall be returned to the original owner or his or her heir.

Return of immovable property to the original owner or his or her heir under paragraph three and claim of compensation paid shall be in accordance with the provisions of the law.

## **Part 6**

### **Right and Liberty To Engage in Occupation**

Section 43: A person shall enjoy the liberties to engage in an enterprise or an occupation and to undertake fair and free competition.

Restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security and safety of the state or economy, protecting the public in regard to public utilities, maintaining public order and good morals, regulating engagement in an occupation, consumer protection, town and country planning, preserving natural resources or environment, public welfare, preventing monopoly, or eliminating unfair competition.

Section 44: A person has the right to receive guarantee for his or her work safety and security and life security both during and after his or her working age.



## **Part 7**

### **Liberty of Expression of Individuals and Media**

Section 45: A person shall enjoy the liberty to express his or her opinion, make speeches, write, print, publicize, and make expression by other means.

Restriction on liberty under paragraph one shall not be imposed except by virtue of the provisions of law specifically enacted for the purpose of maintaining the security of the state, safeguarding the rights, liberties, dignity, reputation, family or privacy rights of other persons, maintaining public order or good morals or preventing the deterioration of the mind or health of the public.

Closure of a press house or radio or television station to deprive them of the liberty under this section shall not be made.

Censorship by a competent official of news and articles before their publication in a newspaper, printed matter, or radio or television broadcasting shall not be made except during the time when the country is in a state of war or armed conflict; provided that it must be made by virtue of the law enacted under the provisions of paragraph two.

Owner of a newspaper or other mass media business shall be a Thai national.

No grant of money or other properties shall be given by the state as subsidies to private newspapers or other mass media.

Section 46: Officials or employees of a private sector undertaking, newspaper or radio or television broadcasting business shall enjoy their liberty to present news and express their opinions under the constitutional restrictions without mandate of any state agency or owner of such business provided that it is not contrary to their professional ethics.

Government officials, officials or employees of a state agency or state enterprise engaging in radio or television broadcasting business enjoy the same liberties as those enjoyed by officials or employees under paragraph one.

Any act, directly or indirectly, by a person holding a political position, official of the state or state agencies to obstruct or interfere with the presentation of news or opinions on public interests by persons under paragraph one and paragraph two shall be regarded as an intentional act of abuse of authority and have no effect except in compliance with the law and professional ethics.

Section 47: Transmission frequencies for radio and television broadcasting and radio communication are national communication resources for public interest.

There shall be an independent regulatory body having the duty to distribute the frequencies under paragraph one and supervise radio or television broadcasting and telecommunication business, ensure free and fair competition, and encourage the public to participate in management of public communication facilities.

In compliance with the provision of paragraph two, there shall be measures to prevent the takeover or domination of the media by media operators or other persons which can obstruct and deprive the liberty to receive information and news.

Person holding a political position is not permitted to be an owner of or own equity in

newspaper, radio and television broadcasting, and telecommunication businesses or directly or indirectly delegate other persons to be owner or own equity in the business on his or her behalf.

## **Part 8**

### **Education Rights and Liberties**

Section 48: A person shall enjoy an equal right to receive basic education for the duration of not less than 12 years which shall be provided by the state thoroughly, up to the quality, and without charge.

Indigent, disabled, and handicapped persons are eligible for assistance and support from the state to enjoy equal education opportunities.

Education and vocational training provided by private organizations, educational alternatives, self-education, and education for life shall be protected and promoted by the state.

Section 49: A person shall enjoy academic freedom.

Education, training, learning, teaching, researching and disseminating such research according to academic principles shall be protected; provided that it is not contrary to his or her civic duties or good morals.

## **Part 9**

### **Right To Receive Public Health and Welfare Services from State**

Section 50: A person shall enjoy an equal right to receive standard public health service, and the indigent shall have the right to receive free medical treatment from public health centers of the state.

The public health service of the state shall be provided thoroughly and efficiently.

The state shall prevent and eradicate harmful contagious diseases among the public without charge in a timely manner.

Section 51: Children, youth and family members shall have the right to be protected by the state against violence and unfair treatment. They shall have the rights to survive and receive physical, mental, and intellectual development in accordance with their potentials and environment.

Interference or restrictions on the rights of children, youths, and family members are prohibited except in compliance with the provisions of the law specifically enacted to preserve family status and maximum benefit of a person or persons involved.

Children and youth with no guardian shall have the right to receive care and education from the state.

Section 52: A person who is over 60 years of age and has insufficient income shall have the right to receive aid from the state.

Section 53: Disabled or handicapped shall have the right to receive public benefits and other assistance from the state.

Section 54: A homeless person with insufficient income shall have the right to receive assistance from the state.

## **Part 10**

### **Right To Receive Information and Lodge Complaints**

Section 55: A person shall have the right to gain access to public information in possession of a state agency, state enterprise or local government organization, unless the disclosure of such information shall affect the security of the state, public safety or interests of other persons, which shall be protected as provided by law.

Section 56: A person shall have the right to receive information, reasons, and explanation from a state agency, state enterprise or local government organization before permission is given for implementation of any project or activity which may affect the quality of environment, health, and sanitary conditions, quality of life or other material of interest to him or her or a local community and shall have the right to express his or her opinion on such matters to agencies concerned for consideration.

The state shall hold a referendum to gather people's views and opinion before undertaking any social, economic, political, and cultural development planning, appropriation of immovable property, city planning, land use zoning, and issuance of regulations which may affect the interests of the people.

Section 57: A person shall have the right to participate in the decision-making process of state officials in performance of the administrative functions which affect or may affect his or her rights and liberties.

Section 58: A person shall have the right to present a petition and to be informed about the result of its consideration within the appropriate time.

Section 59: The right of a person to sue a state agency, state enterprise, local government organization, or other state authority which is a juristic person to be liable for any act or omission by its government official, official or employee shall be protected.

Section 60: The right of a person as consumer shall be protected. As a consumer, a person has the right to get access to factual information and demand remedial treatment and the right to unite to call for consumer protection.

There shall be an independent body of consumers' representatives to be in charge of consumer protection and give advice to state agencies in the enforcement of laws and orders on consumer protection, inspect and report on consumer protection undertakings, and omission of duties regarding consumer protection.

Section 61: A person shall have the right to follow up the performance of duties of a person holding a political position and a state official.

A person who, acting in good faith, provides information to inspection organs in investigating the use of state power and performance of duties by a person holding a

political position, state agencies or officials of the state shall be protected.

## **Part 11**

### **Liberty to Assemble and Association**

Section 62: A person shall enjoy the liberty to assemble peacefully and without arms.

Restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the case of public assembling and for securing public convenience in the use of public places or for maintaining peace and order during the time when the country is in a state of war or when a state of emergency or martial law is declared.

Section 63: A person shall enjoy the liberty to unite and form an association, a union, league, cooperative, farmers group, private organization or any other groups.

State officials and employees, like other citizens, have the right to join groups, unless it has no impact on the administration of the country and consistency in the provision of public services.

Restriction on rights and liberties under paragraph one and paragraph two is prohibited except by virtue of the law specifically enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly.

Section 64: A person shall enjoy the liberty to unite and form a political party for the purpose of expressing political will of the people and carrying out political activities in fulfillment of such will through the democratic form of government with the King as head of the state as provided in this Constitution.

Internal organization, management, and regulations of a political party shall be consistent with the fundamental principles of the democratic form of government with the King as head of the state.

Members of the House of Representatives who are members of a political party, member of the Executive Committee of a political party, or member of a political party, of not less than the number prescribed by the organic law on political parties shall, if of the opinion that their political party's resolution or regulation on any matter is contrary to the status and performance of duties of a member of the House of Representatives under this Constitution or contrary to or inconsistent with fundamental principles of the democratic form of government with the King as head of the state, have the right to refer it to the Constitutional Court for decision thereon.

In the case where the Constitutional Court decides that such resolution or regulation is contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as head of the state, such resolution or regulation shall lapse.

## **Part 12**

### **Right to Assembly**

Section 65: Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in management, maintenance, preservation and exploitation of natural resources and environment in a balanced and sustainable manner and persistently.

Section 66: The right of a person to give to the state and communities participation in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of environment for usual and consistent survival in the environment which is not hazardous to his or her health and sanitary conditions, welfare or quality of life, shall be protected.

Any project or activity which may seriously affect the quality of environment shall not be permitted, unless its impact on the quality of environment have been studied and evaluated and opinions of an independent organization, consisting of representatives from private environmental organizations and from higher education institutions providing studies in the environmental field, have been obtained prior to the operation of such project or activity.

The right of a community to sue a state agency, state enterprise, local government organization or other state authority as a legal entity to perform the duties as provided by paragraph one and paragraph two shall be protected.

## **Part 13**

### **Right To Protect Constitution**

Section 67: No person shall exercise the rights and liberties in the Constitution to overthrow the democratic form of government with the King as head of the state under this Constitution or acquire power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

In case where a person or political party has committed an act under paragraph one, the person knowing of such an act shall have the right to request the Prosecutor General to investigate its facts and submit a motion to the Constitutional Court for ordering cessation of such act without, however, prejudice to the institution of criminal action against such person.

In case where the Constitutional Court makes a decision compelling the political party to cease to commit the act under paragraph two, the Constitutional Court may order the dissolution of such political party.

Section 68: A person shall have the right to resist peacefully any act committed for the acquisition of power to rule the country by means which is not in accordance with the modes provided in this Constitution.

In case where the country is in crisis, state of emergency, or a political necessity, the Prime Minister, president of the House of Representatives, president of the Senate, opposition leader in the House of Representatives, president of the Constitutional Court, president of the Supreme Court, president of the Administrative Court, and heads of independent organizations under the Constitution shall convene to find preventive

measures or solutions to the problems.

## **Chapter IV**

### **Duties of Thai People**

Section 69: Every person shall have the duty to uphold the nation, religion, the King, and the democratic form of government with the King as head of the state under this Constitution.

Section 70: Every person shall have the duty to defend the country and obey the law.

Section 71: Every person shall have the duty to exercise his or her right to vote in an election.

A person who fails to participate in an election for voting without notifying the appropriate cause for such failure shall lose his or her right to vote as provided by law.

Notification of the cause for failure to participate in an election and the provision of facilities for participation shall be in accordance with the provisions of law.

Section 72: Every person shall have a duty to defend the country, serve in the armed forces, pay taxes and duties, render assistance to the official service, receive education and training, protect, pass on, and conserve the national arts and culture and knowledge, and conserve natural resources and the environment as provided by law.

Section 73: A government official, official or employee of a state agency, state enterprise or local government organization and other state officials shall have the duty to act in compliance with the law in order to protect public interests and provide benefits and service to the public.

In performing the duty and other acts related to the public, the persons under paragraph one shall be politically impartial.

In case when the persons under paragraph one neglect or fail to perform the duties under paragraph one or paragraph two, the interested person shall have the right to request persons under paragraph one or their superiors to explain reasons and request them to act in accordance with the provisions of paragraphs one and two.

## **Chapter V**

### **Directive Principles of Fundamental State Policies**

#### **Part 1**

##### **General Provisions**

Section 74: Provisions of this chapter are intended to serve as directive principles for legislating and determining policies for the administration of state affairs.

In stating its policies to the National Assembly, the Council of Ministers which will assume the administration of the state affairs shall clearly state to the National Assembly the activities intended to be carried out for the administration of the state affairs in implementation of the directive principles of fundamental state policies and shall prepare and submit to the National Assembly an annual report on the result of the implementation, including problems and obstacles encountered.

Section 75: The Council of Ministers shall have an annual plan for the administration of the state affairs to illustrate the details of activities and operations in the implementation of the directive principles of fundamental state policies.

The Council of Ministers shall have to enact laws which are necessary for the implementation of the national administrative policies and plans.

## **Part 2**

### **State Security Policy**

Section 76: The state shall protect and uphold the institution of kingship and the independence and integrity of its territories. The state shall arrange for the maintenance of the armed forces for the protection and upholding of its independence, security of the state, institution of kingship, national interests, and the democratic form of government with the King as head of the state, and for national development.

## **Part 3**

### **National Administrative Policy**

Section 77: The state shall implement the national administrative policy as follows:

(1) The State shall take actions to secure social and economic development and national security in a sustainable manner with the intention to uphold national interests.

(2) The State shall organize the administrative bodies at the central, regional, and local levels and clearly stipulate their areas of authority and responsibility conducive for the development of the country, encourage and provide financial support for provincial governments to represent the state in the development of their respective areas, and supervise local governments serving the interests of the people in their areas.

(3) The State shall decentralize powers to localities for the purpose of independence and self-determination of local affairs and encourage the provinces which have the potentials to develop large-scale administrative organizations by placing emphasis on aspirations of the people in such provinces.

(4) The State shall concentrate on the development of quality, ethics, and morals of state officials together with the improvement of their working pattern and methods to ensure effectiveness of the administration in state affairs and encourage state agencies to apply the principle of good governance.

(5) The State shall organize the working system of state agencies to ensure expeditious, effective, transparent, and accountable public services.

(6) The State shall make arrangements for legal agencies, which have the duty to give advice on law enforcement and enactment, to function independently to ensure that the administration of country will be in compliance with the principle of legitimacy.

(7) The state shall thoroughly and equally provide necessary public facilities, with charges as necessary, in accordance with the country's monetary and financial status.

(8) The state shall thoroughly and equally promote and support the development of local economy, public facilities, and information infrastructure in all localities nationwide.

(9) The state shall prepare a political development plan, prescribe a standard of morals and ethics for persons holding political positions and state officials, and establish an independent council for political development in charge of monitoring and supervising the strict implementation of operation plans.

#### **Part 4**

#### **Religious, Social, Education, and Cultural Policies**

Section 78: The state shall patronize and protect Buddhism and other religions, promote good understanding and harmony among followers of all religions as well as encourage the application of religious principles to promote virtues and develop quality of life.

Section 79: The state shall implement religious, social, education, and cultural policies as follows:

(1) The state shall protect and develop children, promote equality between men and women, create, reinforce and develop family integrity, and provide assistance to the elderly, indigent, disabled or handicapped, and the underprivileged for their good quality of life and ability to depend on themselves.

(2) The state shall promote, support, and develop sustainable good health of the people, thoroughly provide standard and efficient health service, and encourage local governments and the private sector to participate in the provision of public health service.

(3) The state shall develop the quality and standard of education in conformity with socioeconomic changes, support innovative learners, create and indoctrinate the correct perception of morals and ethics, the philosophy of sufficiency economy, unity and discipline, develop the quality of career teachers and academics, and provide duly sufficient budget for education.

(4) The state shall encourage and support power decentralization in education to local administrative bodies, communities, religious organizations, and the private sector to enable them to participate in management and develop the quality of education in compliance with the need of each locality.

(5) The state shall promote and encourage research in various sciences, propagate the results of these research financially supported by the state, and provide access to the people to the said information.

(6) The state shall preserve, revive, and protect arts, culture, and national traditions,



good values, and folk wisdom and promote awareness thereof.

## **Part 5**

### **Legal and Justice Policies**

Section 80: The state shall implement the legal and justice policies as follows:

(1) The state shall see to it that laws must be obeyed and enforced impartially, expeditiously, thoroughly, and efficiently.

(2) The state shall protect people's rights and liberties from being violated by state officials or other persons and equally administer justice to every people.

(3) The state shall encourage and support the people to participate in the process of justice and provide uncomplicated, convenient, and quick access to the justice system.

(4) The state shall ensure enforcement of laws for protection of individual rights and liberty, provide legal assistance to people, organize efficient operations of state agencies in the justice system, and administer justice to people in an impartial and quick manner.

(5) The state shall make arrangements for establishment of an independent law reform body to develop the country's law system and take actions to have state agencies review the suitability and necessity of laws under their responsibility by giving consideration to opinion of people who might be affected by the provisions of such laws.

(6) The state shall make arrangements for establishment of an independent body to reform the criminal justice system and to study, analyze, and follow up on the operations of agencies involved in the criminal justice system.

## **Part 6**

### **Foreign Policy**

Section 81: The state shall promote friendly relations and cooperation with other countries, adopt the principle of non-discrimination, and comply with obligations with other countries and international organizations.

The state shall promote trade, investment, and tourism with other countries and protect and look after the interests of Thai citizens in foreign countries.

## **Part 7**

### **Economic Policy**

Section 82: The state shall promote and support the implementation of the Philosophy of Sufficiency Economy.

Section 83: The state shall implement the economic policy as follows:

(1) The state shall encourage a free economic system through market forces, support sustainable development of economy, repeal and refrain from enacting laws and

regulations which do not correspond with the economic necessity, not engage in business activities in competing with the private sector except for the purposes of maintaining the security of the state, public interests, and public facilities.

(2) The state shall promote the principles of ethics, morals, and good governance in doing business.

(3) The state shall improve taxation system to ensure fairness in conformity with socioeconomic changes.

(4) The state shall adhere to financial discipline to maintain the country's economic stability and security.

(5) The state shall make arrangements for the mobilization of savings for people to live on in old age.

(6) The state shall ensure and supervise free and fair competition, prevent direct and indirect monopolies, and protect consumers.

(7) The state shall implement fair distribution of income, expand the opportunities for people to engage in occupations, promote and support the development of folk wisdoms for use in production of goods and services and in earning their living.

(8) The state shall promote job opportunities for people in working age, protect women and child labor, promote labor relations and the tripartite system under which workers have the right to elect their own representatives, arrange for social welfare system, and apply a single standard for protection of workers to ensure equal and non-discriminated rights and welfare benefits.

(9) The state shall protect the interests of farmers in the production and marketing areas, secure maximum prices for agricultural products, and encourage formation of farmer groups and encourage them to make plans for agricultural production and protect their common interests.

(10)The state shall promote, support, and protect cooperative system or the formation of private groups to engage in business activities.

(11)The state shall provide basic public facilities necessary for the people to live on.

(12)The state shall protect and encourage people to engage in occupations for the development of economy and promote the formation of professional groups.

## **Part 8**

### **Land, Natural Resources, and Environment Policy**

Section 84: The state shall implement the land, natural resources, and environment policy as follows:

(1) The state shall organize the system of land use in accordance with the natural environment in each locality--technically to be applied with land and water areas nationwide, arrange for town planning which is in harmony with the environment, and allow people in areas affected by the implementation of this policy to participate in decision-making process.

(2) The state shall give ownership of agricultural land to farmers through land reforms or other methods.

(3) The state shall make effective town planning and development schemes to ensure effective preservation and maintenance of natural resources.

