

**UNOFFICIAL TRANSLATION
CONSTITUTION OF
THE KINGDOM OF THAILAND
APPROVED BY REFERENDUM 19 AUGUST 2007**

This unofficial translation has been provided by IFES Thailand and the Political Section and Public Diplomacy Office of the US Embassy-Bangkok.

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. 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, and people have been allowed to extensively express their views and opinions about the new charter. Views and opinions of the people have been 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 roles and participation in the administration of the country, concretely check and cross-examine the use of the state power; provide the mechanisms of political institution in both the legislative and administrative branches with well-balanced and effective under the democratic parliamentary form of administration; support honesty and impartial operations of courts and independent organizations; and above all, to emphasize the values and significance of morality, ethics and good governance as virtuous guidance for the country's affairs.

After the completion of drafting of the new Constitution, the Constitution Drafting Assembly has presented the draft charter to the people and held a referendum, the first of its kind in the country, to allow them to vote whether to approve this whole constitution. The referendum result is that the majority of the eligible voters who have come to vote approved for the enactment of this newly draft constitution.

President of the National Legislative Assembly has graciously presented this draft constitution to the King for His signature for its enactment as the Constitution of the Kingdom of Thailand. With the King's opinion, the royal permission has been granted in compliance to the approval of majority of the people.

By the Royal Command, this Constitution of the Kingdom of Thailand is now enacted to replace the Constitution of the Kingdom of Thailand (Interim Edition) of B.E. 2549, dated October 1, B.E. 2549, as of this announcement day.

Be Thai people in harmony and unity in order to maintain this Constitution of Kingdom of Thailand as to its will to maintain the democratic regime for the happiness of all Thai people.

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CHAPTER I

GENERAL PROVISIONS

Section 1. Thailand is one and indivisible Kingdom.

Section 2. Thailand adopts a democratic regime of government with the King as Head of the State.

Section 3. The sovereign power belongs to the Thai people. The King as Head of the State shall exercise such power through the National Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

Duty performed by the National Assembly, the Council of Ministers, the Courts, as well as the constitutional-mandated organizations and the state agencies shall in compliance to the legal justice principle.

Section 4. The human dignity, right, liberty and equality of the people shall be protected.

Section 5. The Thai people, irrespective of their origins, sexes or religions, shall enjoy equal protection under this Constitution.

Section 6. The Constitution is the supreme law of the State. The provisions of any law, rule or regulation, which are contrary to or inconsistent with this Constitution, shall be unenforceable.

Section 7. Whenever no provision under this Constitution is applicable to any case, it shall be decided in accordance with the constitutional practice in the democratic regime 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 Head of the Thai Armed Forces.

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

Section 12. The King selects and appoints qualified persons to be the President of the Privy Council and not more than eighteen Privy Councilors to constitute the Privy Council.

The Privy Council has a duty to render such advice to the King on all matters pertaining to His functions as He may consult, and has other duties as provided in this Constitution.

Section 13. The selection and appointment or the 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 a salary, official of a State enterprise, other State official or holder of other position of 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 respect."

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

Section 17. The 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 Regent, and the President of the National Assembly shall countersign the Royal Command therefore.

Section 19. In the case where 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 National Assembly shall make an announcement, in the name of the King, to appoint such person as Regent.

During the expiration the term of the House of Representatives or the dissolution thereof, the Senate shall act as the 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 duties 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 (name of 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."

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

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

The 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 the 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 the acknowledgement thereof, and the President of the National Assembly shall invite such Heir to ascend the Throne and proclaim such Heir 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 King.

During the expiration of the term of the House of Representatives or the 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 the Regent until the proclamation of the name of the Heir or the 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 its 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 THE THAI PEOPLE

Part 1

General Provisions

Section 26. In exercising of all State authorities, regard shall be had a human dignity, rights, and liberties as provided in this Constitution.

Section 27. The 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, the Council of Ministers, the Courts, and other State organs in enacting, applying and interpreting laws.

Section 28. A person shall be able to invoke or exercise his or her human dignity, rights, or liberties in so far as it is not in violation of this Constitution or good morals of the people.

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

A person shall be able to directly exercise his or her to bring a lawsuit to cause the State to comply with the provisions of this paragraph. However, where there already exists a law with details of the exercise of

such rights and liberties enshrined in this Constitution, the exercise of the rights and liberties shall be in accordance with the provisions of the said law.

A person shall have the right to receive support, encouragement, and assistance from the State in the exercise of the rights in this paragraph.

Section 29. It is prohibited to restrict a person's rights and liberties enshrined in this Constitution except by virtue of law, which must not materially affect the important substance of such rights and liberties.

The law under paragraph one shall be of 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.

The provisions in paragraph one and paragraph two shall apply *mutatis mutandis* to rule of the provisions of the law.

Part 2

Equality Before the Law

Section 30. All persons shall be equal before the law and shall enjoy equal protection under it. Males and Females shall enjoy equal rights.

Unjust discrimination against a person on grounds of difference in origin, race, language, sex, age, physical conditions or health, economic or social status, religious belief, education or constitutionally political view, which does not contravene the provisions of this Constitution, shall not be permitted.

Measures determined by the State in order to eliminate obstacles to or to promote person' abilities as other persons shall not be deemed as unjust discrimination under paragraph three.

Section 31. Military personnel, police, government servants, other State officials, and employees of State agencies shall enjoy the same constitutional rights and liberties as the rest of the population, except for restrictions in ordinances, rules, or regulations issued by virtue of law, particularly in parts relating to politics, efficiency, and discipline or code of conduct.

Part 3

Personal Rights and Liberties

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

A Torture or brutal act or punishment by a cruel or inhumane means shall not be permitted; however, corporal punishment as provided by law shall not be regarded as punishment using cruel and inhumane means under this particular paragraph.