(4) The state shall organize the system for the use of water resources for public interest and find water sources for agricultural purpose.

(5) The state shall administer and manage natural resources systematically by allowing local people, communities, and administrative bodies to participate in making the plan.

(6) The state shall support and promote public participation in preservation, maintenance, and exploitation of natural resources and biological diversity in a well-balanced manner.

(7) The state shall maintain, protect, and develop natural resources in a sustainable manner by allowing local people, communities, and administrative bodies to participate in formulation of the operation plan.

(8) The state shall control and eliminate polluted sources which are detrimental to people's health, sanitation, and quality of life.

## **Part 9**

### **Science, Intellectual Property, and Energy Policy**

Section 85: The state shall implement the Science, Intellectual Property and Energy Policy as follows:

(1) The state shall promote development of sciences, technologies, and innovativeness by enacting supportive laws and allocate budgets to support education, studies, and research, and arrange for the utilization and propagation of the acquired knowledge thereof, and duly develop manpower in this area.

(2) The state shall promote invention or innovation, preserve and develop folk wisdoms, and protect intellectual property.

(3) The state shall propagate modern sciences and technologies and encourage the people to apply sciences in their life.

(4) The state shall consistently and systematically promote and support research, development, and exploitation of natural alternative energies which are friendly to environment.

## **Part 10**

### **Public Participation Policy**

Section 86: The state shall implement the Public Participation Policy as follows:

(1) The state shall encourage people to participate in laying down economic

development policies and plans at both local and national levels.

(2) The state shall promote and support public participation in political decision making process and in laying down socioeconomic and political development plans and make available to the public accurate and complete information and listen to opinion of the people before making such plans and also provide access free of charge to information on the results of opinion surveys and decisions of the state.

(3) The state shall support and encourage public participation by professional or other groups in examining the use of state power at all levels and refrain from any activities interfering with the operation of private and state media in presenting information on the use of state power to the general public.

(4) The state shall arrange for the establishment of common standards for evaluation for the supervision, inspection, and evaluation of the performance of local administrative bodies, and encourage local people and communities to participate in the administration of local affairs and evaluation of the performance of local administrative bodies.

(5) The state shall promote people's political strength, enact law to support the establishment of people's political development funds to provide assistance for community-related activities and activities of people's groups in all forms to publicize the views and needs of communities.

(6) The state shall educate the people on the democratic form of government with the King as head of the state and encourage the people to exercise their voting right.

## **Chapter VI**

### **National Assembly**

#### **Part 1**

##### **General Provisions**

Section 87: The National Assembly consists of the House of Representatives and the Senate. No person can be member of the House of Representatives and Senator at the same time.

Section 88: The president of the House of Representatives is president of the National Assembly. The president of the Senate is Vice President of the National Assembly.

In the case where there is no president of the House of Representatives, or the president of the House of Representatives is not present or is unable to perform his or her duties, the president of the Senate shall act as president of the National Assembly in his or her place.

The president of the National Assembly shall have the powers and duties as provided in this Constitution and shall conduct the proceedings of the National Assembly at joint sittings in accordance with the rules of procedure.

The president of the National Assembly and the person who acts as president of the National Assembly in his or her place shall be impartial in performance of duties.

The Vice President of the National Assembly shall have the powers and duties as provided in this Constitution and as entrusted by the president of the National Assembly.

Section 89: Members of the House of Representatives or Senators of not less than one-tenth of the total number of existing members of each House have the right to lodge with the president of the House of which they are members a complaint asserting that membership of any member of such House has terminated under Section 103 (3) (4) (5) (6) (7) (8) (9) (10) or (11) or Section 114 (3) (4) (5) (6) (7) or (8), as the case may be, and the president of the House with whom the complaint is lodged shall refer it to the Constitutional Court for decision as to whether the membership of such person should be terminated.

When the Constitutional Court has taken a decision, it shall notify the president of the House with which the complaint has been lodged under paragraph one for such decision.

In case where the Election Commission is of the opinion that membership of any member of the House of Representatives or Senate has terminated in accordance with the provisions of paragraph one, it shall lodge the complaint with the president of the House of which the person is member, and the president of House with whom the complaint has been lodged shall refer it to the Constitutional Court for decision in accordance with the provisions of paragraph one and paragraph two.

Section 90: Vacation of the office of a member of the House of Representatives or Senator after the day on which his or her membership terminates or the day on which the Constitutional Court decides that membership of any member has terminated does not affect any act done by such member in his capacity as member including the receipt of emolument or other remuneration by such member before he or she vacates office or the president of the House of which such person is member has been notified of the decision of the Constitutional Court, as the case may be, except that in the case of vacation of office on the ground of his or her being elected in violation of the organic law on election of members of the House of Representatives and Senators, emolument and other remuneration received while in office shall be returned.

## **Part 2**

### **House of Representatives**

Section 91: The House of Representatives consists of 400 members.

In the case where the office of a member of the House of Representatives becomes vacant for any reason and an election of a member of the House of Representatives has not been held to fill the vacancy, the House of Representatives shall consist of the existing members of the House.

In the case where the number of members of the House of Representatives following a general election is less than 400 but not less than 95 percent of the total number of members of the House of Representatives, the House of Representatives shall consist of existing members of the House and election for missing members shall be held until the total number of 400 is attained.

Section 92: Election of members of the House of Representatives under Section 91 shall be carried out as follows:

(1) Three hundred and twenty members of the House of Representatives shall come from election held under constituency basis. Determination of the ratio of the number of inhabitants to one member of the House shall be made by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the election by the number of 320 members of the House of Representatives.

(2) Eighty members of the House of Representatives shall come through election held under proportional basis. There shall be four electoral zones, each of which shall have equal numbers of inhabitants and adjoining one another. Each electoral zone shall have 20 members of the House of Representatives by calculating the ratio of the number of members of the House of Representatives from the vote ratio of the political party list which will indicate the proportion and number of members of the House of Representatives in accordance with regulations prescribed in organic law on election of members of the House of Representatives and selection of Senators [sentence as published].

Demarcation of constituencies, electoral modes, vote casting, counting, and calculation of electoral ratio shall be done in accordance with the provisions of the organic law on election of members of the House of Representatives and selection of Senators.

Section 93: A person having the following qualifications has the right to vote in an election:

- (1) Thai nationality by birth;
- (2) Not less than 18 years of age on 1 January of the year of election, and
- (3) His or her name should appear in the house register in the electoral area for not less than 90 days before election day.

Under Section 92 (1), a person who lives outside the area where his or her name appears in the house register or the name appears in the house register less than 90 days before the election day, or lives outside the Kingdom shall have the voting right in accordance with the methods and conditions as prescribed in the organic law on election of members of the House of Representatives and selection of Senators.

Section 94: A person under any of the following prohibitions is disfranchised on election day:

- (1) Unsound mind or mental infirmity;
- (2) Buddhist priest, novice, monk, or clergy;
- (3) Detained by warrant of Court or by lawful order;
- (4) Suspended from exercising the right to vote.

Section 95: A person having the following qualifications has the right to be a candidate in an election for members of the House of Representatives:

- (1) Thai nationality by birth;
- (2) Not less than 25 years of age on election day;
- (3) Member of any and only one political party for a consecutive period of not less than 90 days till the date of applying for candidacy in an election;
- (4) Candidate for election on constituency basis shall also possess any of the following qualifications:
  - (a) His or her name should appear in the house register of the province from where he or she is contesting the election for a consecutive period of not less than one year up to the date of applying for candidacy;
  - (b) Been a member of the House of Representatives in the province from where he or she is contesting the election, member of local assembly, or local administrator of such province;
  - (c) Born in the province from where he or she is contesting election;
  - (d) Studied in an educational institution located in the province from where he or she is contesting the election for a consecutive period of not less than two academic years;
  - (e) Served in official service in the past or his or her name appears in the house register in the province from where he or she is contesting the election for a consecutive period of not less than two years.
- (5) Possess other qualifications as prescribed in the organic law on election of members of the House of Representatives and selection of Senators.

Section 96: A person under any of the following prohibitions shall have no right to become a candidate for election as member of the House of Representatives:

- (1) Addiction to drugs;
- (2) Bankrupt at present or in the past;
- (3) Disfranchised under Section 94 (1) (2) or (4);
- (4) Sentenced by judge to imprisonment or detained by warrant of Court;
- (5) Banned from participating in election for a period of less than five years after being sentenced by judge to imprisonment for a term of two years or more; except for an offence committed through negligence;
- (6) Expelled, dismissed or removed from official service of a state agency or state enterprise on charge of dishonest performance of duties or corruption;
- (7) Ordered by judgment of court that his or her assets will be confiscated by the state on charge of unusual wealthiness or unusual increase in his or her assets;
- (8) Government official holding a permanent position and receiving salary, except a political official;
- (9) Member of local assembly or local administrator;
- (10) Senator;

(11) Official or employee of a state agency, state enterprise or local government organization, or other state official;

(12) Judge of Constitutional Court, Election Commissioner, Ombudsman, member of the National Counter Corruption Commission, member the State Audit Commission, or member of the National Human Rights Commission.

(13) Prohibited from holding a political position under Section 254;

(14) Removed from office by a resolution of the Senate under Section 265.

Section 97: A political party shall not field candidates to run for election in any constituency exceeding the number of House of Representatives allocated for that constituency.

Section 98: A political party shall not withdraw from election after its candidates have applied to contest in the election.

Section 99: The term of the House of Representatives is four years.

In case of a merger of political parties, which have members in the House of Representatives, such merger of political parties shall become effective after the expiration of term of the House of Representatives.

Section 100: Membership of the House of Representatives commences on election day.

Section 101: Membership of the House of Representatives terminates on:

(1) Expiry of the term or dissolution of the House of Representatives;

(2) Death;

(3) Resignation;

(4) Disqualification under Section 95;

(5) Prohibition under Section 96 (1), (2), (3),

(5), (6), (7), (8), (9), (10), (11), (12), (13) or (14);

(6) Acting in contravention of any prohibition under Section 256 or Section 257;

(7) Resignation from membership of his or her political party or his or her political party passes a resolution, with votes of not less than three-fourths of the joint meeting of the Executive Committee of that political party and members of the House of Representatives belonging to that political party, terminating his membership of the political party. In such case, his membership shall be deemed to have been terminated from the date of resignation or resolution of the political party, except when such member of the House of Representatives appeals to the Constitutional Court within 30 days from the date of the resolution of the political party raising objections that the resolution is of such nature as specified in Section 64 paragraph three. If the Constitutional Court decides that the said resolution is not of the nature as specified in Section 64 paragraph three, his membership shall be deemed to have been terminated from the date of the decision of the Constitutional Court. If the Constitutional Court decides that the said resolution is of such



nature as specified in Section 64 paragraph three, that member of the House of Representatives may become a member of another political party within 30 days as from the date of the decision of the Constitutional Court;

(8) Loss of membership of political party in the case where the political party of which he is member is dissolved by an order of the Constitutional Court and he or she is unable to become a member of another political party within 60 days from the date on which the Constitutional Court issues its order. In such case, his or her membership shall be deemed to have been terminated from the day following the date on which such period of 60 days has elapsed;

(9) Senate passes a resolution under Section 265 removing him or her from office or the Constitutional Court takes decision terminating his or her membership under Section 98. In such case, his membership shall be deemed to have been terminated as from the date on which the Senate passes the resolution or the Constitutional Court takes the decision, as the case may be;

(10) Remaining absent for more than one-fourth of the total number of days in a session, the length of which is not less than 120 days without permission of the president of the House of Representatives;

(11) Imprisoned by final judgment to a term or suspended term of imprisonment other than an offence committed through negligence or petty offence.

Section 102: Upon expiry of the term of the House of Representatives, the King will issue a Royal Decree calling for general election of members of the House of Representatives and the election date must be fixed within 45 days from the date of expiry of the term of the House of Representatives and the election day must be the same throughout the Kingdom.

Section 103: The King has the prerogative to dissolve the House of Representatives for new election of members of the House. Dissolution of the House of Representatives shall be made through a Royal Decree in which the day for new general election must be fixed within 60 days and the election date must be the same throughout the Kingdom. Dissolution of the House of Representatives may be made only once under the same circumstances.

Section 104: When the office of member of the House of Representatives becomes vacant for any reason other than expiry of term or dissolution of the House of Representatives, the following actions shall be taken:

(1) In the case of vacancy in the office of a member of the House of Representatives elected through election on constituency basis, an election of member of the House of Representatives to fill up the vacancy shall be held within 45 days from the date of the vacancy unless the remainder of the term of the House of Representatives is less than 180 days.

(2) In the case of vacancy in the office of a member of the House of Representatives elected through election on proportional basis, the president of the House of Representatives shall by publication in the government gazette within seven days from the date of the vacancy, elevate the person whose name in the list of that political party is placed in the next order to replace the member of the House of Representatives.

Membership of replacing member of the House of Representatives under (1) shall commence from the day the election to fill up the vacancy is held; while membership of replacing member of the House of Representatives under (2) shall commence from the day following the date of publication of the name of the replacing member of the House of Representatives in the government gazetteer. The replacing member of the House of Representatives may serve only for the remainder of the term of the House.

Section 105: After the Council of Ministers has assumed the administration of state affairs, the King will appoint as leader of the Opposition in the House of Representatives a member of the House who is the leader of the political party having its members holding no ministerial positions and having the largest number of members among the political parties having members holding no ministerial positions, provided that this number must not be less than one-fifth of the total number of members of the House of Representatives at the time of the appointment.

In the case when no political party in the House of Representatives has the description as prescribed under paragraph one, the leader of the political party, who receives majority of supporting votes from members of the House who belong to the political parties having their members holding no ministerial positions, shall be the leader of the Opposition in the House. In case of an equality of supporting votes, it shall be decided by lot.

The president of the House of Representatives shall countersign the Royal Command appointing the leader of the Opposition in the House of Representatives.

The leader of the Opposition in the House of Representatives shall vacate office upon being disqualified as specified in paragraph one or paragraph two and Section 119 shall apply mutatis mutandis, and in such case, the King will appoint a new leader of the Opposition in the House of Representatives to fill up the vacancy.

### **Part 3**

#### **Senate**

Section 106: Senate shall consist of 160 members who shall be appointed by a Royal Decree issued by the King and selected by the Senator Selection Commission.

In the case where the office of a Senator becomes vacant for any reason whatsoever and a Senator has not yet been selected to fill the vacancy, the Senate shall consist of the remaining Senators.

In the case where the number of Senators is less than 160 during the period of time as prescribed in Section 107 but not less than 95 percent of the total number of Senators, the Senate shall consist of the existing Senators. However, the selection of 160 Senators must be completed within 180 days after the day the Election Commission has submitted the name list under Section 107. Membership of the Senate of the selected Senators shall serve only for the remainder of the term of the Senate.

Section 107: There shall be a Senate Selecting Commission consisting of the president of the Constitutional Court, president of the Election Commission, president of Ombudsmen, president of the National Counter Corruption Committee, president of the

State Audit Commission, judge of the Supreme Court of Justice entrusted by a general meeting of the Supreme Court of Justice, and judge from the Supreme Administrative Court entrusted by a general meeting of the Supreme Administrative Court. The Commission shall select persons under section 108 within 90 days after the date of receiving the name list from the Election Commission under Section 109. The list of nominated persons shall then be forwarded to the president of the House of Representatives to be further submitted to the King for their royal appointment as Senators.

In the case where the Senator Selection Commission does not exist or is unable to perform its duty and remainder of the commissioners is less than half of the total number of commissioners, the Senator Selection Commission shall consist of the existing commissioners.

The president of the House of Representatives shall countersign the Royal Decree appointing Senators.

Section 108: The Senator Selection Commission shall select Senators through the following methods:

(1) Selecting a qualified person from candidates who have applied for selection as Senator in each province;

(2) Selecting qualified persons from nominees proposed by various academic, state and private organizations to fill up the total number of Senators.

Selection of senatorial nominees under paragraph one shall be made by giving consideration to knowledge, expertise, or experience which can be beneficial to the functioning of the Senate, individuals with knowledge in different fields, gender equality, and opportunities for the socially underprivileged.

The criteria, methods, and conditions for the selection of Senators should be in accordance with the provisions of the organic law on election of members of the House of Representatives and selection of Senators.

Article 109: Election Commission shall have the duties to receive applications for the selection of persons under Section 108 (1) and name lists of persons proposed by organizations under Section 108 (2), examine qualifications, prohibitions, personal records, and behavior of applicants and proposed nominees and submit their findings to the Senatorial Selection Commission for consideration.

Article 110: A person possessing qualifications not under any of the following prohibitions shall have the right to be considered for selection as Senators:

(1) Thai nationality by birth;

(2) Not less than 40 years of age on the day of application or nomination;

(3) Graduated with no lower than Bachelor's Degree or its equivalent;

(4) Having any of the qualifications under Section 95 (4) in case of an applicant under Section 108 (1);

(5) Not holding any position in a political party or have held any position in a

political party or have been relieved from position of a political party for less than two years before the date of applying for the candidacy or nomination;

(6) Not a member of the House of Representatives or his or her membership has been terminated for not more than one year before the date of applying for the candidacy or nomination;

(7) Not denied the right to be candidate in an election under Section 96 (1) (2) (3) (4) (5) (6) (7) (8) (9) (11) (12) (13) or (14).

Section 111: A Senator shall not be a minister or other political official.

Section 112: Membership of the Senate commences from the date of issuance of the Royal Decree on appointment of Senators.

The term of the Senate is six years from the date of appointment. A Senator cannot serve for more than one consecutive term.

A Senator, whose membership terminates upon the completion of his or her tenure, shall continue to perform his or her duties until his or her replacement is appointed by a Royal Decree.

Section 113: After the completion of the first three years of the term of the Senate, the Senate shall convene a meeting to draw lots to relieve half of the members of each category of Senators from senatorial posts. Termination of senatorial membership under this practice is considered as completion of the tenure of Senators.

Section 114: Membership of the Senate terminates upon:

(1) Expiry of the term of the Senate;

(2) Death;

(3) Resignation;

(4) Disqualification under Section 110;

(5) Prohibited under Section 111, Section 256 or Section 257;

(6) Senate passing a resolution under Section 265 removing him or her from office or the Constitutional Court taking a decision to terminate his or her membership

under Section 89. In such case, his or her membership shall be deemed to have been terminated from the date of the resolution of the Senate or the decision of the Constitutional Court, as the case may be;

(7) Remaining absent for more than one-fourth of the number of days in a session the length of which is not less than 120 days without the permission of the president of the Senate;

(8) Imprisoned by final judgment to a term or suspended term of imprisonment, except for an offence committed through negligence or petty offence.