Arrest and custody of person are prohibited, except directed by court order or another virtue of the law.

Search of Person or act affecting the rights and liberties under paragraph one shall not be made, except virtue of the law.

In case of act affecting the rights and liberties under paragraph one, injured person, public prosecutor or other persons shall have the right to demand a halt or withdrawal of such action, and, within reasonable limits, choice of procedure or remedy for the damage that may have occurred.

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

A person is protected for his or her peaceful habitation in and for possession of his or her dwelling place.

The entry into a dwelling without consent of its possessor or the search thereof is prohibited, except by court order or virtue of the law.

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

The restriction of such liberties under paragraph one is prohibited except by virtue of law, specifically for maintaining the security of the State, public peace and order or public welfare, town and country planning, or welfare of the youth.

Deporting of the Thai nationality or denied person of the Thai nationality entering into the Kingdom cannot be done.

Section 35. The rights of a family member, honors, and reputation, and private life shall be protected.

To spread or publicize news or images by any means to the general public, which violates or infringes a person's rights or those of his or her family, or private life, is prohibited, except in public interest.

A Person has a right to be protected by misfeasance of his or her private information, as well as by virtue of the law.

Section 36. A person shall enjoy the liberty to communicate with one another by lawful means.

It is prohibited to check, detain, or disclose communication between or among persons, including such other acts as to gain advance knowledge of the contents of the communication, except by virtue of law, specifically to protect national security or to maintain peace and order, or good morals of the people.

Section 37. A person shall enjoy full liberty to profess religion, religious sect or creed, and observe religious precept or exercise a form of worship in accordance with his or her belief; provided that it is not contrary to his or her civic duties, public order or good morals.

In exercising the liberty referred to in paragraph one, a person is protected from any act of the State, which is derogatory to his or her rights or detrimental to his or benefits on the grounds of professing a religion, a religious sect or creed or observing religious precepts or exercising a form of worship in accordance with his or her different belief from that of other.

Section 38. Forced labour 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

Rights to Access the Judicial Process

Section 39. A person shall not be punished except for having committed an act or acts which the law at the time of commission forbade and for which the law prescribed punishment. The punishment shall not exceed what was allowed by the law in force at the time of commission of such act.

In a criminal case, it shall be presumed that the accused is not guilty.

Before a final verdict of guilt is handed down, it is prohibited to treat the accused as if he or she is guilty.

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

- (1) Right of access to the process of justice that is easy, expedient, quick, available to all;
- (2) Basic right to the procedure process, which at least guarantees the basic right to an open trial, right to be informed of the facts, and to verify the documents adequately, right to present facts, refute, and produce witness and evidence, right to protest or refuse a judge or judges or examiners, right to be considered by judges or examiners in full quorum, and right to be explained about judgment or order;
- (3) A person shall have a right to a fair and correct trial, quickly and be justice;
- (4) The injured party, the accused, plaintiff, defendant, partner, interested party, or witness in the case shall enjoy the right to suitable treatment during the process of justice, including the right for quick investigation and the right against self-incrimination;
- (5) The injured party, the accused, and the witness shall enjoy the right to receive protection, assistance, remuneration from the State; compensation, and other necessary expenses by the virtue of the law;
- (6) Children, youth, females, the handicapped and permanently infirm shall be suitably protected during criminal procedure in case of sexual violent.
- (7) In a criminal case, the accused or defendant has the right for correct, quick investigation and justice; has enough opportunity to contend the case, check or to be correct informed of the facts, to have consultation by his or her advocate and temporary release.
- (8) In a civil case, a person has the right to receive a proper assistance from the State.

Part 5

Rights 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 the law.

The succession is protected. The right of succession of a person shall be in accordance with the provisions of the law.

Section 42. The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the State affairs on public utilities, necessary national defense, exploitation of national resources, town and country planning, promotion and preservation of the quality of the environment, agricultural or industrial development, land reform, preservation of ancient site or historic source, 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 thereto, 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 price, mode of acquisition, nature and situation of the immovable property, loss of the person whose property or right thereto is expropriated, and the benefits the State and the person whose property is expropriated shall receive back from making use of that expropriated immovable property.

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 purpose within such period of time, it shall be returned to the original owner or his or her heir.

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

Part 6

Rights and Liberties of Occupation

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

The 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 of the country, protecting the public in regard to public utilities, maintaining public order and good morals, regulating the engagement in an occupation, consumer protection, town and country planning, preserving natural resources or the environment, public welfare, or preventing monopoly or eliminating unfair competition.

Section 44. A person shall have rights to the guarantee of personal safety and security at work, including the guarantee of due living during and post employment, as provided by law.

Part 7

Liberty of Expression of Individuals and Mass Media

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

The restriction on liberty under paragraph one shall not be prohibited except by virtue 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 the person, maintaining public or good morals or preventing the deterioration of the mind or health of the public.

The closure of a pressing house or other mass media to deprivation of the liberty under this section is prohibited.

It is prohibited to ban a newspaper or other mass media from presenting news and information or expressing opinion in whole or in part, or to interfere by any means with the liberty of expression to restrict the liberty of the press under this Section except by virtue of law, expressly enacted under paragraph two.

The censorship of news or articles by a officials of news or articles before their publication in a newspaper, printed matter, or radio and television board casting shall not be made except during the time when the country is in a state of war or armed conflict; provided this act can only be done by virtue of the law enacted under the provisions of paragraph two.

The owner of any newspaper or other mass media shall be a Thai national.

No grant of money or other properties shall be made by the State as subsidizes the activities of any private newspaper or other mass media.

Section 46. Officials or employees in a private newspaper, radio, television board casting, or other mass media shall enjoy their liberties to present news and express their opinions under the constitutional restrictions without the mandate of any State agency, State enterprise or the owner of such business; provided that is not contrary to their professional ethics and have a right to organize institutions to protect their rights, liberties and justice, as well as to have a mechanism to control each other professional ethics.

Civil servants, staff or employees of State agencies or State enterprises engaging in radio broadcast, telecast, or other mass media shall enjoy the same rights as their counterparts in the private sector under paragraph one.

Any act, direct or indirect, by holders of political office, State officials, or owners of the enterprise to obstruct or intervene in presentation of news or expression of opinion on public issues by a person under paragraph one and paragraph two, shall be regarded as intentional abuse of powers and duties and shall have no legal effect except to ensure compliance with the professional ethics.

Section 47. Transmission frequencies for radio and television, and telecommunication are national communication resources for public interest.

There shall be one independent State agency whose responsibility is to allocate the frequencies under paragraph one and supervise radio and television broadcasting and telecommunication businesses as providing by law.

In carrying out the act under paragraph two, regard shall be had to utmost public benefit at national and local levels in terms of education, culture, State security, other public interests, promotion of free and fair competition, and public participation in the operations.

In directing and operating the business under paragraph two, there shall be measures to prevent merger or market dominance among themselves, which might result in obstruction of liberties of information or liberty to receive information from diverse sources.

Section 48. A holder of political office shall not be the owner or have the stakes in the newspaper, radio, television, and telecommunication businesses, no matter in his own name, or assign any other to act as owner or hold the stakes; or exercising by other means, direct or otherwise, which shall allow the administration of such business as if he owns or holds the stakes of such business.

Part 8

Rights and Liberties in Education

Section 49. A person shall enjoy an equal right to receive the education for the duration of not less than twelve years which shall be provided by the State thoroughly, up to the quality, and without charge.

The deprived, the disabled or the permanently infirm, or those in difficult situations shall receive such rights as prescribed in paragraph one and the State support to ensure the education on equal footing as others.

Education and training management by the professional organization or private section, alternative education, self-education, and life-long learning shall be protected and promoted by the State.

Section 50. A person shall enjoy an 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 of the people.

Part 9

Rights to Receive Public Health Service and State Welfare

Section 51. A person shall enjoy an equal right to receive appropriate and standard public health service, and the indigent shall have the right to receive free medical treatment from public health centers of the State.

A person shall have the rights to receive public health services provided by the State universally and efficiently.

A person shall have the rights to be prevented and eradicated from harmful contagious diseases by the State appropriately, without charge, and in timely manner.

Section 52. Children and youth shall have the rights of survival and to receive physical, mental, and intellectual development according to their potential in a suitable environment with vital regard to children and youth's participation

Children, youth, women, and family members shall have the rights to be protected by the State against violence and unfair treatment, and have the rights to be cured and rehabilitated when such incident happens.

Intervention and restriction of the rights of children, youth, and family members shall not be permitted, except by virtue of law, specifically to conserve and maintain the status of family or for the greatest benefits of those individuals.

Children and youth with no guardian shall have the rights to receive appropriate care and education from the State.

Section 53. A person who is over sixty years of age and has insufficient income shall have the rights to receive welfare, dignified public facilitation, and appropriate aids from the State.

Section 54. The disabled or handicapped shall have the rights to access and make use of welfare, public facilitation, and appropriate aids from the State.

A mentally-ill person shall have the rights to receive appropriate aids from the State.

Section 55. A person, who is homeless and has insufficient income, shall have the rights to receive appropriate aids from State.

Part 10

Rights To Receive Information and Lodge Complaints

Section 56. A person shall have the right of access and regard public information in the possession of government agencies, State agencies, State enterprises, or local governments, unless disclosure of such information or information may jeopardize the security of the State, public safety, or the interests of a person or persons who should be protected as providing by law.

Section 57. A person shall have the right to receive information, explanation, and reason from government agencies, State agencies, State enterprises, or local government before the approval or implementation of a project or activities which might have a serious impact on the environment, health, sanitary conditions, quality of life, or other important interests of his or her own or of the community, and shall also have the right to voice his or her own opinion to the responsible agency to be used as input in appraising the said project or activities.

In making a plan for social, economic, political, and cultural development, or in expropriation of private property by *eminent domain*, or in town planning, zoning, or in issuing regulations with an important impact on the benefits of the people, the State must organize comprehensive public hearings before implementation.

Section 58. A person shall have the right to participate in the procedure of State officials administering the State affairs, which may affect their personal rights and liberties.

Section 59. A person shall have the right to lodge a complaint and get response within a reasonable time.

Section 60. A person shall have the right to sue a government agency, State agency, State enterprise, local government, or any other State organ which is a juristic person, for act or omission of act by a civil servant, or staff member or person(s) in their employ.

Section 61. The right of a person to receive truthful information as a consumer shall be protected, and he or she shall enjoy the right to lodge a complaint and demand a remedy for damages, and the right to assemble to protect consumers' rights.

An independent body shall be instituted to protect consumers, consisting of consumer representatives whose duty is to offer opinions for use in consideration by the State agencies enacting and enforcing laws and rules, to offer opinions in laying down provisions, and scrutinize and report acts or omission of acts to protect consumers. The State has to provide government statement of expenditure to such independent body.

Section 62. A person shall have the right to monitor and demand scrutiny of holders of political office or State officials in their discharge of duties.

A person shall be protected, who provides information to the agency scrutinizing the exercise of State powers by holders of political office, State agencies, or State officials.

Part 11

Freedom of Assembly and Association

Section 63. A person shall enjoy the liberty of peaceful and unarmed assembly.

Restriction of such liberty under paragraph one is prohibited except by virtue of law specifically enacted in the context of public assembly and to secure convenience for the people using the public place, or to maintain public peace and order during war or a state of emergency or when martial law has been declared.

Section 64. A person shall enjoy the liberty of assembly in the form of association, unions, cooperatives, farmers' associations, private organizations, nongovernmental organization and other groups.