Section 115: When the office of Senator becomes vacant due to causes under Section 113 or Section 114, provisions of Section 107, Section 108, and Section 109 shall be applied to select the replacing Senator.

Section 116: In considering the selection, appointment, recommendation or approval of a person to hold a position under the provisions of this Constitution, the Senate shall appoint a committee for examining past records and behavior of the person nominated for holding such position and also for gathering facts and evidence to be reported to the Senate for further consideration.

#### **Part 4**

##### **Provisions Applicable to Both Houses**

Section 117: Members of the House of Representatives and Senators are representatives of the Thai people, free from any form of intervention and domination, and honestly perform their duties for the common interest of the Thai people without conflict of interest.

Section 118: Before taking office, a member of the House of Representatives and a Senator shall make a solemn declaration at a sitting of the House of which he is a member in the following words:

"I, (name of the declarer), do solemnly declare that I shall perform my duties in accordance with the honest dictates of my conscience for the common interest of the Thai people. I shall also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 119: The House of Representatives and the Senate shall each have one president and one or two vice presidents, who are appointed by the King from members of such House in accordance with its resolution.

The president and the vice presidents of the House of Representatives shall hold office until the expiry of the term or dissolution of the House.

The president and the vice presidents of the Senate shall hold office until the day preceding the date of election of the new president and vice presidents, which will be held every three years.

The president and the vice presidents of the House of Representatives and the president and the vice presidents of the Senate shall vacate office before the expiry of the term of office under paragraph two or paragraph three, as the case may be:

- (1) Loss of membership of the House of which he is member;
- (2) Resignation;
- (3) Holding post of Prime Minister, Minister, or other political official;
- (4) Sentenced by a judgment to imprisonment even though the case is not yet finalized or pending punishment, except for an offence committed through negligence or a petty offence or defamatory offence committed during their tenure.

The president and the vice presidents of the House of Representatives shall not concurrently serve as members of executive committee of political parties or hold positions in political parties.

Section 120: The president of the House of Representatives and the president of the

Senate shall have powers and duties to carry out the business of each House in accordance with its rules of procedure. The vice presidents have the powers and duties as entrusted by the president and act on behalf of the president when the president is not present or unable to perform his duties.

The president of the House of Representatives, the president of the Senate, and persons who act on behalf of the president shall be impartial in the performance of duties.

When the president and the vice presidents of the House of Representatives or the president and the vice presidents of the Senate are not present at any sitting, members of each House shall elect one member from among themselves to preside over such sitting.

Section 121: At a sitting of the House of Representatives or Senate, presence of not less than one-half of the total number of existing members of each House is required to constitute a quorum, except that in the case of considering the agenda on interpellation under Section 152 and Section 153, the House of Representatives and the Senate may otherwise prescribe a quorum in the rules of procedure.

Resolution on any issue shall be made by majority of votes, unless it is otherwise provided in this Constitution.

For casting vote, each member has one vote. In case of an equality of votes, the presiding member shall have an additional vote as casting vote.

The president of the National Assembly, the president of the House of Representatives, and the president of the Senate shall record the voting of each member and keep the record in such a place where public entry for inspection is possible, except in the case of voting by secret ballot.

Casting of votes to elect or give approval to a person for holding office shall be secret, unless otherwise provided in this Constitution. Members shall have autonomy and shall not be bound by resolutions of their political parties or any other mandate.

Section 122: The National Assembly shall, within 30 days from the date of election of members of the House of Representatives, be summoned for the first sitting.

Each year, there shall be a general ordinary session and a legislative ordinary session.

The day on which the first sitting under paragraph one is held shall be considered as the first day of the general ordinary session, and the first day of the legislative ordinary session shall be fixed by the House of Representatives. In the case where the first sitting under paragraph one has less than 150 days up to the end of a calendar year, the legislative ordinary session may be omitted in that year.

During the legislative ordinary session, the National Assembly shall hold a sitting only in such cases as prescribed in Chapter 2 or in cases for the consideration of bills or organic law bills, approval of an executive decree, approval of declaration of war, approval of a treaty, election or approval of a person for holding office, removal of a person from office, interpellation and the amendment of the Constitution, unless the National Assembly has passed a resolution by the votes of more than one-half of the total number of existing members of both Houses for considering other matters.

An ordinary session of the National Assembly shall last 120 days but the King may

prolong it.

An ordinary session may be prorogued before the end of 120 days only with the approval of the National Assembly.

Section 123: The King convokes the National Assembly, opens, and prorogues its session.

The King may be present to perform the opening ceremony of the first general ordinary session under Section 122 paragraph one or may command the Heir to the Throne, who is *sui juris*, or any person to perform the ceremony as His Representative.

When it is necessary in the interests of the state, the King may convoke an extraordinary session of the National Assembly.

Under the provisions of Section 124, a Royal Decree is required to convoke, prolong, and prorogue a National Assembly session.

Section 124: Members of both Houses or members of the House of Representatives of not less than one-third of the total number of existing members of both Houses have the right to present their petition to the King for issuance of a Royal Command convoking an extraordinary session of the National Assembly.

The petition referred to in paragraph one shall be lodged with the president of the National Assembly.

The president of the National Assembly shall present the petition to the King and countersign the Royal Command.

Section 125: At a sitting of the House of Representatives or Senate or at a joint sitting of the National Assembly, words expressed in giving statements of fact or opinion or in casting the vote by any member are absolutely privileged. No charge or action in any manner whatsoever shall be brought against such member.

Privilege under paragraph one does not extend to a member who expresses words at a sitting, which is broadcast through radio or television, if such words appear out of the precinct of the National Assembly and expression of such words constitutes a criminal offence or wrongful act against any other person, who is not a Minister or member of that House.

In the case of paragraph two, if words expressed by the member cause damage to another person, who is not a Minister or member of that House, the president of that House shall cause explanations to be published as requested by that person in accordance with procedure and within such period of time as prescribed in the rules of the procedure of that House, without prejudice to the person's right to bring the case before the Court.

Privilege provided in Section 157 extends to printers and publishers of the minutes of sittings in accordance with the rules of procedure of the House of Representatives, the Senate or the National Assembly, as the case may be, and to persons permitted by the presiding member to give statements of fact or opinion at such sittings as well as to persons who broadcasts the sitting through radio or television with the permission of the president of such House, *mutatis mutandis*.

Section 126: No member of the House of Representatives or Senator shall, during a

session, be arrested, detained or summoned by warrant of inquiry as suspect in a criminal case unless permission of the House of which he is a member is obtained or he is arrested in flagrante delicto.

In the case where a member of the House of Representatives or Senator has been arrested in flagrante delicto, it shall be forthwith reported to the president of the House of which he or she is member and the president may order the release of the person arrested.

In the case where a criminal charge is brought against a member of the House of Representatives or Senator, whether the House is in session or not, the court shall not try the case during a session, unless permission of the House of which he is a member is obtained or it is a case concerning the organic law on election of members of the House of Representatives and Senators, the organic law on Election Commission or the organic law on political parties; provided that the trial of the Court shall not hinder such member from attending the sitting of the House.

Trial and adjudication of the Court conducted before it is invoked that the accused is a member of either House are valid.

If a member of the House of Representatives or Senator is detained during the inquiry or trial before the beginning of a session, when the session begins, the inquiry official or the Court, as the case may be, must order his or her release as soon as the president of the House of which he is a member has so requested.

The order of release under paragraph one shall be effective from the date of such order until the last day of the session.

Section 127: During the expiration of the term or dissolution of the House of Representatives, the Senate shall not hold its sitting except in the following cases:

(1) Sitting at which the Senate shall act as the National Assembly under Section 19, Section 21, Section 22, Section 23 and Section 223, and the votes taken shall be based on the number of Senators;

(2) Sitting at which the Senator shall elect, appoint, recommend or give approval to a person for holding any office in accordance with the provisions of this Constitution;

(3) Sitting at which the Senate shall consider and pass a resolution removing a person from office.

Section 128: A sitting of the House of Representatives and the Senate and a joint sitting of the National Assembly are public under the conditions stipulated in the rules of procedure of each House. Nevertheless a sitting in camera shall be held at the request of the Council of Ministers or members of not less than one-fourth of the total number of existing members of each House or of both Houses, as the case may be.

Section 129: The House of Representatives and Senate have the power to make the rules of procedure governing the election and performance of duties of the president, vice presidents, matters or activities which are within the powers and duties of each standing committee, performance and quorum of committees, sittings, submission and consideration of bills and organic law bills, submission of motions, consultation, debate, passing of resolution, recording and disclosure of the passing of resolution, interpellation, general debate, observation of the rules and orders, codes of ethics of members and



committee members, and other matters for execution of this Constitution.

Section 130: The House of Representatives and Senate have the power to select and appoint members of each House to constitute a standing committee and have the power to select and appoint persons, being or not being its members, to constitute an ad hoc committee in order to perform any act, inquire into or study any matter within the powers and duties of the House and report its findings to the House. The resolution appointing such ad hoc committee must specify the activity or the matter concerned clearly and without repetition or duplication.

The committee under paragraph one has the power to demand documents from any person or summon any person to give statements of fact or opinions on the act or the matter under its inquiry or study.

In the case where the person under paragraph two is a government official, official or employee of state agency, state enterprise or local government organization, the chairperson of the committee shall notify the Minister who supervises and controls the agency to which such person is attached in order to instruct him to act as prescribed in paragraph two, except that, in the case of security or benefit of importance to the State, it shall be deemed as a ground for exemption to the compliance with paragraph two.

The privileges provided in Section 125 shall also extend to persons performing their duties under this section.

The number of members of a standing committee appointed solely from members of the House of Representatives shall be in proportion to or in close proportion to the number of members of the House of Representatives of each political party or group of political parties in the House of Representatives.

In the absence of rules of procedure of the House of Representatives under Section 129, the president of the House of Representatives shall determine the proportion under paragraph five.

## **Part 5**

### **Joint Sitzings of National Assembly**

Section 131: The National Assembly shall hold a joint sitting in the following cases:

- (1) Approval of appointment of the Regent under Section 19;
- (2) Making of a solemn declaration by the Regent before the National Assembly under Section 21;
- (3) Acknowledgment of an amendment of the Palace Law on Succession, B.E. 2467 under Section 22;
- (4) Acknowledgment or approval of the succession to the Throne under Section 23;
- (5) Passing of a resolution for consideration by the National Assembly of other matters during a legislative ordinary session under Section 122;

- (6) Approval of prorogation of a session under Section 122;
- (7) Opening of the session of the National Assembly under Section 123;
- (8) Formulating the rules of procedure of the National Assembly under Section 132;
- (9) Approval of the further consideration of a bill or an organic law bill under Section 141;
- (10) Holding of consultations on a bill or an organic law bill under Section 147;
- (11) Approval of further consideration of a Constitution Amendment, a bill or an organic law bill under Section 149 paragraph two;
- (12) Announcement of policies under Section 172;
- (13) Holding of a general debate under Section 175;
- (14) Approval of the declaration of war under Section 185;
- (15) Approval of a treaty under Section 186;
- (16) Amendment of the Constitution under Section 282.

Section 132: At a joint sitting of the National Assembly, the rules of procedure of the National Assembly shall apply.

While the rules of procedure of the National Assembly have not yet been issued, the rules of procedure of the House of Representatives shall apply *mutatis mutandis*.

## **Part 6**

### **Enactment of Organic Laws**

Section 133: The following organic law bills shall be enacted only with the recommendation from and consent of the National Assembly:

- (1) The Organic Law on the Election of Members of the House of Representatives and Selection of Senator;
- (2) The Organic Law on Election;
- (3) The Organic Law on Political Parties;
- (4) The Organic Law on Referendum;
- (5) The Organic Law on the Procedure of the Constitutional Court;
- (6) The Organic Law on the Criminal Procedure for persons holding political positions;
- (7) The Organic Law on Ombudsmen;
- (8) The Organic Law on the Prevention and Suppression of Corrupt Practices

(9) The Organic Law on State Audit.

Section 134: An organic law bill shall be introduced only by:

(1) Not less than one-fifth of the total number of members of the House of Representatives or not less than one-fifth of the total number of members of the two Houses, or;

(2) The Constitutional Court, Supreme Court or independent bodies established by the provision of this Constitution which are in charge of the enforcement of the organic law bills.

Section 135: The deliberation of an organic law bill shall be made in three readings as follows:

(1) Voting, to be decided by a majority of votes in each House, to accept in principle in the first reading, and deliberating section by section in the second reading.

(2) In the third reading, an organic law bill shall be approved for enactment by one-half of the total number of members of the two Houses.

The provisions of Chapter 6, Part 7, shall be applied for the enactment of an organic law bill *mutatis mutandis*.

Section 136: With approval from the National Assembly and prior to the Royal endorsement, the Constitutional Court shall examine the content of an organic law within 30 days after receiving the bill.

If the Constitutional Court considers the content of the organic law bill to contradict or to be inconsistent with the provisions of the Constitution, such an organic law bill shall lapse.

## **Part 7**

### **Enactment of Law**

Section 137: The enactment of law shall be made only by recommendation from and with the consent of the National Assembly.

Section 138: Subject to the provisions of section 143, an organic law bill shall be introduced only by:

(1) Council of Ministers;

(2) Not less than 20 members of the House of Representatives;

(3) Courts or independent bodies as prescribed in the Constitution in connection with the organic law bills on the formation of bodies or the bills to be enforced by such bodies; or

(4) Not less than 20,000 eligible voters who give their signatures to petition for the enactment of a law under Section 159.

In the case where the bills introduced under (2) (3) or (4) are money bills, prior

recommendation from the prime minister is required for their submission to the House of Representatives.

The proposed organic law bills under paragraph 1 shall include the analysis and summarized content of such bills.

The bills submitted to the National Assembly shall be revealed to the general public with convenient access to the information on their content.

Section 139: A money bill means a bill with provisions dealing with any of the following matters:

(1) the imposition, repeal, reduction, alteration, modification, remission, or regulation of taxes or duties;

(2) the allocation, receipt, custody, payment of state funds, or transfer of expenditure estimates of the state;

(3) the raising of loans, or guarantee or redemption of loans or activities which have binding on state property;

(4) currency.

In case of doubt as to whether a bill or an organic law bill is a money bill requires the endorsement of the prime minister or not, it shall be the power of a joint sitting of the president of the House of Representatives and presidents of all its standing committees to make a decision thereon.

The president of the House of Representatives shall hold a joint sitting to consider the case under paragraph 4 within 15 days from the date when such a case occurs.

The resolution of the joint sitting under paragraph 4 shall be decided by a majority of votes. In case of an equality of votes, the president of the House of Representatives shall have an additional vote as a casting vote.

Section 140: In the case where a non-money bill proposed by members of the House of Representatives is revised and amended during the reading to be accepted in principle, and the president of the House of Representatives is of opinion that the revision and amendment of such bill have caused it to become a money [bill], the president of the House of Representatives shall suspend the reading and within 15 days after the occurrence of the case refer the bill to a joint sitting of the president of the House of Representatives and chairpersons of the House ad hoc committees for further deliberation.

In the case where the joint sitting under paragraph 1 reaffirms that the bill is a money bill, the president of the House of Representatives shall submit the bill to the prime minister for his endorsement. If the prime minister refuses to endorse it, the House of Representatives shall amend the bill to make it a money bill.

Section 141: When a bill which has been specified by the Council of Ministers, in its policies stated to the National Assembly under Section 172, as necessary for the administration of state affairs or when any organic law bill is not approved by a resolution of the House of Representatives and the votes disapproving it are less than one-half of the total number of the existing members of the House, the Council of Ministers may request the National Assembly to hold a joint sitting to pass a resolution

on another occasion. If it is approved, the National Assembly shall appoint persons, being or not being its members, in such an equal number as proposed by the Council of Ministers, to constitute a joint committee of the National Assembly for considering such a bill or organic law bill, and the joint committee of the National Assembly shall prepare a report thereon and submit the bill or organic law bill which it has already considered to the National Assembly. If such a bill or organic law bill is approved by the National Assembly, further proceedings under Section 146 shall be taken. If it is not approved, such a bill or organic law bill shall lapse.

Section 142: Subject to Section 164, when the House of Representatives has considered a bill or an organic law bill submitted under Section 138 and resolved to approve it, the House of Representatives shall submit such a bill or organic law bill to the Senate. The Senate must finish the consideration of such a bill or organic law bill within 60 days; but if it is a money bill, the consideration thereof must be finished within 30 days; provided that the Senate may, as a special case, resolve to extend the period for not more than 30 days. The said period shall mean the period during a session and shall be counted from the day on which such a bill or organic law bill reaches the Senate.

The period referred to in paragraph 1 shall not include the period during which the bill or organic law bill is under the consideration of the Constitutional Court under Section 145.

If the Senate has not finished the consideration of the bill or the organic law bill within the period referred to in paragraph 1, it shall be deemed that the Senate has approved it.

In the case where the House of Representatives submits a money bill to the Senate, the president of the House of Representatives shall also notify the Senate that the bill or the organic law bill so submitted is a money bill. The notification of the president of the House of Representatives shall be deemed final.

In the case where the president of the House of Representatives does not notify the Senate that the bill or the organic law bill is a money bill, such a bill shall not be deemed a money bill.

Section 143: Subject to Section 164, after the Senate has finished the consideration of a bill or an organic law bill,

(1) if it agrees with the House of Representatives, further proceedings under Section 146 shall be taken;

(2) if it disagrees with the House of Representatives, such a bill or organic law bill shall be withheld and returned to the House of Representatives;

(3) if there is an amendment, the amended bill or the amended organic law bill shall be returned to the House of Representatives. If the House of Representatives approves such an amendment, further proceedings under Section 146 shall be taken. In other cases, each House shall appoint persons, being or not being its members, in such an equal number as may be fixed by the House of Representatives, to constitute a joint committee for considering the bill or the organic law bill, and the joint committee shall prepare a report thereon and submit the bill or the organic law bill which it has already considered to both Houses. If both Houses approve the bill or the organic law bill already considered

by the joint committee, further proceedings under Section 146 shall be taken. If either House disapproves it, the bill or the organic law bill shall be withheld.

The joint committee has the power to demand documents from any person or summon any person to give statements of fact or opinions in respect of the consideration of the bill or the organic law bill and the privileges provided in Section 125 shall also be extended to the person performing his duties under this section.