Civil servants and State officials shall enjoy the liberty of assembly like the general public, provided that doing so does not affect the efficient administration of State affairs and the continuity of delivery of public services as providing by law.

Restriction of liberty under paragraph one and paragraph two is prohibited except by virtue of law specifically to protect public interests, to maintain public peace and order or good morals, or to prevent economic monopoly.

Section 65. A person shall enjoy the liberty to unite and form a political party for the purpose of making political will of the people and carrying out political activities in fulfillment of such will through the democratic regime of government with the King as Head of the State as provided in this Constitution.

The internal organization, management and regulations of a political party shall be consistent with fundamental principles of the democratic regime of government with the King as Head of the State.

Members of the House of Representatives who are members of a political party, members of the Executive Committee of a political party, or members of a political party, as to 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 regime of government with the King as Head of the State, have the rights 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 fundamental principles of the democratic regime of government with the King as Head of the State, such resolution or regulation shall lapse.

Part 12

Community Rights

Section 66. Persons so assembling to be a community, local community, or traditional community shall have the rights to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources, environment, and biological diversity in a balanced fashion and persistently.

Section 67. The rights of a person to give to the State and communities participation in the conservation, preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to his or her health and sanitary condition, welfare or quality of life, shall be appropriately protected.

Any project or activity which may seriously affect to the community in quality of the environment, natural resources, and health shall not be permitted, unless its impacts on the quality of the environment and health condition of people in the community have been studied and evaluated; and procedure on public hearing from the people and those affected, including from an independent organization, consisting of representatives from private environmental and health organizations and from higher education institutions providing studies in the environmental, natural resources, and health field, have been obtained prior to the operation of such project or activity.

The rights of a community to sue a government agency, State agency, State enterprises, local government organization, or other State agencies which are juristic persons, to perform the duties as provided by this provision shall be protected.

Part 13

Rights To Protect the Constitution

Section 68. A person is prohibited from using the rights and liberties provided in the Constitution to overthrow the democratic rule with the King as the Head of the State as provided by this Constitution; or to acquire power to rule the country by means other than is provided in the Constitution.

Where a person or political party acts under paragraph one, the witness thereof has the right to report the matter to the Prosecutor General to investigate facts and to submit a request to the Constitutional Court for decision to order cessation of such act without prejudice to criminal proceedings against the doer of the act.

If the Constitutional Court decides to order cessation of the said act under paragraph two, the Constitutional Court may order dissolution of that political party.

In case of order dissolution of that political party by the Constitutional Court under paragraph three, the leader of the dissolute Party and the member of the board of the executive committee under paragraph one are prohibited the right of election for five years from the date of order by the Constitutional Court.

Section 69. A person shall have the right to peacefully resist any act committed to obtain powers to rule the country by means not in accordance with the *modus operandi* as provided in the Constitution.

CHAPTER IV

DUTIES OF THE THAI PEOPLE

Section 70. Every person has a duty to protect and uphold the nation, the religion, the King, and the democratic regime with the King as the Head of the State.

Section 71. Every person has a duty to defend the country, to protect the interests of the country and obey the law.

Section 72. Every person has a duty to exercise their right to vote in an election.

The person who attends an election for voting or fails to attend an election for voting without notifying the appropriate cause of such failure shall receive or lose such rights as provide by law.

The notification of the cause of failure to vote in an election and the provision of facilities to vote thereof shall be in accordance with the provisions of the law.

Section 73. Every person shall have the right to serve in armed forces; to assist in the prevention and alleviation of a public calamity; to pay taxes and duties; render assistance to the official service, to receive education and training; to uphold, protect, and carry on national arts and culture, and local knowledge; and to conserve the natural resources and the environment, in accordance with the provisions of the law.

Section 74. A Government official, official, and employee of a State agency, State enterprise or other State officials shall have a duty to act in compliance with the law in order to protect public interests, and provide convenience and services to the public as to the principles of Good Governance.

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

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

CHAPTER V

DIRECTIVE PRINCIPLES OF FUNDAMENTAL STATE POLICIES

Part 1

General Provisions

Section 75. Provisions in this Chapter express the intention to the State to legislate and direct policies in administering the State affairs.

In the policy statement to the National Assembly, the Council of Ministers, which is to assume the administration of the State affairs, shall expressly declare to the National Assembly what activities are to carry out in what associated timeframe in order to administrating the State affairs in compliance with the Directive Principles of Fundamental State Policies, and shall prepare a report of performance progress, including problems and obstacles encountered before the National Assembly once a year.

Section 76. The Council of Ministers shall prepare the national administration plan to present the measures and details of direction of official performances for each year of administration, which shall be in compliance with the Directive Principles of Fundamental State Policies.

In administration of the State affairs, the Council of Ministers shall prepare a plan to enact the necessary legislation for the execution of the administration policy and program.

Part 2

Policy Directive on the Security of the State

Section 77. The State shall protect and uphold the institution of kingship, the independence, the sovereignty, and integrity of its territories, and shall arrange for the maintenance of the armed forces, weapons and military equipments, and adequate, necessary, modern technology for the protection and upholding of its independence, sovereignty, security of the State, institution of kingship, national interests, and the democratic regime of government with the King as Head of the State, and for national development.

Part 3

Policy Directive on Administration of the State Affairs

Section 78. The State shall implement the policy directive on administration of the state affairs as follows:

- (1) Administration of the State affairs shall aim for sustainable social, economic, and national security development; provided that the implementation of the sustainable economic philosophy shall be promoted and the overall national interests shall be vitally regarded.
- (2) Systematize the Central Administration, the Regional Administration, and the Local Administration with the refine area, authority, and responsibility that are suitable for national development, and encourage the provincial authority to prepare plans and budget for provincial development for the interests of people in the locality.
- (3) Decentralize of powers to the local administration organizations for the purpose of independence and self-determination of local affairs, encourage local administration organizations to give participation in the Directive Principles of Fundamental State Policies, develop local economics, public utilities and facilities systems, as well as the fundamental information infrastructure in the locality thoroughly and equally throughout the country, develop a province that is ready into a large-sized local administration organization with regard to the will of people in that province.
- (4) Develop the State administrative system with emphasis to quality development, good morals, and ethics of the State officials in tandem with improvement of the model and method of operations to ensure efficient administration of the State affairs, and encourage State organs to adopt the principles of Good Governance as direction for performing government services.
- (5) Systematize the government services and other State affairs in order to make management and delivery of public services timely, efficiently, transparently, accountably, with regard to public participation.
- (6) Ensure the State agencies working on legal affairs that have duties to provide opinions on public administration, and vet the State legislation, to function independently, for the administration of the State affairs is based on the rule of law.
- (7) Prepare a political development plan, and set up an independent political council to strictly monitor the implementation of such plan.
- (8) Ensure that the government officials and State employees receive adequate fringe benefits.

Part 4

Policy Directive on Religion, Social, Public Health, Education and Culture

Section 79. The State shall patronize and protect Buddhism, which is the religion the majority of Thai people have practiced for long time, and other religions, promote good understanding and harmony among followers of all religions, as well as encourage the application of religious principles to create virtue and develop the quality of life.

Section 80. The State shall carry out the Policy Directive on Social, Public Health, Education, and Culture as follows:

- (1) Protect and develop children and youth; support the rise up, care, and education at the primary level; promote the equality between women and men; create and develop the family institution's integrity and the strength of communities; provide aids and welfare to the elderly, the indigent, the disabled or handicapped and the underprivileged for their good quality of life and ability to depend on themselves.
- (2) Promote, support, and develop the health system that emphasizes the health promotion for people to enjoy a sustainable state of happiness; provide and promote the standardized public health service to people universally and efficiently; and encourage private sector and community to participate in the health development and provision of public health services, provided that persons who deliver such services and perform their duties as to the professional standard and ethics, shall be protected by law.
- (3) Develop the quality and standard of education management in all levels and all types in compliance with the changing economic and social environment; to prepare the national education plan and laws for development of the national education; develop the quality of teachers and educational personnel to progressively follow up with to changing of the world community; implant the learners to aware and recognize of Thai identity, disciplines, public interests, and adhere to the democratic regime of government with the King as Head of State.
- (4) Promote and support decentralization of powers for the local administration organizations, communities, religious organizations, and private sector, to organize and participate in the education management for development and equality of education quality and standard and in consistence to the Directive Principles of Fundamental State Policies.
- (5) Promote and support the research in various academic branches, and disseminate those State-subsidized information and research results.
- (6) Promote and support love and harmony, learning, awareness, and disseminate arts, cultures, traditions, and customs of the nation, as well as good social values and local knowledge and intellectuals.

Part 5

Policy Directive on Legal Affairs and Justice

Section 81. The State shall follow the Policy Directive on Legal Affairs and Justice as follows:

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- (1) Supervise to ensure the accurate, timely, impartial, and universal implementation and enforcement of laws; promote the legal aids and legal learning among people; organize the bureaucratic system and other State affairs in the field of justice administration to work efficiently; participation by people and professional organization in the justice procedure and public legal aids shall be regarded.
- (2) Protect rights and liberties of a person from being violated by both State officials and other people, and provide the equal justice to all people.
- (3) Enact a law to establish an independent agency for law reform with functions to improve and develop the laws in the country, as well as amend the laws to be consistent to the Constitution, with regard to the public opinions and hearing by the people affected by those laws.
- (4) Enact a law to establish an independent agency to reform the procedure of criminal justice, with function to improve and develop the operations of the agencies involving with the criminal justice procedure.
- (5) Support the operations of private organizations that provide the legal aides to people, particularly those affected by the domestic violence.

Part 6

Policy Directive on Foreign Relations

Section 82. The State shall promote friendly relations and cooperation with other countries and adopt the principle of non-discrimination, and shall observe the treaties and agreements on human rights that Thailand is a member, as well as other commitments that have made with other countries and international organizations.

The State shall promote trade, investment, and tourism with other countries, and shall provide protection and oversee the interests of Thai citizens abroad.

Part 7

Policy Directive on Economics

Section 83. The State shall promote and support the implementation of philosophy of sufficiency economy.

Section 84. The State shall follow the Policy Directive on Economics as follows:

- (1) Encourage a free and fair economic system through market force, and encourage the sustainable economic development by abolishing and refraining the enactment of laws and regulations supervising the businesses that are inconsistent to the business necessity; shall not engage in an enterprise in competition with the private sector, except it is necessary and beneficial for maintaining the security of the State, preserving the common interests, or providing public utilities.