At a meeting of the joint committee, the presence of the members of the joint committee appointed by both Houses of not less than one-half of the total number of its members is required to constitute a quorum and the provisions of Section 132 shall apply *mutatis mutandis*.

If the Senate does not return the bill back to the House of Representatives within the period specified under Section 142, it shall be deemed that the Senate has approved it.

Section 144: A bill or an organic law bill withheld under Section 143 may be reconsidered by the House of Representatives only after the lapse of 180 days as from the date the bill or the organic law bill is returned to the House of Representatives by the Senate in case it is withheld under Section 143 (2) and as from the date either House disapproves it in case it is withheld under Section 143 (3). In such cases, if the House of Representatives resolves to reaffirm the original bill or the bill considered by the joint committee by votes of more than one-half of the total number of the existing members of the House of Representatives, such a bill or organic law bill shall be deemed to have been approved by the National Assembly and further proceedings under Section 146 shall be taken.

If the bill or the organic law bill withheld is a money bill, the House of Representatives may forthwith proceed to reconsider it. In such a case, if the House of Representatives resolves to reaffirm the original bill or the bill considered by the joint committee by the votes of more than one-half of the total number of the existing members of the House of Representatives, such a bill or organic law bill shall be deemed to have been approved by the National Assembly and further proceedings under Section 146 shall be taken.

Section 145: While a bill or an organic law bill is being withheld under Section 175, the Council of Ministers or members of the House of Representatives may not introduce a bill or an organic law bill having the same or similar principle as that of the bill or the organic law bill so withheld.

In the case where the House of Representatives or the Senate is of the opinion that the bill or the organic law bill so introduced or referred to for consideration has the same or similar principle as that of the bill or the organic law bill being withheld, the president of the House of Representatives or the president of the Senate shall refer the said bill or organic law bill to the Constitutional Court for a decision. If the Constitutional Court decides that it is a bill or an organic law bill having the same or similar principle as that of the bill or the organic law bill so withheld, such bill or organic law bill shall lapse.

Section 146: A bill or an organic law bill approved by the National Assembly shall be sent to the prime minister for submission within 20 days after having received it from the National Assembly for royal endorsement. Such a bill or organic law bill becomes law

after it is published in the Government Gazette.

Section 147: If the king refuses to give his assent to a bill or an organic law bill and either returns it to the National Assembly or does not return it within 90 days, the National Assembly must re-deliberate such a bill. If the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of existing members of both Houses, the prime minister shall present such a bill to the king for his signature once again. If the king does not sign and returns the bill within 30 days, the prime minister shall cause the bill to be promulgated as an Act in the Government Gazette as if the king had signed it.

Section 148: In considering a bill the substance of which is decided by the president of the House of Representatives to be concerned with children, women, the elderly, the disabled or handicapped, if the House of Representatives does not consider it by its full committee, the House of Representatives shall appoint an ad hoc committee consisting of representatives, from private organizations concerned with the respective types of persons, of not less than one-third of the total number of members of the committee.

Section 149: In the case where the term of the House of Representatives expires or the House of Representatives is dissolved, the draft Constitution Amendment, or all bills or organic law bills to which the king has refused his assent or which have not been returned by the king within 90 days, shall lapse.

In the case where the term of the House of Representatives expires or where the House of Representatives is dissolved, the National Assembly, the House of Representatives or the Senate, as the case may be, may, after a general election of members of the House of Representatives, continue the consideration of the draft Constitution Amendment, the bill or the organic law bill which has not yet been approved by the National Assembly if the Council of Ministers which is newly appointed after the general election so requests within 60 days as from the first sitting day of the National Assembly after the general election and the National Assembly approves it. If the Council of Ministers does not so request within such a period of time, such a draft Constitution Amendment, bill or organic law bill shall lapse.

The further consideration of the draft Constitution Amendment, the bill or the organic law bill under paragraph 2 shall be in accordance with the rules of procedure of the National Assembly.

## **Part 8**

### **Control of Laws Which Are Contrary To or Inconsistent With Constitution**

Section 150: After any bill or organic law bill has been approved by the National Assembly under Section 93 or has been reaffirmed by the National Assembly under Section 146, or has been reaffirmed the National Assembly under Section 147, before the prime minister presents it to the king for signature:

(1) if members of the House of Representatives, senators or members of both Houses of not less than one-tenth of the total number of the existing members of both Houses are of the opinion that provisions of the said bill are contrary to or inconsistent with this

Constitution or such bill is enacted contrary to the provisions of this Constitution, they shall submit their opinion to the president of the House of Representatives, the president of the Senate or the president of the National Assembly, as the case may be, and the president of the House receiving such opinion shall then refer it to the Constitutional Court for a decision and, without delay, inform the prime minister thereof;

(2) if the prime minister is of the opinion that the provisions of the said bill or organic law bill are contrary to or inconsistent with this Constitution or it is enacted contrary to the provisions of this Constitution, the prime minister shall refer such opinion to the Constitutional Court for a decision and, without delay, inform the president of the House of Representatives and the president of the Senate thereof.

During the consideration of the Constitutional Court, the prime minister shall suspend the proceedings in respect of the promulgation of the bill or organic law bill until the Constitutional Court gives a decision thereon.

If the Constitutional Court decides that the provisions of such bill or organic law bill are contrary to or inconsistent with this Constitution or it is enacted contrary to the provisions of this Constitution and that such provisions of the bill or organic law bill form the essential element thereof, such a bill or organic law bill shall lapse.

If the Constitutional Court decides that the provisions of such bill or organic law bill are contrary to or inconsistent with this Constitution otherwise than in the case specified in paragraph three, such conflicting or inconsistent provisions shall lapse and the prime minister shall proceed further in accordance with Section 146 or

Section 147, as the case may be.

Section 151: The provisions of Section 262 (2) shall apply mutatis mutandis to the draft rules of procedure of the House of Representatives, draft rules of procedure of the Senate and draft rules of procedure of the National Assembly which have already been approved by the House of Representatives, the Senate or the National Assembly, as the case may be, but remain unpublished in the Government Gazette.

## **Part 9**

### **Control of Administration of State Affairs**

Section 152: Every member of the House of Representatives or senator has the right to interpellate a minister on any matter within the scope of his or her authority, but the minister has the right to refuse to answer it if the Council of Ministers is of the opinion that the matter should not yet be disclosed on the grounds of safety or vital interests of the state.

Section 153: In the administration of the State affairs on any matter which involves an important problem of public concern, affects national or public interest, or requires urgency, a member of the House of Representatives may notify the president of the House of Representatives in writing prior to the commencement of the sitting of the day, that they will interpellate the prime minister or the minister responsible for the administration of state affairs on that matter without specifying the question, and the president of the House of Representatives shall place such matter on the agenda of the meeting of that day.



The interpellation and the answer to the interpellation under paragraph 1 may be made once a week, and a verbal interpellation by a member of the House of Representatives on a matter involving the administration of the State affairs may be made not exceeding three times on each matter in accordance with the rules of procedure of the House of Representatives.

Section 154: Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence on the prime minister. Such motion must nominate a suitable next prime minister who is also a person under Section 167 paragraph 2 and, when the motion has been submitted, the dissolution of the House of Representatives shall not be permitted, except that the motion is withdrawn or the resolution is passed without being supported by the vote in accordance with paragraph 3.

In the submission of the motion for a general debate under paragraph 1, if it is concerned with the behavior of the prime minister, which involves circumstances of unusual wealth, exhibits a sign of malfeasance in office or intentionally violates the provisions of the Constitution or law, it shall not be submitted without the petition under Section 262 having been presented. Upon the submission of the petition under Section 262, it may then proceed with without waiting for the outcome of the proceedings under Section 168.

If the general debate is concluded with a resolution not to pass over the agenda of the general debate, the House of Representatives shall pass a vote of confidence or no-confidence. Voting in such a case shall not take place on the date of the conclusion of the debate. The vote of no-confidence must be passed by more than one-half of the total number of the existing members of the House of Representatives.

In the case where a vote of no-confidence is passed by not more than one-half of the total number of the existing members of the House of Representatives, the members of the House of Representatives who submit the motion for the general debate shall no longer have the right to submit another motion for a general debate for the purpose of passing a vote of no-confidence on the prime ministers throughout the session.

In the case where a vote of no-confidence is passed by more than one-half of the total number of the existing members of the House of Representatives, the president of the House of Representatives shall submit the name of the person nominated under paragraph 1 to the king for further appointment and Section 168 shall not apply.

Section 155: Members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence on an individual minister, and the provisions of Section 154 paragraph 2, paragraph 3 and paragraph 4 shall apply *mutatis mutandis*.

Section 156: In the case where the number of members of the House of Representatives are not members of political parties to which ministers belong is insufficient to submit a motion for the purpose of passing a vote of no-confidence under Section 154 or Section 155, the said members of the House of Representatives shall have

the right to submit a motion for the purpose of passing a vote of no-confidence on the prime minister or an individual minister under Section 154 or Section 155 after the Council of Ministers has been in office for more than two years.

Section 157: Senators of not less than three-fifths of the total number of the existing members of the Senate have the right to submit a motion for a general debate in the Senate for the purpose of requesting the Council of Ministers to give statements of fact or explain important problems in connection with the administration of the State affairs without a resolution to be passed.

The motion for the general debate under this section may be submitted only once in each session.

Section 158: In a sitting of the House of Representatives or the Senate during which an interpellation is raised concerning the performance of duties of ministers or in the case of a general debate of no-confidence on the prime minister or individual ministers is held, the prime minister or minister under the censure debate shall have the duty to answer such an interpellation in person, except they are prevented from attending such sitting by necessities, for which they must notify the president of the House of Representatives and president of the Senate in advance of or on the day of such sitting.

Members of the House of Representatives are free from resolutions adopted by political parties in raising an interpellation, engaging in a debate, and voting in a no-confidence debate.

Section 158: In a sitting of the House of Representatives or the Senate during which an interpellation is raised concerning the carrying out of duties by ministers or in the case of a general debate of no-confidence in the prime minister or individual ministers is held, the prime minister or minister under the censure debate shall have the duty to answer such an interpellation in person, except if they are unavoidably prevented from attending such a sitting, for which they must notify the President of the House of Representatives and the president of the Senate in advance or on the day of such sitting.

Members of the House of Representatives are free from resolutions adopted by political parties in raising an interpellation, engaging in a debate, and voting in a no-confidence debate.

## **Chapter VII**

### **People's Direct Political Participation**

Section 159: Persons having the right to vote, numbering not less than 20,000 in total, shall have the right to submit a petition to the president of the National Assembly to consider such law as prescribed in Chapter 3 and Chapter 5 of this Constitution.

A bill must be attached to the petition referred to in paragraph one.

The rules and procedure for the petition and the examination thereof shall be in accordance with the provisions of the law.

Section 160: Persons having the right to vote, numbering not less than 20,000 in total, shall have the right to lodge with the president of the Senate a complaint in order to request the Senate to pass a resolution under section 265 removing persons under Section 261 from office.

The request under paragraph one shall clearly itemize circumstances in which such persons have allegedly committed the act.

The rules and procedure for the petition and the examination thereof shall be in accordance with the provisions of the Organic Law on the Prevention and Suppression of Corrupt Practices.

Section 161: People who have the electoral right have the right to vote in a referendum.

A referendum shall be held under the following conditions:

(1) In a case where the Council of Ministers holds that an issue may affect the national or public interests, the prime minister, with the approval of the Council of Ministers, may consult the president of the House of Representatives and the president of the Senate for the purpose of publishing a call for a referendum in the Government Gazette.

(2) A referendum is held in compliance with the provisions of law.

A referendum under (1) or (2) shall be for the purpose resolving issues by a majority vote or providing advice for the Council of Ministers, unless held under the provisions of a specific law.

A referendum shall be for the purpose of public consultation to determine whether an important issue, which is not an issue that is contrary to or inconsistent with this Constitution, will be approved or not. A referendum shall not be held on an issue specifically relating to any individual or group of persons.

The State shall provide adequate information for voters to make a decision and equal opportunities for them to express their opinions.

The criteria and methods for a referendum shall be in accordance with the provisions of the Organic Law on a Referendum, which must at least spell out the details of the methods, period, and number of voters required to resolve the issue.

## **Chapter VIII**

### **Currency, Finance, and Budget**

Section 162: The expenditure estimates of the State shall be made in the form of an Act. If the Annual Appropriations Act for the following fiscal year is not enacted in time, the law on annual appropriations for the preceding fiscal year shall apply for the intervening period.

Section 163: A draft annual appropriations bill shall contain the details of the estimated revenues, objectives and plans of actions and projects

Section 164. The House of Representatives must finish the consideration of an annual appropriations bill, a supplementary appropriations bill, and the transfer of an appropriations bill within one hundred and five days from the date the bill reaches the House of Representatives.

If the House of Representatives has not finished reviewing the bill within the period referred to in paragraph one, such a bill shall be deemed to have been approved by the House of Representatives and shall be submitted to the Senate.

In the review by the Senate, the Senate must approve or reject it without any amendment within twenty days from the date the bill reaches the Senate. Upon the lapse of such period, such bill shall be deemed to have been approved; in such case and in the case where the Senate approves it, further proceedings under section 146 shall be taken.

If the Senate rejects the bill, the provisions of Section 144 paragraph two shall apply *mutatis mutandis*.

In the review of the annual appropriations bill, the supplementary appropriations bill, and the transfer of the appropriations bill, a member of the House of Representatives shall not submit a motion adding any item or amount to the bill but may submit a motion reducing or abridging expenditures that are not expenditures according to any of the following obligations:

- (1) money for payment of the principal of a loan;
- (2) interest on a loan;
- (3) money payable in accordance with the law.

In the review by the House of Representatives or a committee, any proposal, submission of a motion, or commission of an act that results in the direct or indirect involvement of members of the House of Representatives, senators, or members of a committee in the use of the appropriations shall not be permitted.

In a case where members of the House of Representatives or senators numbering not less than one-tenth of the total number of existing members in each House, hold that a violation of the provisions of paragraph six has occurred, they shall refer it to the Constitutional Court for its decision, and the Constitutional Court shall decide on it within seven days from the date of receipt. In a case where the Constitutional Court decides that a violation of the provisions of paragraph six has occurred, such a proposal, submission of a motion, or commission of an act shall be ineffective.

The State shall allocate adequate budgets for the independent administration of the National Assembly, the Constitutional Court, the Courts of Justice, the Administrative Courts, the Election Commission, Ombudsmen, the National Counter Corruption Commission, the State Audit Commission, and the National Human Rights Commission.

The National Assembly, courts, and agencies under paragraph eight may submit a motion directly to the commission if in their opinion their budgets are insufficient.

Section 165: The payment of State funds shall be made only when it has been authorized by the law on appropriations, the law on budgetary procedure, the law on the transfer of appropriations, or the law on treasury balance, except that it may be prepaid in

a case of urgent necessity under the rules and procedures provided by the law. In such case, the expenditure estimates for reimbursement must be set aside in the Transfer of Appropriations Act, the Supplementary Appropriations Act, or the Annual Appropriations Act for the following fiscal year. The sources of revenues for use in the reimbursement for the prepaid expenditure shall be specified.

In the event that the country is at war or under a state of emergency, the Council of Ministers has the power to transfer or use the budgets allocated for other State agencies or State enterprises to finance activities not stipulated in the annual appropriations act and shall report its action to the National Assembly without delay.

Section 166: A State agency the revenue of which is not required to be sent to the state coffers, shall prepare its own balance sheet of income and expenditure and submit it to the Council of Ministers at the end of every fiscal year for further reporting to the House of Representatives and the Senate.

## **Chapter IX**

### **Council of Ministers**

Article 167: The King appoints the prime minister and not more than thirty-five other ministers to constitute the Council of Ministers, which is responsible for carrying out the administration of State affairs on the principle of joint responsibility.

The prime minister shall be a member of the House of Representatives, being elected under the provisions of section 168.

The president of the House of Representatives shall countersign the Royal Decree appointing the prime minister.

The prime minister shall not serve more than two consecutive terms or eight years, whichever period is longer.

Section 168: The House of Representatives shall complete its consideration and approval of a person suitable to be appointed as prime minister within thirty days from the day the National Assembly is convoked for the first sitting under Section 122.

The nomination of a person who is suitable to be appointed as prime minister under paragraph one shall be endorsed by members of the House of Representatives numbering not less than one-fifth of the total number of existing members in the House.

The resolution of the House of Representatives approving the appointment of a person as prime minister shall be passed by the votes of more than one-half of the total number of existing members of the House of Representatives.

The passing of the resolution in such a case shall be by open vote.

Section 169: In a case where the period of thirty days from the date the National Assembly is convoked for the first sitting of its members has elapsed, and no one has been approved for appointment as prime minister under section 168 paragraph three, the president of the House of Representatives shall, within fifteen days from the lapse of such

a period, submit a request to the King for the issuance of a Royal Command appointing the person who has received the highest number of votes as prime minister.

Section 170: A minister must be qualified and not debarred by any prohibitions as follows:

(1) being of Thai nationality by birth;

(2) being not less than thirty-five years of age;

(3) having graduated with not less than a Bachelor's degree or its equivalent;

(4) not being under any of the prohibitions under Section 96 (1), (2), (3), (4), (6), (7), (12), (13), or (14);

(5) having been discharged for a period of less than five years before the appointment after being sentenced by a judgment to imprisonment, except for an offence committed through negligence;

(6) not being a senator or having been a senator whose membership has terminated for not more than one year up to the date of the appointment as minister.

Section 171: Before taking office, a minister must make a solemn declaration before the King in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to the King and will faithfully perform my duties in the interests of the country and of the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 172: The Council of Ministers, which will assume the administration of the State affairs, must, within fifteen days from the date it takes office, present its policies under section 74 to the National Assembly, with no vote of confidence to be passed. After taking office, the Council of Ministers shall prepare an annual plan for the administration of State affairs in accordance with the provisions of Section 75.

Before the policies are presented to the National Assembly under paragraph one, if there is a matter of importance and urgent necessity, which, if not attended to, will affect the material benefits of the State, the Council of Ministers that has taken office may, for the time being, carry out whatever action is necessary.

Section 173: A minister has the right to attend and give statements of fact or opinion at a sitting of the House but has no right to vote. In the case where the House of Representatives or the Senate has passed a resolution requiring ministers to attend a sitting for any matter, they shall attend the sitting. The provisions of Section 125 shall apply *mutatis mutandis*.