- (2) Promote the practice of virtues, ethics, and good governance in business affairs.
- (3) Control and maintain monetary and fiscal disciplines in support to the country's economic and social stability and security; improve the tax systems to ensure fairness consistent with the changing social and economic environment.
- (4) Manage for savings for the living at old age among people and State officials thoroughly.
- (5) Supervise the business activities to ensure free and fair competition; prevent monopoly and cut off, directly or indirectly; and protect the consumers' interests.
- (6) Implement fair distribution of incomes; protect, promote, and expand the business opportunities among people for economic development, including promote and support the development of local and Thai knowledge and intellectuals to generate goods, services, and jobs.
- (7) Promote people at working age to obtain employment; protect child and woman labor; organize system of labor relations and labor tripartite, which workers have rights to elect their own representatives; provide social security system; protect workers, who work on the same type of job, to ensure they get wages, fringe benefits, and welfare equally and impartially.
- (8) Protect and maintain the interests of farmers in production and marketing; promote the highest price possible for agricultural products; encourage the grouping of farmers in the form of the farmer council in order to work out on the agricultural plan and protect their common interests.
- (9) Promote, encourage, and protect the co-operatives system and its independence, as well as the grouping by occupations or professions of the people to carry out their economic activities.
- (10) Provide basic public utilities necessary for the people's livelihood in the interest of maintaining economic security of the State, provided that such basic public utilities shall not be monopolized by private that shall be detriment to the State.
- (11) Any act that shall cause the fundamental structure or network of basic public utilities necessary for the people's livelihood, or for the security of the State, fall into the private ownership, or reduce the status of State ownership to less than 51% shall not be permitted.
- (12) Promote and support the commercial maritime business, rail transportation, and implement the management of domestic and international transportation system.
- (13) Promote and support the strength of the economic private organizations both at local level and national level.
- (14) Promote the agricultural product processing industry in order to increase the economic values.

Part 8

Policy Directive on Land, Natural Resource, and Environment

Section 85. The State shall follow the Policy Directive on Land, Natural Resource, and Environment as follows:

- (1) Establish rules on land use to cover the whole country, by considering the consistency of the natural environment, including land area, water surface, ways of life of local communities, and the efficient conservation on the natural resources; provide the standard measures for sustainable land use, with regard to the joint decision-making by the residents of the area affected by that land-use policy;
- (2) Fairly distribute the land possession, and process for farmers to have the ownership or rights over the lands for their agricultural production universally by the method of land reform or other means; provide water resources to farmers for their adequate and proper use for agricultural production.
- (3) Lay out a town and country planning; develop and implement such town and country planning effectively and efficiently for the interests of sustainable natural resource perseverance.
- (4) Set up the systematic water and natural resource management plan for public benefits, with regard to people participation to conserve, maintain, and balanced making use of the natural resources and biological diversity.
- (5) Promote, maintain, and protect the quality of environment on the principle of sustainable development; control and eliminate the pollution that is hazardous to health, sanitary, safety, and quality of life of the people, which people, local communities, and local administration organizations shall participate in directing the operation plan.

Part 9

Policy Directive on Sciences, Intellectual Property, and Energy

Section 86. The State shall observe the policy directive on sciences, intellectual property, and energy by:

- (1) Promoting scientific and technological development and innovation in various fields by means of specific legislations, appropriations to support education, research, analysis, and enabling educational and development institutes to apply the results of research and development, to effect technology transfer, and to develop human resources efficiently and appropriately;
- (2) Promoting inventions and innovations, conserving and developing local and Thai knowledge and intellectuals, and protecting intellectual property rights;
- (3) Promoting and supporting research and development of alternative energy from natural sources, eco-friendly, sustainable, and systematic.

Part 10
Basic Policy on Citizens' Participation

Section 87. The State shall implement the citizen participation policy as follows:

- (1) To promote citizen participation in making policies and economic development plans at the local and national level throughout the country;
- (2) To promote and support citizen participation in making political decisions, making economic, social, and political development plans including in making public services.
- (3) To promote and support citizen participation in the scrutiny of the exercise of State powers at all levels in the form of occupational or professional bodies.
- (4) To promote and support citizen strengthen themselves politically and to legislate for establishment of the people's political development funds to support community activities, as well as to support citizen who associate in any form of network to provide evaluation the performance of the local authorities.
- (5) To promote and educate the people on the democratic development and rule with the King as the Head of the State and encourage the people to exercise their rights to vote in elections in honest and fairly.

In case of participating of the citizen in this paragraph the quote of men and women has to be considered.

CHAPTER VI

THE NATIONAL ASSEMBLY

Part 1

General Provisions

Section 88. The National Assembly consists of the House of Representatives and the Senate. The National Assembly may meet jointly or separately in accordance with this Constitution. Joint or separate sittings of the National Assembly shall be in accordance with the provisions of this Constitution.

A person cannot concurrently be a member of the House of Representatives and a member of the Senate.

Section 89. 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 powers and duties as provided in this Constitution, and shall perform the functions of the National Assembly during joint sittings according to the regulations. 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 the 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 90. A bill or an organic law bill may be enacted as law only by and with the advice and consent of the National Assembly; and if the King had signed it or as if the King had signed it as provided in this Constitution it shall come into force upon its publication in the Government Gazette.

Section 91. Members of the House of Representatives or of the Senate with not less than one-tenth of the total number of the existing members there are in each House shall have the right to collect names and petition to their respective President to have the membership of any of their members ended in accordance with Sections 106 (3), (4), (5), (6), (7), (8), (10), or (11) or Section 119 (3), (4), (5), (7), or (8) as the case may be; the President shall forward the said petition to the Constitutional Court for the latter's decision whether or not the membership of the said member should be ended.

When the Constitutional Court has made its decision, it shall notify the President of the House from which it received the petition under paragraph one.

In the case where the Election Commission thinks the membership of a member of the House of

Representatives or a member of the Senate has cause to be ended under paragraph one, the Election Commission shall send the matter to the President of the House to which that member belongs and the President of the House shall forward the matter to the Constitutional Court for decision under paragraph one and paragraph two.

Section 92. The vacation of the office of a member of the House of Representatives or a Senator after the day on which his or her membership terminates or the day on which the Constitutional Court decides that the membership of any member terminates does not affect any act done by such member in the 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 a 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 the election of members of the House of Representatives and Senators, emolument and other remuneration received from being in office shall be returned.

Part 2

The House of Representatives

Section 93. The House of Representatives consists of 480 members. From the election on a constituency basis four hundred members, eighty of whom are from the election on a party-list basis.

The election shall be by direct suffrage and secret ballot; one ballot for each kind of constituency it shall be given.