Section 174: Ministers shall carry out the administration of the State affairs in accordance with the provisions of the Constitution, laws, and the policies stated under Section 211, and shall be responsible collectively to the House of Representatives for the performance of their duties, and shall also be responsible collectively to the National Assembly for the general policies of the Council of Ministers.

Section 175: In the case where there is an important problem in the administration of State affairs regarding which the Council of Ministers deems it advisable to seek the

opinion of members of the House of Representatives and senators, the Prime Minister may give a notice to the president of the National Assembly requesting that a general debate be held in a joint sitting of the National Assembly. In such a case, no resolution shall be passed by the National Assembly on the issue under debate.

Section 176: Ministers vacate office en masse upon:

- (1) the termination of the ministership of the prime minister under section 178216;
- (2) the expiration of the term or the dissolution of the House of Representatives;
- (3) the resignation of the Council of Ministers.

In the case where the ministership of the prime minister terminates under Section 178 (1), (2), (3), (4), (5), (7), or (8), the procedure under Section 168 and Section 169 shall apply *mutatis mutandis*.

Section 177: The outgoing Council of Ministers shall continue to perform duties until the appointment of a new Council Ministers is made. In the event of the termination of tenure under Section 176 (2), the Council of Ministers and ministers shall perform duties as necessary under the following conditions:

(1) shall not exercise its power to appoint, transfer, or dismiss a government official holding a permanent position or receiving a salary, or an official of a State agency or State enterprise, except with the approval of the Election Commission.

(2) shall not take any action requiring the spending of a reserve budget in the event of an emergency or other contingency except with the approval of the Election Commission.

(3) shall not have any project, or approve one, that may be binding on or give obligations to the next Council of Ministers.

(4) shall not exploit the State's resources or manpower in a way that impacts the results of the next election in contradiction to the rules and regulations of the Election Commission.

Section 178: The ministership of an individual minister terminates upon:

- (1) death;
- (2) resignation;
- (3) being sentenced to imprisonment even though the case has not been finalized, or in the case of the suspension of a jail term, except for an offence committed through negligence or a petty offence;
- (4) the passing of a vote of no-confidence by the House of Representatives under Section 154 or Section 155;
- (5) lacking qualifications or being under any prohibitions under Section 170;
- (6) the issuance of a Royal Command for his or her removal under Section 179;
- (7) being removed from office by a resolution of the Senate under Section 307.

The provisions of Section 89 and Section 90 shall apply to the termination of the ministership under (2), (3), (5), or (7).

Section 179: The King has the prerogative to remove a minister from office upon the advice of the prime minister.

Section 180: For the purpose of maintaining national or public safety, or national economic security, or averting public calamity, the King may issue an Emergency Decree, which shall have the force as an Act.

The issuance of an Emergency Decree under paragraph one shall be made only when the Council of Ministers holds that it is an emergency or urgent necessity and is unavoidable.

In the next succeeding sitting of the National Assembly, the Council of Ministers shall submit the Emergency Decree to the National Assembly for its consideration without delay. If it is out of session and there would be a delay in waiting for the opening of an ordinary session, the Council of Ministers must proceed to convoke an extraordinary session of the National Assembly in order to consider whether to approve or reject the Emergency Decree without delay. If the House of Representatives rejects it or approves it, but the Senate rejects it, and the House of Representatives reaffirms its approval by a number of votes totaling not more than one-half of the total number of existing members of the House, the Emergency Decree shall lapse, provided that it shall not affect any Act passed during the enforcement of such an Emergency Decree.

If the Emergency Decree under paragraph one has the effect of amending or repealing any provisions of any Act, and such an Emergency Decree has lapsed in accordance with paragraph three, the provisions of the Act in force before the amendment or repeal shall continue to be in force from the day the rejection of such an Emergency Decree is effective.

If the House of Representatives and the Senate approve the Emergency Decree, or if the Senate rejects it, but the House of Representatives reaffirms its approval by a number of votes totaling more than one-half of the total number of the existing members of the House, such an Emergency Decree shall continue to have the force as an Act.

The prime minister shall cause the approval or rejection of the Emergency Decree to be published in the Government Gazette. In the event of a rejection, it shall be effective from the day following the date of its publication in the Government Gazette.

The consideration of an Emergency Decree by the Senate and the House of Representatives in the event of a reaffirmation of the Emergency Decree must take place at the first opportunity when such Houses hold their sittings.

Section 181: Before the House of Representatives or the Senate approves an Emergency Decree under section 180 paragraph three, members of the House of Representatives or senators numbering not less than one-fifth of the total number of existing members of each House have the right to submit an opinion to the president of the House of which they are members stating that the Emergency Decree is not in accordance with section 181 paragraph one or paragraph two, and the president of the House who receives such an opinion shall then refer it to the Constitutional Court for its decision. After the Constitutional Court has given its decision thereon, it shall convey its decision to the president of the House that referred such an opinion.

When the president of the House of Representatives or the president of the Senate has



received the opinion from the members of the House of Representatives or senators under paragraph one, the consideration of such an Emergency Decree shall be deferred until the decision of the Constitutional Court under paragraph one has been notified.

Should the Constitutional Court decide that any Emergency Decree is not in accordance with section 180 paragraph one or paragraph two, such an Emergency Decree shall not have the force of law ab initio.

The Constitutional Court's decision that any Emergency Decree is not in accordance with section 180 paragraph one or paragraph two shall be valid only with a vote numbering not less than two-thirds of the total number of judges in the Constitutional Court.

Section 182: If, during a session, it is necessary to have a law on taxes, duties, or currency, which, in the interests of the State, requires an urgent and confidential consideration, the King may issue an Emergency Decree that shall have the force of an Act.

The Emergency Decree issued under paragraph one must be submitted to the House of Representatives within three days from the day following the date of its publication in the Government Gazette, and the provisions of section 218 shall apply *mutatis mutandis*.

Section 183: The King has the prerogative to issue a Royal Decree that is not contrary to the law.

Section 184: The King has the prerogative to declare and lift Martial Law in accordance with the conditions and manner of the Martial Law.

Where it is necessary to declare Martial Law in a certain locality as a matter of urgency, the military authority may do so under the Martial Law.

Section 185: The King has the prerogative to declare war with the approval of the National Assembly.

The approval of a resolution of the National Assembly must be passed by votes numbering not less than two-thirds of the total number of the existing members of both Houses.

During the expiration of the term or the dissolution of the House of Representatives, the Senate shall perform the function of the National Assembly in giving the approval under paragraph one, and the resolution shall be passed by votes numbering not less than two-thirds of the total number of existing senators.

Section 186: The King has the prerogative to conclude a peace treaty, an armistice, and other treaties with other countries or international organizations.

A treaty that provides for a change in the Thai territories or the jurisdiction of the State or requires the enactment of an Act for its implementation or has an adverse impact on the country's economic and social stability must be approved by the National Assembly.

Prior to the conclusion of a treaty with other countries or international organizations, the Council of Ministers shall publicize relevant information, make arrangement for a public hearing on the matter, and provide clarification of such a treaty to the National

Assembly.

After the signing of a treaty, the Council of Ministers shall provide access to the details of the treaty to the public. In a case where the implementation of such a treaty will affect the people, the Council of Ministers shall take actions to make corrections or help the affected individuals in a timely, suitable, and fair manner.

Section 187: The King has the prerogative to grant a pardon.

Section 188: The King has the prerogative to remove titles and recall decorations.

Section 189: The King appoints and removes officials in the military service and civil service who hold the positions of permanent secretary of state, director-general and their equivalents, except in the case where they vacate their office due to death.

Section 190: A government official holding a permanent position or receiving a salary and not being a political official shall not be a political official or hold other political positions.

Section 191: All laws, Royal Prescripts and Royal Commands relating to State affairs must be countersigned by a minister unless otherwise provided in this Constitution.

Section 192: Emoluments and other remuneration for privy councillors, the president and vice-president of the House of Representatives, the president and vice-president of the Senate, the leader of the Opposition in the House of Representatives, members of the House of Representatives, and senators shall be prescribed by Royal Decree.

Gratuities, pensions, or other remuneration for privy councillors, the president and vice-president of the House of Representatives, the president and vice-president of the Senate, the prime minister, ministers, the leader of the Opposition in the House of Representatives, members of the House of Representatives, and senators who vacate their office shall be prescribed by Royal Decree.

## **Chapter X**

### **Courts**

#### **Part 1**

Section 193: The trial and adjudication of cases are under the power of the Courts, which must proceed in accordance with the Constitution and the law and in the name of the King.

Judges are independent in the trial and adjudication of cases in accordance with the Constitution and the law.

The transfer of a judge, who is under disciplinary action or due to become a defendant in a criminal case, where justice in the trial and adjudication of cases might be affected or such transfer is impermissible for other reasons, without his or her prior consent shall not be permitted except in the case of termly transfer as provided by law or by promotion to a higher position.

Judges shall not be political officials or hold political positions.

Section 194: All Courts may be established only by Acts.

A new Court for the trial and adjudication of any particular case or a case involving any particular charge that replaces a Court existing under the law and having jurisdiction over such a case shall not be established.

A law having an effect of changing or amending the law on the organization of Courts or on the judicial procedures for the purpose of its application to a particular case shall not be enacted.

Section 195: In the case where questions concerning the powers and duties of the Court of Justice, the Administrative Court, the Military Court, and other courts have arisen, there shall be a committee consisting of the president of the Supreme Court, the president of the Supreme Administrative Court, the president of another court, and not more than four academics as prescribed by the law as members to arbitrate the case.

The arbitration under paragraph one shall be in accordance with the provisions of the law on the establishment of such courts.

Section 196: The King appoints and removes judges except in the case of removal from office due to death.

The appointment and removal from office of a judge of any Court other than the Constitutional Court, the Court of Justice, the Administrative Court, and the Military Court, as well as the adjudicative jurisdiction of and procedures for such Courts, shall be in accordance with the law on the establishment of such Courts.

Section 197: Before taking office, a judge shall make a solemn declaration before the King in the following words:

"I, (name of the declarer) do solemnly declare that I will be loyal to His Majesty the King and will faithfully perform my duties in the name of the King without any partiality in the interest of justice, of the people, and of the public order of the Kingdom. I will also uphold and observe the democratic regime of government with the King as Head of the State, the Constitution of the Kingdom of Thailand, and the law in every respect."

Section 198: The salaries, emoluments, and other benefits of judges shall be as provided by law, provided that the system of salary scales or emoluments applicable to civil servants shall not be applied.

The provisions of paragraph one shall apply to Election Commissioners, Ombudsmen, members of the National Counter Corruption Commission, and members of the State Audit Commission *mutatis mutandis*.

Section 199: No person may simultaneously become a member, whether an ex-officio member or a qualified member, of the Judicial Commission of the Courts of Justice, the Administrative Court, or any other Court as provided by law.

## **Part 2**

### **Constitutional Court**

Section 200: The Constitutional Court consists of the president and eight judges of the Constitutional Court to be appointed by the King on the advice of the Senate from the following persons:

(1) three judges of the Supreme Court of Justice holding a position not lower than judge of the Supreme Court of Justice and elected at a general meeting of the Supreme Court of Justice by secret ballot;

(2) two judges of the Supreme Administrative Court elected at a general meeting of the Supreme Administrative Court by secret ballot;

(3) two qualified persons in law elected under Section 202;

(4) two qualified persons in political science and social science who possess extensive knowledge in the administration of State affairs elected under Section 202.

The elected persons under paragraph one shall hold a meeting and elect one among themselves to be the president of the Constitutional Court and notify the result to the president of the Senate accordingly.

The president of the Senate shall countersign the Royal Command appointing the president and judges of the Constitutional Court.

Section 201: The qualified person under Section 200 (3) and (4) shall possess the qualifications and not be under any of the prohibitions as follows:

(1) being of Thai nationality by birth;

(2) being not less than forty-five years of age;

(3) having been, in the past, a judge advocate in the Supreme Military Court, an election commissioner, an ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission a minister, a member of the National Human Rights Commission, or a member of the State Audit Commission, or having served, in the past, in a position not lower than that of deputy prosecutor general, director-general or its equivalent, or holding a position not lower than that of professor or a practicing lawyer not less than 30 years before the date of nomination.

(4) not being under any of the prohibitions under Section 106 or Section 94 (1), (2), (4), (5), (6), (7), (13), or (14);

(5) not being a member of the House of Representatives, senator, political official, member of a local assembly, or local administrator;

(6) not being or having been, in the past, a member or holder of another position in a political party over a period of three years preceding the taking of office;

(7) not being an election commissioner, an ombudsman, a member of the National Human Rights Commission, a judge of an Administrative Court, a member of the National Counter Corruption Commission, or a member of the State Audit Commission.

Section 202: The selection and election of judges of the Constitutional Court under section 200 (3) and (4) shall proceed as follows:

(1) there shall be a Selective Committee for judges of the Constitutional Court consisting of the president of the Supreme Court of Justice, the president of the Supreme

Administrative Court, the president of the House of Representatives, the Opposition leader in the House of Representatives, and a president of an independent body established under the provisions of the Constitution to be elected from among the presidents of such organizations. The committee shall have the duties to select and prepare a list of names of ten qualified persons under section 200 (3) and (4) submit it to the president of the Senate with the consent of the nominated persons within thirty days from the date when there are grounds for the selection of persons to be in such an office. The resolution making such nomination must be passed by votes numbering not less than three-fourths of the total number of existing members of the committee. In the case where members of the committee are unable to do their duty, the committee will consist of the remaining members, whose must number not less than one-half of the total number.

(2) the president of the Senate shall convoke the Senate for a sitting for the purpose of passing a resolution by secret ballot electing the nominated persons on the list under (1) within 30 days of having received the name list of qualified persons. With the approval of the Senate, the president of the Senate shall submit the name list of the nominated persons to the King for Royal appointment. If the Senate rejects all or some of the nominees, the name list and the reasons for the rejections shall be forwarded to the committee to begin the selection process anew. If the committee resolves to support such a list with a unanimous vote, the president of the Senate shall submit the list to the King for further Royal appointment.

In the case where the qualified persons under (1) cannot be found within the given time for any reasons, the president of the Supreme Court of Justice shall convoke a general meeting to appoint three judges from the Supreme Court of Justice and two judges from the Supreme Administrative Court to be members of the Selective Committee.

Section 203: Neither the president nor a judge of the Constitutional Court shall:

- (1) be a government official holding a permanent position or receiving a salary;
- (2) be an official or employee of a State agency, State enterprise, or local government organization, or a director or adviser of a State enterprise or State agency;
- (3) hold any position in a partnership, a company, or an organization carrying out business with a view to sharing profits or incomes, or be an employee of any person;
- (4) engage in any independent profession.

In the case where the general meeting of the Supreme Court of Justice, the general meeting of the Supreme Administrative Court or the Senate, as the case may be, has elected the person in (1), (2), (3), or (4) with the consent of that person, the elected person can commence the performance of his or her duties only when he or she has resigned from the position in (1), (2), or (3) or has satisfied that his or her engagement in such an independent profession has ceased. This must be done within fifteen days from the date of the election. If such a person has not resigned or has not ceased to engage in the independent profession within the specified time, it shall be deemed that that person has never been elected to be a judge of the Constitutional Court, and the provisions of section 200 shall apply.

Section 204: The president and judges of the Constitutional Court shall hold office for

nine years from the date of their appointment by the King and shall hold office for only one term.

The outgoing president and judges of the Constitutional Court shall remain in office to perform their duties until the newly appointed president and judges of the Constitutional Court take office.

The president and judges of the Constitutional Court shall be judicial officials under the law.

Section 205: In addition to vacating office upon the expiration of their terms, the president and judges of the Constitutional Court vacate office upon:

- (1) death;
- (2) reaching seventy years of age;
- (3) resignation;
- (4) being disqualified or being under any of the prohibitions under section 201;
- (5) having committed an act in violation of section 203;
- (6) the Senate passing a resolution under section 265 for removal from office;
- (7) being sentenced to imprisonment, except for an offence committed through negligence, a defamatory offence, or a petty offence.

When a case under paragraph one occurs, the remaining judges shall continue to perform their duties subject to Section 211.

Section 206: In the case where the president and judges of the Constitutional Court vacate office en masse at the expiration of their term, the procedures under section 200 and section 202 shall be followed within thirty days from the date of the vacation of office.

In the case where the President and judges of the Constitutional Court vacate office otherwise than in the case under paragraph one, the following procedures shall be followed:

- (1) in the case of a judge of the Constitutional Court who was elected at the general meeting of the Supreme Court of Justice, Section 200 shall apply mutatis mutandis, provided that the election thereof shall be completed within thirty days from the date of the vacation of office;
- (2) in the case of a judge of the Constitutional Court who was elected at a general meeting of the Supreme Administrative Court, Section 200 shall apply within thirty days from the date of the vacation of office;
- (3) in the case of the judges of the Constitutional Court under Section 200 (3) or (4), Section 202 shall apply within 30 days from the date of the vacation of office.

In the case where all or some of the judges of the Constitutional Court vacate office outside the session of the National Assembly, section shall apply within 30 days of the opening of the National Assembly session.

In such a case, the nomination of suitable persons to be qualified judges of the

Constitutional Court under section 200 shall be presented to the president of the Senate by submitting the names of persons totaling double the number of outgoing judges, and the Senate shall pass a resolution for the election within thirty days from the date of the vacation office. In the case where some or all the judges of the Constitutional Court leave office outside of a session of the National Assembly, the proceedings under section 257 shall be taken within thirty days from the date of the opening of a session of the National Assembly.

In the case where the president of the Constitutional Court leaves office, the provisions of Section 200 paragraph three shall apply.

Section 207: In the application of the provisions of any law to any case, if the Court by itself holds that, or a party to the case raises an objection that, the provisions of such a law fall within the provisions of section 6 and there has not yet been a decision of the Constitutional Court on such provisions, the Court shall stay its trial and adjudication of the case and submit, in the course of its official service, its opinion to the Constitutional Court for its consideration and decision.

In the case where the Constitutional Court holds that the objection of a party under paragraph one is not essential for a decision, the Constitutional Court may refuse to accept the case for consideration.

The decision of the Constitutional Court shall apply to all cases but shall not affect the final judgments of the Courts.

Section 208: A person whose rights and liberties as guaranteed by the Constitution are violated has the right to petition the Constitutional Court for a ruling against a law that is contrary to or inconsistent with the provisions of the Constitution.

The exercise of the right under paragraph one is permitted only when there is no other course of action available and must be in accordance with the provisions of the organic law on the procedures of the Constitutional Court.

Section 209: In the performance of its duties, the Constitutional Court shall have the power to demand documents or relevant evidence from any person or summon any person to give statements of fact as well as request the Courts, inquiry officials, a State agency, State enterprise, or local government organization to carry out any act for the purpose of its deliberations.

The Constitutional Court shall have the power to appoint a person or a group of persons to carry out duties as entrusted.

Section 210: In the case where a dispute arises as to the powers and duties of organs under the Constitution, such organs or the president of the National Assembly shall submit the matter together with an opinion to the Constitutional Court for its decision.

Section 211: The quorum of judges of the Constitutional Court for hearing and giving a decision shall consist of not less than nine judges. The decision of the Constitutional Court shall be made by a majority of votes, unless otherwise provided in this Constitution.

Every judge of the Constitutional Court who constitutes a quorum shall give a decision on his own part and make an oral statement to the meeting before passing a resolution.

The decisions of the Constitutional Court and all judges thereof shall be published in the Government Gazette.

Any decision of the Constitutional Court must at least contain the background or allegation, a summary of the facts obtained from the hearings, the reasons for the decision on questions of fact and questions of law and the provisions of the Constitution and the law invoked and resorted to.

The decision of the Constitutional Court shall be deemed final and binding on the National Assembly, the Council of Ministers, the Courts, and other State organs.

The procedure of the Constitutional Court shall be prescribed by the organic law on the Constitutional Court.

Section 212: The Constitutional Court shall have its independent secretariat, with the secretary-general of the Office of the Constitutional Court as the superior responsible directly to the president of the Constitutional Court.

The appointment of the secretary-general of the Office of the Constitutional Court must be approved by judges of the Constitutional Court.

The Office of the Constitutional Court shall have autonomy in its personnel administration, its budget, and other activities as provided by law.

### **Part 3**

#### **Courts of Justice**

Section 213: The Courts of Justice have the power to try and adjudicate all cases except those specified by this Constitution or the law to be within the jurisdiction of other courts.

Section 214: There shall be three levels of Courts of Justice, viz. the Court of First Instance, the Court of Appeal, and the Supreme Court of Justice, except otherwise provided by this Constitution or other laws.

The Supreme Court of Justice has the power to try and adjudicate cases as prescribed by the Constitution and law and cases from the Courts of First Instance or the Court of Appeal in accordance with the provisions of the law, except in the case where the Supreme Court of Justice deems that there are no substantial legal grounds to warrant its consideration. The Supreme Court of Justice has the power to discharge such a case in accordance with the regulations adopted at a general meeting of the Supreme Court of Justice.

The Supreme Court of Justice shall have the powers to try and adjudicate cases pertaining to dispute and disfranchisement in the election of members of the House of Representatives. The Court of Appeal shall have the power to try and adjudicate cases pertaining to dispute and disfranchisement in the election of members of local councils and local administrators. The procedures for the trial and adjudication shall be in accordance with the regulations adopted at a general meeting of the Supreme Court of Justice.



There shall be in the Supreme Court of Justice a Criminal Division for Persons Holding Political Positions consisting of nine judges holding positions not lower than that of a judge of the Supreme Court of Justice in accordance with the provisions of this Constitution and the organic law on criminal procedures for persons holding political positions.

The competence of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions and the criminal procedures for such persons shall be as provided by this Constitution and the organic law on criminal procedures for persons holding political positions.

Section 215: The appointment and removal from office of a judge of a Court of Justice must be approved by the Judicial Commission of the Courts of Justice before it is tendered to the King.

The promotion, increase in salaries, and punishment of judges of the Courts of Justice must be approved by the Judicial Commission of the Courts of Justice. For this purpose, the Judicial Commission of the Courts of Justice shall appoint a sub-committee at each level of the courts for preparing and presenting its opinion on such matter for consideration.

Section 216. The Judicial Commission of the Courts of Justice consists of the following persons:

- (1) The president of the Supreme Court of Justice as chairperson;
- (2) qualified members at all levels of the courts comprise six persons from the Supreme Court of Justice, four from the Court of Appeal, and two from the Courts of First Instance, who are judges at each level of the courts and elected by judicial officials at all levels of the courts;
- (3) two qualified members who are not or have not been judicial officials and who are elected by the Senate.

The qualifications, prohibitions, and procedures with respect to the election of the qualified members shall be in accordance with the provisions of the law.

Section 217: The Courts of Justice shall have an independent secretariat, with the secretary-general of the Office of the Courts of Justice as the superior responsible directly to the president of the Supreme Court of Justice.

The appointment of the secretary-general of the Office of the Courts of Justice must be approved by the Judicial Commission of the Courts of Justice.

The Office of the Courts of Justice shall have autonomy in its personnel administration, budget, and other activities as provided by law.

## **Part 4**

### **Administrative Courts**

Section 218: Administrative Courts have the powers to try and adjudicate cases of dispute between a State agency, State enterprise, local government organization, or State

official under the superintendence or supervision of the government on the one hand and a private individual on the other hand, or between a State agency, State enterprise, local government organization, or State official under the superintendence or supervision of the government on the one part and another such agency, enterprise, organization, or official on the other hand, which is a dispute arising from an act or omission of an act that must be, according to the law, performed by such State agency, State enterprise, local government organization, or State official, or as a consequence of an act or omission of an act under the responsibility of such a State agency, State enterprise, local government organization, or State official in the performance of duties under the law, as provided by the law.

There shall be the Supreme Administrative Court and Administrative Courts of First Instance, and there may also be an Appellate Administrative Court.

Section 219: The appointment and removal from office of an administrative judge must be approved by the Judicial Commission of the Administrative Courts as provided by the law before they are tendered to the King.

Qualified persons in the field of law or the administration of the State affairs may be appointed as judges of the Supreme Administrative Court. Such appointments shall be made numbering not less than one-third of the total number of judges of the Supreme Administrative Court and must be approved by the Judicial Commission of the Administrative Courts as provided by the law and by the Senate before it is tendered to the King.

The promotion, increase of salaries, and punishment of administrative judges must be approved by the Judicial Commission of the Administrative Courts as provided by the law.

The number of judges in each court shall be decided by the Judicial Commission of the Administrative Courts.

Section 220: The appointment of an administrative judge as president of the Supreme Administrative Court shall, when already approved by the Judicial Commission of the Administrative Courts and the Senate, be tendered by the prime minister to the King for appointment.

Section 221: The Judicial Commission of the Administrative Courts consists of the following persons:

- (1) The president of the Supreme Administrative Court as chairperson;
- (2) nine qualified members who are administrative judges and elected by administrative judges from among themselves;
- (3) three qualified members, two of whom are elected by the Senate and the other by the Council of Ministers.

The qualifications, prohibitions, and procedures for the election of the qualified members shall be in accordance with the provisions of the law.

Section 222: The Administrative Courts shall have an independent secretariat, with the secretary-general of the Office of the Administrative Courts as the superior

responsible directly to the president of the Supreme Administrative Court.

The appointment of the secretary-general of the Office of the Administrative Courts must be approved by the Judicial Commission of the Administrative Courts as provided by the law.

The Office of the Administrative Courts shall have autonomy in its personnel administration, budget, and other activities as provided by the law.

## **Part 5**

### **Military Courts**

Section 223: Military Courts have the power to try and adjudicate military criminal cases and other cases as provided by the law.

The appointment and removal from office of military judges shall be as provided by the law.

## **Chapter XI**

### **Organizations Under Constitution**

#### **Part 1**

#### **Independent Organizations Under Constitution**

##### **1. Election Commission**

Section 224: The Election Commission consists of a chairperson and four other commissioners appointed by the King with the advice of the Senate, from persons of apparent political impartiality and integrity.

The president of the Senate shall countersign the Royal Command appointing the chairperson and commissioners under paragraph one.

Section 225: An Election Commissioner shall have the qualifications and not be under any prohibition as follows:

- (1) being not less than forty years of age;
- (2) having graduated with not less than a Bachelor's degree or its equivalent;
- (3) not being under any of the prohibitions under Section 201 (1), (4), (5), and (6);

(4) not being a judge of the Constitutional Court, an ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission, or a member of the National Human Rights Commission.

The provisions of Section 203 shall apply with the Election Commission *mutatis and mutandis*.

Section 226: The selection and election of the chairperson and election

commissioners shall proceed as follows:

(1) there shall be a selective Committee of five members consisting of the President of the Constitutional Court, the president of the Supreme Administrative Court, the president of the Supreme Administrative Court, and the president of the House of Representatives, to be in charge of selecting three persons who possess the qualifications under Section 225 for making nominations with the consent of the nominated persons to the president of the Senate. The resolution making such nominations must be passed by at least three-fourths of the existing number of the committee. In the case where the positions of members of the committee are vacant or some commissioners are unable to perform their duties, if the number of the remainder members of committee is not less than one-half of the total number of members of the committee, the Selective Committee shall comprise the existing members.

(2) the Supreme Court of Justice shall, at its general meeting, consider and select two persons who possess the qualifications under Section 225 to be election commissioners for making nominations to the president of the Senate with the consent of the nominated persons;

(3) the nominations under (1) and (2) shall be made within thirty days from the date when there are grounds for the selection of persons to be in such an office. In the case where the Selective Committee under (1) is unable to make a nomination, or unable to make all the nominations needed, within the prescribed time, the Supreme Court of Justice shall, at its general meeting, make nominations to obtain the complete number within fifteen days from the date of the expiration of the nomination time under (1);

(4) the president of the Senate shall convoke the Senate for passing, by secret ballot, a resolution electing the nominated persons under (1), (2) and (3).

(5) In the case where the Senate adopts a resolution rejecting the nominated persons under (1), (2), or (3), all or partly, the president of the Senate shall send the name list of the rejected nominated persons to the Selective Committee under paragraph one, or to the general meeting of the Supreme Court of Justice under (2) or (3), as the case may be. If the Selective Committee or the general meeting of the Supreme Court of Justice agrees with the resolution adopted by the Senate, the provisions of (1), (2), (3), or (4) shall apply, as the case may be. If the Selective Committee or the general meeting of the Supreme Court of Justice disagrees with the Senate's resolution and reaffirms the nominations with a unanimous vote numbering not less than two-thirds of the votes in the general meeting of the Supreme Court of Justice as the case may be, the name list of nominated persons shall be submitted to the president of the Senate for further action as prescribed in (6).

(6) the elected persons under (4) or (5) shall meet and elect from among themselves a chairperson of the Election Commission and then notify the president of the Senate of the result. The president of the Senate shall report to the King for further appointment.

Section 227: The election commissioner shall hold office for a term of seven years from the date of his or her appointment by the King and shall serve for only one term.

Election commissioners who are due to leave office upon the expiration of the term shall remain in office and continue performing their duties until the newly appointed election commissioners take office.

The provisions of Section 205 (1), (2), (3), (5), (6), (7) and the lack of qualifications and the prohibitions under section 225 shall apply to the vacation of office by election commissioners mutatis mutandis.

Section 228: Members of the House of Representatives, senators, or members of both Houses numbering not less than one-tenth of the total number of existing members of the two Houses have the right to lodge with the president of the National Assembly a complaint that any election commissioner is disqualified or is under any of the prohibitions under Section 225, and the president shall refer that complaint to the Constitutional Court within three days of having received the complaint for a decision as to whether that election commissioner is disqualified from office.

When the Constitutional Court has passed a decision, it shall notify the president of the National Assembly and the chairperson of the Election Commission of such a decision.

The provisions of section 90 shall also apply mutatis mutandis to the vacation of office by election commissioners.

Section 229: In the case where the election commissioners have left office in totum, actions under Section 138 shall be taken within forty-five days from the date of the vacation.

In the case where the election commissioners vacate office for any reason other than the expiration of their term, Section 226 shall apply to the selection and election of election commissioners to fill the vacancies within 45 days of the date of vacation, and the elected persons shall serve only for the remainder of the term of the replaced commissioners.

Section 230: The Election Commission shall control and hold, or cause to be held, an election of members of the House of Representatives, senators, members of a local assembly, and local administrators, including voting in a referendum, for the purpose of causing it to proceed in an honest, fair manner.

The chairperson of the Election Commission shall have the charge and control of the execution of the organic law on the election of members of the House of Representatives and the selection of senators, the organic law on political parties, the organic law on the voting in a referendum, and the law on the election of members of local assemblies or local administrators and shall be the registrar of the political parties.

Section 231: The Election Commission shall have the following powers and duties:

(1) to issue notifications determining all activities necessary for the execution of the laws referred to in Section 230 paragraph two; and to lay down rules and regulations governing electioneering activities and other activities of political parties, election candidates, and voters to ensure a clean and fair election and set the criteria for the State in its actions to provide an impartial election and equal opportunities for electioneering campaigners.

(2) to give orders instructing government officials, officials, or employees of a State agency, State enterprise, local government organization, or other State officials to perform all necessary acts under the laws referred to in Section 177 with consideration

given to the protection of the State's interest on the principles of honesty, impartiality, and equality;

(3) to lay down measures to control financial contributions to political parties, State subsidies, and the election expenditures of political parties and election candidates; and to openly inspect the financial records of political parties, and the paying or receiving of money that may affect the voting results.

(4) to instruct officials or employees of State agencies and State enterprises, or other State officials, to take actions necessary for the implementation of the provisions of Section 230 paragraph two.

(5) to conduct investigations and inquiries for fact-finding and decision-making on problems arising or disputes under the laws referred to in Section 230 paragraph two;

(6) to order a new election or new voting at a referendum to be held in any or all polling stations when there occurs convincing evidence that the election or the voting at a referendum in a particular polling station has not proceeded in an honest and fair manner;

(7) to announce the result of an election and the voting in a referendum;

(8) to perform other acts as provided by the law.

In the performance of its duties, the Election Commission has the power to summon any relevant documents or evidence from any person, or summon any person to give statements as well as to request the Courts, public prosecutors, inquiry officials, State agencies, State enterprises or local government organizations to take action for the purpose of performing duties, investigating, conducting inquiries, and making decisions.

The Election Commission has the power to appoint persons, a group of persons, or representatives of private organizations to perform such duties as entrusted.

Section 232: The Election Commission shall forthwith conduct an investigation and inquiry to find out the facts in any of the following cases;

(1) an objection by a voter; a candidate in an election; or a political party, a member of which stood for election in any of the constituencies, is raised that the election in that constituency was conducted erroneously or unlawfully;

(2) convincing evidence has appeared that any member of the House of Representatives, a senator, a member of a local assembly, or a local administrator, before being elected, committed a dishonest act that enabled him to be elected, or has dishonestly been elected as a result of an act committed by any person or political party in violation of the organic law on the election of members of the House of Representatives and senators, the organic law on political parties, or the law on the election of members of local assemblies and local administrators;

(3) convincing evidence has appeared that the voting in a referendum did not proceed lawfully, or an objection has been raised by a voter that the voting in a referendum at any polling station was conducted erroneously or unlawfully.

Upon completion of the actions under paragraph one, the Election Commission shall pass a decision forthwith.

Section 233: In the case where the Election Commission decides to order a new election or disfranchisement before the announcement on the results of the election of members of the House of Representatives, a person concerned has the right to petition the Supreme Court of Justice against the Election Commission's decision.

The decision of the Election Commission to order a new election or disfranchisement after the announcement of the results of the election of members of the House of Representatives shall be submitted to the Supreme Court of Justice for deliberation.

In the case of the election of a local assembly or administrators, the petitions under paragraph one and paragraph two shall be lodged with the Courts of Appeal.

Section 234: During the period in which a Royal Decree calling for an election of members of the House of Representatives or a notification calling for the voting in a referendum is effective, no election commissioner shall be arrested, detained, or summoned by a warrant for an investigation except in the case where the permission of the Election Commission is obtained or where the arrest is made in flagrante delicto.

In the case where an election commissioner has been arrested in flagrante delicto, or where an election commissioner is arrested or detained in other cases, it shall be forthwith reported to the chairperson of the Election Commission, and the chairperson may order the release of the person so arrested.

## **2. Ombudsmen**

Section 235: Section 196. The ombudsmen shall not be more than three in number and shall be appointed by the King with the advice of the Senate from persons recognized and respected by the public, with knowledge and experience in the administration of State affairs, enterprises, or activities of common interest for the public and with apparent integrity.

Appointed ombudsmen shall hold a meeting to elect among from themselves a president and shall disclose the result of the election to the president of the Senate.

The president of the Senate shall countersign the Royal Command appointing the ombudsmen.

The qualifications, prohibitions, selection, and election regarding the ombudsmen shall be in accordance with the organic law on ombudsmen.

The ombudsmen shall hold office for a term of six years from the date of their appointment by the King and shall serve for only one term.

Section 236: The selection of the Ombudsmen shall be made in accordance with the provisions of Section 202 and Section 203 mutatis mutandis. The selective committee shall consist of the president of the Constitutional Court, the president of the Supreme Court of Justice, the president of the Supreme Administrative Court, the president of the House of Representatives, and the Opposition leader in the House of Representatives.

Section 237. The ombudsmen have the powers and duties as follows:

(1) to consider and inquire into a complaint for fact-finding in the following cases:

(a) failure to perform in compliance with the law or performance beyond the powers and duties as provided by the law for a government official, an official, or an employee of a State agency, State enterprise, or local government organization;

(b) the performance of, or negligence in the performance of, the duties of a government official or an official or employee of a State agency, State enterprise, or local government organization, which unjustly causes injury to the complainant or the public, regardless of whether such an act is lawful or not;

(c) examination of negligence in the performance of duties or the unlawful performance of duties by organizations under the Constitution and judicial bodies;

(d) other cases as provided by the law;

(2) to take action in connection with the moral conduct of persons holding political positions and State officials in accordance with the provisions of Section 271.

(3) to prepare reports for and submit opinions and suggestions to the National Assembly. Such reports shall be published in the Government Gazette and made available to the general public.

Actions under (1) a (b) and (c) shall be taken by the ombudsmen after having received complaints from injured persons. The ombudsmen may decide to launch an investigation into any matter that is deemed to be detrimental to the general public or the public interest.

Section 238: The ombudsmen may refer matters to the Constitutional Court or the Administrative Courts for a decision in accordance with the procedure of the Constitutional Court without delay in cases where:

(1) questions over the constitutionality of the provisions of any law have arisen; in such cases the ombudsmen shall request without delay the Constitutional Court's judgment in accordance with the procedures of the Constitutional Court.