Rules and condition to precept the election of member of the House of Representatives provided by the organic law on this Constitution which's said how the member of the House of Representatives and the Senators shall be elected.

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.

When the members of the party-list basis under section 109 (2) becomes vacant during the period of the House of Representatives less than 80 persons, the members of the party-list basis shall consist of the existing members.

In any of cases the total number of members of the House elected does not reach 480, but is less than 95 percent of that number, the existing members shall constitute the House of Representatives. Meanwhile elections must be held to fill all the vacant seats within 180 days. The newly elected members shall have a term of office equal to the remainder of the term of the House.

Section 94. In the election of members of the House of Representatives on a constituency basis, the person having the right to vote shall cast ballot for candidates that can be elected of each constituency.

To determine the number of members of the House of Representatives of each constituency and to setting up of the constituency shall be conducted as follows:

- (1) By determine the population into the country's total registered population based on the latest census before a general election, average by 400 of the members of the House of Representatives.
- (2) Any *Changwat* with inhabitants below the number per on member under paragraph (1) shall have one member of the House of Representatives. Any *Changwat* with more inhabitants than the number of inhabitants per one member shall have an additional member of the House of Representatives for every such number of inhabitants as representing the number of inhabitants per one number.
- (3) Upon the numbers of the House of Representatives of each *Changwat* being obtain under paragraph (2) should have; and the number of the House of Representatives is still less than 400, any *Changwat* with the largest fraction remaining from the determination under paragraph (2) shall have an additional member of the House of Representatives in accordance with such procedure shall be made to *Changwats* in respective order of fractions remaining from the determination until the number of 400 is obtained.

- (4) Constituency shall be regarded by *Changwat* with a maximum of three seats, such *Changwats* shall be divided into constituencies in the number equal to such number of members of the House of Representatives as may be elected therein and, for this purpose, and each constituency shall have three members of the House of Representatives.
- (5) If the *Changwats* inhabitants of a *Changwat* are not large enough to have three seats in every constituency; such *Changwat* shall be divided into constituencies in the equal obtained to such number of three members of the House of Representatives first, but the residual constituency shall have minimum of two members of the House of Representatives. Any *Changwat* can have four members of the House of Representatives to be obtained; such *Changwat* shall be divided into constituency in the number of two members of the House of Representatives as may be elected.
- (6) In a *Changwat* which is divided into more constituencies than one, the boundary shall be adjoining and the inhabitants in each constituency must be closely apportioned.

The counting of the votes shall be conducted in each constituency and the result of the votes counting shall be sent altogether to the polling station; the result of the votes counter shall be announced publicly at any single place in that constituency as designed by the Election Commission, except that in the case where necessity arises in a particular locality, the Election Commission may provide otherwise in accordance with the organic law on the election of members of the House of Representatives and Senators.

Section 95. In an election of members of the House of Representatives on a party-list basis, a voter shall have the right to cast ballot from the lists of candidates prepared by political parties; provided that only one ballot for one party-list may be voted for each constituency.

Each party shall send a list of candidates in every constituency or shall send some selected constituency.

The party-list of candidates prepared by the political party that submitted; if any circumstance happened before or during the election that have made the party-list prepared by the political party not complete as well as the list that submitted by the political party, the residuary numbers of the party-list prepared by the political parties shall be excepted; and in this cases the House of Representatives consist of the existing members of the House of Representatives which are elected.

Section 96. For the purpose of affecting constituency of the party-list basis it has to be affected as follows.

- (1) The country shall be divided into eight electoral *Changwat*, each consisting of contiguous *Changwat* shall be a constituency; each constituency shall have 10 seats of the House of Representatives.
- (2) Grouping of the *Changwat*; the boundary of each *Changwat* shall be adjoining closely apportioned and as evidence the census announced in the year preceding the year of election; the hold *Changwat* obtain as one constituency.

Section 97. In an election of members of the House of Representatives on a party-list basis, the party-list shall be done as follow:

- (1) Consist of the names of candidates in the party-list that shall be elected in each constituency, and it shall be arranged in order to the number and be submitted to the Election Commission before the date an application for candidacy in an election on the constituency basis.
- (2) The names of the party-list (1) shall not be repeated by the names of candidates in the election on the constituency basis of any parties, and to take into consideration of the opportunity, acceptable quota and the equality between men and women.

Section 98. The number of proportional-representation seats that a contesting political party wins will depend on the total number of votes it receives for its constituency throughout the country. After collecting the votes it receives, it shall be calculated how many seats related for each party shall be win. It shall be deemed with the names in the list of each political party are elected in respective order of the placed in numerical order in the list in accordance with such proportional number of the members of the House of Representatives; in accordance with the rules provided in of the organic Act on Election of Members of the House of Representatives and Selection of Members of the Senate.

The drawing of constituency boundaries, methods of election, voting, vote counting, method of calculating proportional-representation members shall be in accordance with the organic Act on Election of Members of the House of Representatives and Selection of Members of the Senate.

The provision of section 94 shall apply *mutatis mutandis* to the counting and announcement of votes received by each party-list. The Election Commission may provide any *Changwat* as a polling station at the beginning for the counting of votes.

Section 99. A person having the following qualifications has the right to vote at an election:

- (1) Being of Thai nationality; provided that a person who has acquired Thai nationality by naturalization must hold the Thai nationality for not less than five years;
- (2) Being not less than eighteen years of age on 1st January of the year of the election; and
- (3) Having his or her name appears on the house register in the constituency for not less than ninety days up to the date of the election.

A voter who has a residence outside the constituency, or his or her name appears in the house register in the constituency for the period of less than ninety days up to the date of the election, or who has a residence outside the Kingdom of Thailand shall have the right to cast ballot in an election in accordance with rules, procedure and conditions provided by the organic law on the election of members of the House of Representatives and Senators.