(2) questions over the constitutionality or legitimacy of regulations or orders or actions taken by persons under Section 237 (1) (a) have arisen; in such cases, the ombudsmen shall request without delay the Administrative Courts' judgment in accordance with the procedures of the Administrative Courts.

### 3. National Counter Corruption Commission

Section 239: The National Counter Corruption Commission consists of the president and eight qualified members appointed by the King with the advice of the Senate.

Members of the National Counter Corruption Commission shall be persons of apparent integrity, with qualifications and free of the prohibitions under section 201, having been, in the past, a minister, an election commissioner, an ombudsman, a member of the National Human Rights Commission, a member of the National Counter Corruption Commission, a member of the State Audit Commission, or having served, in the past, in a position not lower than that of a deputy director general or civilian officer at level 9, or a professor, representative of a private organization or a practicing lawyer of a lawyers association for a period of not less than 10 years with confirmation of his or her years of service from such an organization or association.



The selection and nomination of members of the National Counter Corruption Commission shall be made in accordance with the provisions of Section 200 paragraph three and paragraph four, Section 202 and Section 203 mutatis and mutandis. The provisions of Section 236 shall apply to the selection of members of the Selective Committee

The president of the Senate shall countersign the Royal Command appointing the president and members of the National Counter Corruption Commission.

Section 240: Members of the National Counter Corruption Commission shall hold office for a term of nine years as from the date of their appointment by the King and shall serve for only one term.

Members of the National Counter Corruption Commission who vacate office at the expiration of their term shall remain in office and continue to perform their duties until the newly appointed members take office.

Section 205 and Section 206 shall apply to the vacation, selection, and election of members of the National Counter Corruption Commission mutatis mutandis.

Section 241: Members of the House of Representatives numbering not less than one-fourth of the total number of existing members of the House have a right to lodge with the president of the Senate a complaint that any member of the National Counter Corruption Commission has acted unjustly, intentionally violated the Constitution or laws, or has been involved in anything that is seriously detrimental to the dignity of holding the office, in order to request the Senate to pass a resolution removing him from office.

A resolution of the Senate removing a member of the National Counter Corruption Commission from office under paragraph one shall be passed by votes numbering not less than three-fourths of the total number of existing members of the Senate.

Section 242: Members of the House of Representatives, senators, or members of both Houses numbering not less than one-fourth of the total number of existing members of both Houses have a right to lodge with the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions an allegation that any member of the National Counter Corruption Commission has become unusually wealthy or has committed an offence involving corruption or malfeasance while in office.

The request under paragraph one shall clearly itemize the circumstance in which such a person has allegedly committed the act under paragraph one and shall be submitted to the president of the Senate. When the president of the Senate has received the said request, the president shall refer it to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for trial and adjudication.

The alleged member of the National Counter Corruption Commission shall not perform his duties until the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has dismissed the said request.

Section 243: The National Counter Corruption Commission shall have the following powers and duties:

(1) to inquire into the facts, summarize the case, and prepare a verdict to be submitted to the Senate according to Section 263;

(2) to inquire into the facts, summarize the case, and prepare a verdict to be submitted to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions in accordance with Section 266;

(3) to investigate and decide whether a State official has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office in order to take further action in accordance with the organic law on counter corruption;

(4) to inspect the accuracy, actual existence, as well as change of assets and liabilities of persons holding positions under Section 250 and Section 255 as stated in the account and supporting documents submitted;

(5) to submit an inspection report and a report on the performance of duties together with remarks to the Council of Ministers, the House of Representatives, and the Senate annually and to publish that report for dissemination;

(6) to carry out other actions as provided by the law.

Section 209 shall apply to the performance of duties of the National Counter Corruption Commission *mutatis mutandis*.

Section 244: The National Counter Corruption Commission shall have an independent secretariat, with the secretary-general of the National Counter Corruption Commission as the superior directly responsible to the president of the National Counter Corruption Commission.

The appointment of the secretary-general of the National Counter Corruption Commission shall be approved by the National Counter Corruption Commission and the Senate.

The Office of the National Counter Corruption Commission shall have autonomy in its personnel administration, budget, and other activities as provided by the law.

#### **4. State Audit Commission**

Section 245: The State audit shall be carried out by the State Audit Commission and the auditor-general, who is independent and impartial.

The State Audit Commission consists of the chairperson and six other members appointed by the King from persons with expertise and experience in state auditing, accounting, internal auditing, finance, and other fields.

The State Audit Commission shall have an independent secretariat, with the auditor-general as the superior person directly responsible to the chairperson of the State Audit Commission, as provided by the organic law on the state audit.

The selection of members of the State Audit Commission shall be made in accordance with the provisions of Section 200 paragraph three and paragraph four, Section 202 and section 203 *mutatis and mutandis*. The selection of the Selective committee shall be made in accordance with the provisions of Section 236.

The president of the Senate shall countersign the Royal Command appointing the

chairperson and the members of the State Audit Commission and the auditor-general.

Members of the State Audit Commission shall hold office for a term of six years from the date of their appointment by the King and shall serve for only one term.

The State Audit Commission has the power and duty to set the standard of the state audit and give advice and recommendations for the correction of shortcomings in state audit undertakings; and it has the power to deliberate on cases concerning monetary, financial, and budgetary disciplines. Such judgments made by the State Audit Commission and the Office of the State Audit shall be in accordance with the organic law on the state audit.

The determination of the qualifications and procedures for the election of persons to be appointed as members of the State Audit Commission and the auditor-general shall be made in a manner that can secure persons of appropriate qualifications and integrity and that can provide for the guarantee of the independence of such persons in the performance of their duties.

## **Part 2**

### **Other Organizations Under Constitution**

#### **1. Prosecution Organization**

Section 246. A public prosecutor has independence when considering the prosecution of cases and shall perform his or her duties impartially in accordance with the provisions of the Constitution and law.

The appointment and removal of the prosecutor general requires a resolution adopted by the Public Prosecution Committee with the consent of the Senate. The president of the Senate countersigns the Royal Decree appointing the prosecutor general.

The Prosecution Organization has an independent administrative unit in charge of the management of manpower, budget, and other undertakings under the direct command of the prosecutor general in accordance with the provisions of the law.

A public prosecutor is prohibited from holding positions or engaging in activities prescribed for judges and arbitrators.

The provisions of section 168 paragraph eight and paragraph nine shall be applied *mutatis and mutandis*.

#### **2. National Human Rights Commission**

Section 247: The National Human Rights Commission consists of a president and six other members appointed by the King with the advice of the Senate from persons having apparent knowledge and experience in the protection of the rights and liberties of the people, having regard also to the participation of representatives from private organizations in the field of human rights.

The president of the Senate shall countersign the Royal Command appointing the president and the members of the National Human Rights Commission.

The qualifications, prohibitions, selection, election, removal, and determination of the remuneration regarding members of the National Human Rights Commission shall be as provided by the law.

The members of the National Human Rights Commission shall hold office for a term of six years from the date of their appointment by the King and shall serve for only one term.

The provisions of Section 200 paragraph three, Section 202, Section 203, and Section 205 (2) shall be applied mutatis and mutandis. The selection of the Selective Committee shall be made in accordance with the provisions of Section 236.

Section 248: The National Human Rights have the powers and duties as follows:

(1) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts to be acted upon. In the case where it appears that no action has been taken as proposed, the commission shall report to the National Assembly for further proceeding;

(2) to submit to the Constitutional Court any complaints received and an assessment of the provisions of the law that affect human rights and are inconsistent with the provisions of the Constitution;

(3) to propose to the Administrative Courts any complaints received and an assessment of any regulations, orders, or other actions that affect human rights and are inconsistent with the provisions of the Constitution;

4) to promote cooperation and coordination among government agencies, private organizations, and other organizations in the field of human rights;

(5) to prepare an annual report for the appraisal of situations in the sphere of human rights in the country and submit it to the National Assembly;

(6) other powers and duties as provided by the law.

In the performance of its duties, the National Human Rights Commission shall also have regard to the interests of the country and the public.

The National Human Rights Commission has the power to demand relevant documents or evidence from any person or summon any person to give statements of fact and has other powers for the purpose of performing its duties as provided by the law.

### **3. National Economic and Social Advisory Council**

Section 249: The National Economic and Social Advisory Council has the duty to provide advice and make suggestions to the Council of Ministers with regard to economic and social issues and laws concerning the national economic and social development plan and others that require, by the provisions of law, the council's assessment prior to their implementation.

The organization's composition, powers and duties, and functioning shall be in

accordance with the provisions of the law.

## **Chapter XII**

### **Inspection of the Exercise of State Power**

#### **Part 1**

##### **Examination of Accounts Showing Particulars of Assets and Liabilities**

Section 250: Section 291: Persons holding the following political positions who have not yet become sui juris to the National Counter Corruption Commission on each occasion of taking or leaving office shall submit an account showing particulars of the assets and liabilities of themselves, their spouses, and their children:

- (1) prime minister;
- (2) ministers;
- (3) members of the House of Representatives;
- (4) senators;
- (5) other political officials;
- (6) local administrators and members of a local assembly as provided by law.

The account under paragraph one shall be submitted together with the supporting documents evidencing the actual existence of such assets and liabilities as well as a copy of the personal income tax return for the previous fiscal year.

The declaration of assets and liabilities under paragraph one and paragraph two shall include the assets of persons holding political positions in the direct or indirect possession of other persons.

Section 251: The account showing the particulars of assets and liabilities under section 250 shall disclose the particulars of assets and liabilities actually existing on the date of the submission thereof and shall be submitted within such time, as follows:

- (1) in the case of the taking of office: within thirty days from the date of taking office;
- (2) in the case of the vacation of office: within thirty days from the date of the vacation;
- (3) in the case where the person under section 250, who has already submitted the account, dies while in office or before submitting the same after the vacation of office, an heir or an administrator of an estate of such person shall submit an account showing the particulars of the assets and liabilities existing on the date of such a person's death within ninety days of the date of the death.

In addition to the submission of the account under (2), the person holding the position of prime minister, minister, local administrator, member of a local assembly or a person holding a political position but having left office shall also re-submit an account showing particulars of assets and liabilities within thirty days of the expiration of one year after

the vacation of office.

Section 252: The account showing particulars of assets and liabilities of the prime minister, ministers, members of the House of Representatives, and senators must be disclosed to the general public not later than thirty days from the date of the expiration of the time limit for the submission of such an account. The accounts of persons holding other positions shall not be disclosed to any person unless the disclosure will be useful for the trial and adjudication of cases or for making a decision and is requested by courts or persons involved or the State Audit Commission.

The president of the National Counter Corruption Commission shall convene a meeting of the commission to inspect the actual existence of assets and liabilities without delay.

Section 253: In the case where the submission of the account is made by reason of the vacation of office or death of any person holding a political position, the National Counter Corruption Commission shall inspect the change of assets and liabilities of such a person and prepare a report on the inspection. Such a report shall be published in the Government Gazette.

In the case where it appears that the assets of the person under paragraph one have increased abnormally, the president of the National Counter Corruption Commission shall send all documents together with the inspection report to the prosecutor general to institute an action in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions so that the abnormally increased assets shall be vested with the State; the provisions of section 263 paragraph five shall apply *mutatis mutandis*.

Section 254: Any person holding a political position who intentionally fails to submit an account showing assets and liabilities and supporting documents as provided in this Constitution or intentionally submits the same with false statements or conceals the facts that should be revealed shall vacate office as from the date of the expiration of the time limit for the submission under Section 251 or as from the date such an act is discovered, as the case may be.

When the case under paragraph one occurs, the National Counter Corruption Commission shall refer the matter to the Supreme Court of Justice and the Criminal Division for Persons Holding Political Positions for further deliberation, and when the decision of the Constitutional Court is given, the provisions of Section 90 shall apply *mutatis mutandis*, and such a person shall be prohibited from holding any political position for five years from the date of the vacation of office.

Section 255: The provisions of Section 250, Section 251, Section 254 paragraph one shall apply *mutatis mutandis* to other State officials as provided by the organic law on counter corruption.

The National Counter Corruption Commission may disclose an account showing assets and liabilities to parties concerned or for the benefit of the trial and adjudication of cases in accordance with the provisions of the organic law on counter corruption practices.

## **Part 2**

## **Acts of Conflict of Interest**

Section 256: Members of the House of Representatives and senators shall not:

(1) hold any position or have any duty in any State agency or State enterprise, or hold the position of a member of a local assembly, local administrator or local government official;

(2) receive any concession from the State, a State agency or State enterprise, or become a party to a contract involving an economic monopoly with the State, a State agency or State enterprise, or become partner or shareholder in a partnership or company receiving such a concession or becoming a party, both directly or indirectly, to a contract of that nature.

(3) receive any special money or benefit from any State agency or state enterprise apart from that given by the State Agency or State enterprise to other persons in the ordinary course of business.

The provisions of (2), (3), and (4) shall apply to spouses and children of members of the House of Representatives and senators and other persons--not their spouses and children--who act at their command or as their partners or nominees to carry out undertakings for them.

Section 257: A member of the House of Representatives shall not, through the status or position of a member of the House of Representatives, directly or indirectly, interfere or intervene, for their own benefit or the benefit of other persons or political parties, in the following matters:

(1) The regular performance of duties of permanent government employees, officials or employees of State Enterprises or enterprises in which the State or local assemblies are major stake holders.

(2) The recruitment, appointment, reshuffle, transfer, promotion, and elevation of the salary scale of a government official holding a permanent position or receiving a salary and not being a political official or an official or employee of a State agency, State enterprise, or local government organization, or cause such persons to be removed from office.

Section 258: The provisions of Section 256 shall apply to the prime minister and ministers, except those holding positions or carrying out undertakings according to the provisions of the law. The prime minister and ministers shall not hold any position in a partnership, a company, or an organization carrying out business for sharing profits or income, or be an employee of any person.

Section 259: The prime minister or a minister shall not take any action under Section 257 except in the performance of duties in the administration of State affairs according to the policy presented to the National Assembly or the provisions of the law.

Section 260: A minister shall not be a partner or shareholder of a partnership or a company or retain his position as a partner or shareholder of a partnership or a company up to the limit as provided by law. In the case where any minister intends to continue to receive benefits in such cases, such a minister shall inform the president of the National Counter Corruption Commission within thirty days of the date of the appointment and

shall transfer his shares in the partnership or company to a juristic person who manages assets for the benefit of other persons as provided by the law.

### **Part 3**

#### **Removal from Office**

Section 261: A person holding the position of prime minister, minister, member of the House of Representatives, senator, president of the Supreme Court of Justice, president of the Constitutional Court, president of the Supreme Administrative Court, or prosecutor general, who is in the position of being unusually wealthy and suspected of fraud, malfeasance in office, malfeasance in judicial office, or an intentional exercise of power contrary to the provisions of the Constitution or law, may be removed from office by the Senate.

The provisions of paragraph one shall also apply to the persons holding the following positions:

(1) Judge of the Constitutional Court, election commissioner, ombudsman, and member of the State Audit Commission;

(2) judge, public prosecutor, or high-ranking official in accordance with the organic law on counter corruption.

Section 262: Members of the House of Representatives numbering not less than one-fourth of the total number of the existing members of the House have the right to lodge with the president of the Senate a complaint in order to request the Senate to pass a resolution under Section 307 removing the persons under Section 303 from office. The said request shall clearly itemize circumstances in which such persons have allegedly committed the act in question.

Senators numbering not less than one-fourth of the total number of the existing members of the Senate have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 265 removing a senator from office.

The rules, procedures, and conditions for the lodging of the complaint by the voters under paragraph one shall be in accordance with the organic law on counter corruption.

Eligible voters numbering not less than 20,000 have the right to lodge a petition calling for the removal of persons under Section 261 in accordance with the provisions of section 160.

Section 263: Upon receipt of the request under Section 304, the president of the Senate shall refer the matter to the National Counter Corruption Commission for an investigation to be completed within 30 days after receipt of the request.

When the investigation is complete, the National Counter Corruption Commission shall prepare a report thereon for submission to the Senate. The said report shall clearly state whether, and to what extent, the accusation put in the request is a prima facie case and shall state the reasons for this.



In the case where the National Counter Corruption Commission holds that the accusation in the request is an important matter, the National Counter Corruption Commission may make a separate report specifically on the said accusation and refer it to the Senate in advance.

If the National Counter Corruption Commission passes a resolution that the accusation has a prima facie case, the holder of the position against whom the accusation has been made shall not, as from the date of such a resolution, perform his or her duties until the Senate has passed its resolution. The president of the National Counter Corruption Commission shall submit the report, existing documents, and the commission's verdict to the president of the Senate to proceed in accordance with Section 306 and to the prosecutor general for instituting prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. If the National Counter Corruption Commission holds that the accusation has no prima facie case, such an accusation shall lapse.

In the case where the prosecutor general holds that the report, documents, and verdict submitted by the National Counter Corruption Commission under paragraph four are not so complete as to institute prosecution, the prosecutor general shall notify the National Counter Corruption Commission for further proceedings, and, for this purpose, the incomplete items shall be specified on the same occasion. In such a case, the National Counter Corruption Commission and the prosecutor general shall appoint a working committee, consisting of their representatives in an equal number, to collect complete evidence and submit it to the prosecutor general for further prosecution. In the case where the working committee is unable to reach a decision as to the prosecution, the National Counter Corruption Commission shall have the power to prosecute by itself or appoint a lawyer to prosecute on its behalf.

Section 264: Upon receipt of the report under Section 263, the president of the Senate shall convoke a sitting of the Senate to consider the said matter without delay.

In the case where the National Counter Corruption Commission submits the report outside the session of the Senate, the president of the Senate shall inform the president of the National Assembly in order to tender a petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly. The president of the Senate shall countersign the Royal Command.

Section 265: A senator shall have autonomy in casting a vote, which must be by secret ballot. A resolution for the removal of any person from office shall be passed by votes numbering not less than three-fifths of the total number of the existing members of the Senate.

A person who is removed from office shall leave office or be released from government service from the date of the resolution of the Senate. Such a person shall be deprived of the right to hold any political position or to serve in government service for five years.

The resolution of the Senate under this section shall be final and no request for the removal of such a person from office shall be made on the same grounds, without prejudice, however, to the trial of the Supreme Court of Justice's Criminal Division for

Persons Holding Political Positions.

#### **Part 4**

##### **Criminal Proceedings Against Persons Holding Political Positions**

Section 266: In the case where the prime minister, a minister, member of the House of Representatives, senator, or other political official has been accused of becoming unusually wealthy or of the commission of malfeasance in office according to the Penal Code, a dishonest act in the performance of duties, or corruption according to other laws, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall have the competent jurisdiction to try and adjudicate the case.

The provisions of paragraph one shall also apply to the case where the said person or other person is a principal, an instigator, or a supporter.

Section 267: A person injured by the act under Section 266 shall have the right to lodge with the National Counter Corruption Commission the petition for action to be taken under Section 243 (2) in accordance with the organic law on counter corruption.

The provisions of Section 263 paragraph one, paragraph four, and paragraph five shall apply *mutatis mutandis*.

Section 268: In a trial, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall rely on the file of the National Counter Corruption Commission and may conduct an investigation in order to obtain additional facts or evidence as it thinks fit.

The provisions of Section 209 shall apply to the performance of the duties of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions *mutatis mutandis*.

The provisions on the immunity of members of the House of Representatives and senators under section 126 shall not apply to a trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

Section 269: An adjudication of a case shall be made by a majority of votes; provided that every judge constituting the quorum shall prepare his written opinion and make oral statements to the meeting prior to the passing of a resolution.

The orders and judgments of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall be disclosed to the public and considered as final, except in compliance with the provisions of paragraph three.

In the case where the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has acquired new witnesses and evidence that cause changes in the basic facts, it shall notify the Supreme Court of Justice in a general meeting within 30 days of the date of the issuance of judgment.

The submission of the notification to the Supreme Court of Justice shall be done in accordance with the procedure of the Supreme Court of Justice.

## **Chapter XIII**

### **Morality of Persons Holding Political Positions, Government Officials**

Section 270: The standard of morality for persons holding political positions, government officials, and State officials at all levels shall be in conformity with the established code of morality.

There shall be mechanisms and working systems to ensure the effective enforcement of the standard of morality in paragraph one, including penalties based on the severity of the case.

Violation of or failure to observe the standard of morality in paragraph one shall be regarded as a disciplinary infringement. The violation of or failure to observe the standard of morality by persons holding political positions shall be reported by the ombudsmen to the National Assembly, the Council of Ministers, or local assemblies, as the case may be. Serious offences shall be referred to the National Counter Corruption Commission for further action and used as grounds for removal from office as prescribed by Section 261.

The recruitment, selection, and appointment of persons to hold positions involving the use of the State power, including transfers, promotions and elevation up the salary scale, and punishment, shall be in accordance with the principle of the merit-based system, with consideration given to the ethical behavior of such persons.

Section 271: To facilitate the implementation of the provisions of this chapter, the ombudsmen shall have the powers and duties to give advice and make recommendations for the establishment of a code of morality in Section 270; promote the awareness of morality among persons holding political positions, government officials, and State authorities; and report violations of the code of morality to the superiors of the violators to secure the enforcement of the code.

In the case of a serious violation of or failure to observe the code of morality in which the actions taken by responsible authorities prove unfair, the ombudsmen shall conduct an investigation and disclose the results of the fact-finding to the public.

## **Chapter XIV**

### **Local Government**

Section 272: Subject to Section 1, the State shall give autonomy to the locality in accordance with the principle of self-government according to the will of the people in the locality and encourage local governments to serve as the main working unit in providing public facilities and participating in resolving problems in localities.

Any locality which meets the conditions of self-government shall have the right to be formed as a local government organization as provided by the law.

Section 273: The supervision of a local government organization must be exercised in

so far as it is necessary as provided by the law but must be for protecting local interests or the interests of the country as a whole, provided, however, that it shall not substantially affect the principle of self-government according to the will of the people in the locality otherwise than as provided by the law.

Section 274: All local government organizations shall enjoy autonomy in laying down policies for their governance, administration, personnel administration, management of public services, and finance and shall have powers and duties, particularly on their own part, in conformity with the development of provinces and the country.

The delineation of powers and duties between the State and a local government organization and among local government organizations themselves shall be in accordance with the provisions of the law, having particular regard to the promotion of decentralization.

Local government organizations shall receive support and assistance to enable them to administer local affairs independently, effectively respond to the needs of people in the locality, develop local finance to facility the provision of full public services, and make joint efforts to further develop and establish bodies in charge of providing public services in a beneficial and thorough manner.

There shall be laws governing the steps and procedures for decentralization to delineate the powers and duties in managing public services and collecting taxes and duties between the State and local governments and among local governments, including the examination and evaluation of the different level of competency of each local government organization, which shall be carried out under the provisions of the law by a committee consisting of representatives, in an equal number of State agencies concerned and local government organizations.

Section 275: A local government organization shall have a local assembly and local administrative committee or local administrators.

Members of a local assembly shall be elected.

A local administrative committee or local administrators shall be directly elected by the people or shall be from the approval of a local assembly.

An election of members of a local assembly and local administrative committee or local administrators who must be directly elected by the people shall be made by direct suffrage and secret ballot.

Members of a local assembly or local administrative committee or local administrators shall hold office for the period of four years.

A member of a local administrative committee or local administrator shall not be a government official holding a permanent position or receiving a salary or an official or employee of a State agency, State enterprise, or local government organization.

The qualifications of a person having the right to vote and a person having the right to apply for candidacy in an election of members of a local assembly, members of a local administrative committee, and local administrators and the rules and procedures thereof shall be in accordance with the provisions of the law.

In the case where there is a dissolution of a local assembly or where members of a local assembly have vacated office en masse under Section 276 and a local administrative committee or local administrators must be temporarily appointed, the provisions of paragraph two, paragraph three and paragraph six shall not apply, as provided by the law.

In the case where a special form of a local government organization is established, other management systems different from this chapter may be applied.

Section 276: If persons having the right to vote in an election in any local government organization consider that any member of the local assembly or any administrator of that local government organization is not suitable for remaining in office, shall have the right to vote for the removal of such persons from office. The gathering of signatures and the voting mode shall be made according to the provisions of the law.

Section 277: Persons having the right to vote in any local government organization shall have the right to lodge with the president of the local assembly a request for the issuance by the local assembly of local ordinances.

The rules and procedure for the lodging of a request and the examination thereof shall be as provided by the law.

Section 278: People living in the locality have the right to participate in the administration of local government organizations. Such local government organizations shall make arrangement for public participation.

Public hearings shall be held on projects of local government organizations that impact the livelihood of the people in the locality prior to their implementation. In this regard, the people shall have the right to vote in the process of the decision-making as provided by law.

Local government organizations shall prepare annual reports on their budgets and expenditure and performance of duties for public disclosure. People shall have the right to examine and supervise the operations of local government organizations.

The preparation of the budget of a local government organization in paragraph three shall be in accordance with the provisions of Section 168 mutatis and mutandis.

Section 279: The appointment and removal of officials and employees of a local government organization shall be in accordance with the need of and suitability for each locality, and prior approval shall be obtained from the Local Officials Committee, as provided by the law.

The Local Officials Committee under paragraph one shall consist of an equal number of representatives of relevant Government agencies, representatives of local government organizations, and qualified persons possessing the qualifications as provided by the law.

There shall be a local organization for the protection of the merit-based system to protect morality and ethical conduct among the local workforce, as prescribed by the law.

The transfer, promotion, increase of salaries, and punishment of the officials and employees of a local government organization shall be in accordance with the provisions of the law.

Section 280: A local government organization has the duty to conserve the local arts,

customs, and knowledge or culture.

A local government organization has the right to provide education and professional training in accordance with the suitability for and need of that locality and participate in the provision of education and training by the State with regard to the national education standards and system.

In providing education and training in the locality under paragraph two, the local government organization shall also have regard to the conservation of the local arts, customs, knowledge, and culture.

Section 281: For the purpose of promoting and maintaining the quality of the environment, a local government organization has powers and duties as provided by the law.

The law under paragraph one shall at least contain the following matters as its substance:

(1) the management, preservation, and exploitation of the natural resources and environment in the area of the locality;

(2) participation in the preservation of the natural resources and environment outside the area of the locality only in the case where the living of the inhabitants in the area may be affected;

(3) participation in a consideration of the initiation of any project or activity outside the area of the locality that may affect the quality of the environment, health, or sanitary conditions of the inhabitant in the area.

## **Chapter XV**

### **Amendment of Constitution**

Section 282: An amendment of the Constitution may be made only under the following rules and procedures:

(1) A motion for an amendment must be proposed either by the Council of Ministers or members of the House of Representatives numbering not less than one-fifth of the total number of the existing members of the House of Representatives or members of both Houses numbering not less than one-fifth of the total number of existing members thereof or not less than 100,000 eligible voters in accordance with the law on a petition for the proposal of bills.

A motion for an amendment that has the effect of changing the democratic regime of government with the King as Head of the State or changing the form of the State shall be prohibited;

(2) A motion for amendment must be proposed in the form of a draft Constitution Amendment, and the National Assembly shall consider it in three readings;

(3) the voting in the first reading for acceptance in principle shall be by roll call and open voting, and the amendment must be approved by votes numbering not less than one-

half of the total number of the existing members of both Houses;

(4) the voting in the second reading for consideration section by section shall be decided by a simple majority of votes;

(5) at the conclusion of the second reading, there shall be an interval of fifteen days, after which the National Assembly shall proceed with its third reading;

(6) the voting in the third and final reading shall be by roll call and open voting, and its promulgation as the Constitution must be approved by votes of more than one-half of the total number of existing members of both Houses;

(7) after the resolution has been passed in accordance with the aforementioned rules and procedures, the draft Constitution Amendment shall be presented to the King, and the provisions of Section 146 and Section 147 shall apply *mutatis mutandis*.

### **Transitory Provisions**

Section 283: The Privy Council holding office on the date of the promulgation of this Constitution shall be the Privy Council under the provisions of this Constitution.

Section 284: The National Legislative Assembly under the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549 shall perform the duty of the National Assembly, the House of Representatives, and the Senate under the provisions of this Constitution until the first session of the National Assembly is to be held under section 122.

The provisions of Section 91, Section 93, Section 95, Section 101, Section 104, Section 110, Section 114, and Section 115 shall not apply to the holding of positions of members of the National Legislative Assembly. The performance of duties of members of the National Legislative Assembly shall be in accordance with the provisions of the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549.

Section 285: The Constitution Drafting Assembly and the Constitutional Drafting Committee under the Constitution of Kingdom of Thailand (Interim Edition) of B.E. 2549 shall continue to perform duties up to the completion of the time period as provided by the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549.

The provisions of Section 30 paragraph two of the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549 shall continue to have effect.

Section 286: The Constitution Drafting Committee under the Constitution of the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549 shall be assigned to draft the organic law bills on the election of members of the House of Representatives and the selection of senators, political parties, and the Election Commission to submit to the National Legislative Assembly for consideration within the time period prescribed by the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549.

Section 287: Actions shall be taken to ensure that the election of members of the House of Representatives and the selection of senators be completed within 90 days of the date the organic laws under Section 286 become effective.

In the case where the National Legislative Assembly does not approve the organic laws under Section 286 within the time period prescribed by the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549, the Constitution Drafting Committee shall lay down necessary regulations in lieu of the particular organic law to ensure an honest and fair election of members of the House of Representatives and the selection of senators within 90 days of the date of publication of the regulations in the Government Gazette.

In the first general election of members of the House of Representatives, a candidate in the election shall be a member of a political party at least 30 days before the date of election.

At the preliminary stage, a person having served as a senator elected for the first time under the Constitution of the Kingdom of Thailand of B.E. 2540 shall not be allowed to be selected for the first time under the provisions of this Constitution, and Section 112 paragraph two shall not apply to senators elected from the latest election under the Constitution of the Kingdom of Thailand of B.E. 2540.

Section 288: The incumbent Council of Ministers on the date of the proclamation of this Constitution shall remain functioning under the provisions of this Constitution and vacate office upon the appointment of a new Council of Ministers.

The provisions of Section 167 paragraph two, Section 168, Section 170, and Section 178 (4), (7), and (8) shall not apply to the prime minister and ministers under paragraph one.

Section 289: Persons holding the following positions on the date of the proclamation of this Constitution shall remain in their positions until the expiration of their terms, counting from the date of their appointment, in accordance with the provisions of this Constitution:

- (1) Election commissioners.
- (2) Ombudsmen.
- (3) Members of the National Counter Corruption Commission.
- (4) Members of the National Human Rights Commission.
- (5) Members of the National Economic and Social Advisory Council.

Persons under (1) shall perform duties under the organic laws and relevant laws in effect on the date of the proclamation of this Constitution until the enactment of [new] organic laws or constitutional laws, except in the case where the provisions of such a law are contradictory to the provisions of this Constitution, when the provisions of this Constitution shall apply.

The incumbent ombudsmen on the date of the proclamation of this constitution shall elect from among themselves the president of the ombudsmen, and the provisions of Section 235 shall apply *mutatis and mutandis*.

Section 290: The Judicial Council under the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549 is to become the Constitutional Court under the provision of this Constitution. The president of the Supreme Court of Justice shall become the



president of the Constitutional Court, and the president of the Supreme Administrative Court shall become the vice-president of the Constitutional Court. Judges of the Supreme Court of Justice and the Supreme Administrative Court elected under section 35 of the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549 shall continue to serve as judges of the Constitutional Court until the appointment of new constitutional judges under the provisions of this Constitution, which shall take place no later than 120 days from the date of the first general election held under the provisions of this Constitution.

Section 33 paragraph two, paragraph three, and paragraph four of Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549 shall remain in effect until the enactment of the organic law on the procedures of the Constitutional Court.

After the appointment of the judges of the Constitutional Court, all pending cases shall be transferred to the Constitutional Court.

Pending the enactment of the organic law on the procedures of the Constitutional Court, the Constitutional Court shall have the power to issue the procedures and proceedings for the trial and adjudication of cases. Nevertheless, the enactment of the organic law must be completed within one year of the date of the proclamation of this Constitution.

Section 291: The recruitment and selection of members of the State Audit Commission and the auditor-general must be completed within 90 days of the date of the appointments of the president of the House of Representatives and the opposition leader in the House of Representatives after the first general election to be held under the provisions of this Constitution.

During the absence of the State Audit Commission, the auditor-general shall exercise powers on behalf of the State Audit Commission.

Section 292: The following organic laws shall remain in effect:

(1) The Organic Law on the auditor-general of B.E. 2542 with the president of the ombudsmen serving as acting auditor-general.

(2) The Organic Law on Counter Corruption of B.E. 2542 with the president of the Counter Corruption Commission serving as acting president of the commission.

(3) The Organic Law on State Audit of B.E. 2542 with the president of the State Audit Commission serving as acting president of the commission.

( 4) The Organic Law on the Procedure of Criminal Offences of Persons Holding Political Positions of B.E. 2542 with the president of the Supreme Court of Justice serving as acting president.

Persons under paragraph one shall take actions to revise the organic laws so that they are in conformity with the provisions of this Constitution within one year of the proclamation of this Constitution. In the case of the absence of an acting president, the one-year period will count from the date of the appointment of such person.

The House of Representatives shall complete its deliberation on the organic laws within 120 of having received the organic law bills, and the Senate shall complete its

deliberation of the law bills within 90 days of having received the organic law bills.

The adoption of a resolution to amend or reject any paragraph of the organic law bills shall be passed by the vote of not less than one-half of the total number of members of each House.

The Election Commission shall draft the organic law bill on the referendum in conformity with the provisions of this Constitution by the application of the provisions of paragraph two, paragraph three, and paragraph four mutatis and mutandis.

Section 293: At the preliminary stage, the revision of the following laws shall be completed within the specified time periods:

(1) The law pertaining to the details of measures for the promotion and protection of the rights and liberty under Section 40 and Section 44--part 7 on the freedom of expression of the people and media, part 8 on the right of education and liberty, part 9 on the right to State health service and State welfare, part 10 on the right to information and complaint, and part 12 on community rights; the law on the establishment of NGO's for consumer protection under Section 60 paragraph two; the law on the establishment of the organization for the reform of the criminal justice procedure under section 80 (6); and the law on the establishment of people's development funds under section 86 (5)-- within one year after the date of the proclamation of this Constitution.

(2) The laws under Section 85 (1) and Section 163 paragraph three--within two years after the date of the proclamation of this Constitution.

Section 294: The issuance of the code of morality under Section 270 shall be completed within one year of the date of the proclamation of this Constitution.

Section 295: At the preliminary stage, the following provisions are not allowed to be enforced under the following conditions:

(1) Provisions under section 47 paragraph two shall not be enforced until the enactment of a law on the establishment of a State independent agency in charge of allocation of frequencies and the supervision of radio and television broadcasting and telecommunication businesses, which shall be made within one year of the date of the proclamation of this Constitution. The law shall not affect the concessions or contracts that have been granted or made before its promulgation. Such concessions and contracts remain valid until their expiration.

(2) Provisions under Section 136 shall not apply to the enactment of the organic law bills under Section 286.

(3) Provisions under Section 163 paragraph one and paragraph two and Section 164 paragraph nine, Section 165 on the specification of revenue resources for the reimbursement of the advance spending of the national reserve fund, and the enforcement of Section 166 shall be suspended for a period of one year after the date of the proclamation of this Constitution.

Section 296: At the preliminary stage, senior judges having, in the past, served in a position not lower than a judge of the Supreme Court of Justice shall be able to perform duties in the Supreme Court of Justice under Section 214 paragraph two, paragraph three, and paragraph four in accordance with the criteria adopted at a general meeting of the

Supreme Court of Justice until the revision of the criteria on the performance of duties of senior judges is made.

Section 297: The Council of Ministers shall appoint an independent legal reform committee within 90 days of the date of the proclamation of this Constitution. The said committee shall be in charge of conducting studies and providing advice on the enactment of laws in accordance with the constitutional provisions. The said committee shall make a law for the establishment of a legal reform organization under Section 80 (5) within one year of the date of the proclamation of this Constitution. The said law shall at contain the provisions promoting public participation in the law drafting process.

Actions taken under paragraph one shall not constitute the reduction of powers and duties of other agencies in charge of producing laws under their responsibility.

Section 298: Action shall be taken to produce and revise laws on the planning and procedure of the decentralization of power to local government organizations, the local law code, and other laws on local State officials in conformity with the provisions of this Constitution within two years of the date of the proclamation of this Constitution.

Section 299: All actions taken under the provisions of the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549, including those taken before or after the proclamation of this Constitution, are regarded as lawful and consistent with this Constitution.

Countersigned by

President of National Legislative Assembly