Section 100. A person having the following prohibitions on the Election Day is disfranchised:

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- (1) Being a monk, novice, Brahmin priest, or clergy;
- (2) Being under suspension of the right to vote;
- (3) Being detained by a warrant of the Court or by a lawful order;
- (4) Being of unsound mind or of mental infirmity;

Section 101. A person having the following qualifications has the right to be a candidate in an election of members of the House of Representatives:

- (1) Thai nationality by birth;
- (2) Being not less than twenty five years of age on the Election Day;
- (3) Being a member of any and only one political party, for a consecutive period of not less than ninety days, except in a general election following an unexpected House dissolution, in which case he or she is required to have been a registered member of a political party not less than thirty days continuously up to the date of an election;
- (4) A candidate in an election on a constituency basis shall also possess any of the following qualifications:
 - (a) Having his or her name appears in the house register in *Changwat* where he or she stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;
 - (b) Born in the *Changwat* where he or she stands for the election;
 - (c) Having studied in an education institution situated in *Changwat* where he or she stands for election for a consecutive period of not less than five academic years before;
 - (d) Having served in the official service before or having had his or her name appear in the house register in *Changwat* where he or she stands for election for a consecutive period of not less than five years before.
- (5) A person who stands for a party-list basis shall have appearance either, or as follow (4). If any appearance concerning to any *Changwat*, it has to be a about group of *Changwat*.
- (6) Having other qualifications as stipulated in the organic Act on Election of Members of the House of Representatives and Selection of Members of the Senate.

Section 102. A person under any of the following prohibitions shall have no right to be a candidate in an election of members of the House of Representatives:

- (1) Being addicted to drugs;
- (2) Being an undischarged bankrupt or having been bankrupt by fraud,
- (3) Being a person with prohibitions to stand for election for a member of the House of Representatives under Section 101 (1), (2), or (4);
- (4) Having been sentenced by a judgment to imprisonment and being detained by a warrant of the Court;
- (5) Sentenced to imprisonment and having been discharged less than five years to the Election Day, except for negligence or minor offences committed through negligence;
- (6) Having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the ground of dishonest performance of duties or corruption;
- (7) Having been ordered by a judgment or an order of the Court that his or her assets shall dissolve on the State on the ground of unusual wealthiness or an unusual increase of his or her assets;
- (8) Being a Government official holding a permanent position or receiving salary except a political official;
- (9) Being a member of a local council or being a local administrator,
- (10) Being a member of the Senate, or have been a Senator; and the membership terminated less than 2 years;
- (11) Being a member of a local assembly or a local administrator or employee of the State agency or State Enterprise;
- (12) Being a judge of the Constitutional Court, an Election Commissioner, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission, a member of the National Human Right Commission;
- (13) Suspended from holding political office under Section 263;
- (14) Having been removed from office by the resolution of the Senate under section 274.

Section 103. A political party cannot field more candidates in a constituency than the maximum allowed for that constituency.

If any of the political party has already sent candidates for running an election allowed after paragraph one; even if afterward the members of the candidatures are not complete without any reasons, this political party has obtained fully the members of the candidatures for running an election.

Once a political party has fielded candidates for running an election; it's not permitted to change or revoke the candidatures from running an election.

Section 104. The term of the House of Representatives is four years from the Election Day. During the term, political parties with seats in the House shall not be permitted to merge.

Section 105. Membership of members of the House of Representatives shall take effect as from the Election Day.

Section 106. 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 101;
- (5) Prohibition under Section 102;
- (6) Acting in contravention of any prohibition under Section 265 or Section 266;
- (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 65 paragraph three. If the Constitutional Court decides that the said resolution is not of the nature as specified in Section 65 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 65 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 274 removing him or her from office or the Constitutional Court takes decision terminating his or her membership under Section 91, or the Supreme Court of Justice issues an order under section 239, paragraph two. 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 107. 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 108. 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 109. 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 110. 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 124, paragraph four 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

The Senate

Section 111. The Senate shall consist of 150 members, to be elected by the people from each *Changwat*; one member from each *Changwat*, and appointed the equal of numbers of above divided from the member of the elected person.

In the case of increase or decrease of *Changwat* during the term elected Senator the senate shall consist of the remaining Senators.

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

In the case of any affairs that made the office of Senator becomes vacant under paragraph one, and the existing Senators are more than ninety-five percent of the office of senate, the senate shall consist of the remaining Senators, but an election or appointed of a Senator to fill the vacancy shall held within hundred and eighty days; the replacing Senator may serve only for the remainder of the term of the Senate.

Section 112. In an election of Senators, the area of *Changwat* shall be regarded as one constituency, and one member of the Senator each *Changwat* shall be elected; the person having the right to vote at an election of Senators may cast ballot, at the election for one candidate in that constituency.

For the benefit of an election of the senate, the senate shall be able to run the campaign to introduce about the duties of the Senators.

Rules, procedure and conditions for running an election and campaign for election of the senate shall be in accordance with the organic law on the election of members of the House of Representatives and Senators.

Section 113. There shall be a Selection Committee for Senators consisting of the President of the Constitutional Court, the President of the Election Commission, the President of the ombudsman, the President of the National Counter Corruption Commission, the President of the Office of Auditor General, the President of the National Human Rights Commission, a judge to be assigned by the general meeting of the Supreme Court of Justice, a judge to be assigned by the Supreme Administrative Court. The Selection Committee for the Senate shall select persons under Section 114 within 30 days from the day of receiving the name-list from the Election Commission and shall submit the list of selected candidates to the President of the House of Representatives. The Election Commission shall promulgate the appointing Senators that selected from the list of persons.

The Selection Committee under paragraph one appoints one person to be the President of the Selection Committee.

If there is no member for any position in the Selection Committee, or if there is, but he or she cannot perform his or her duty, the remaining members shall constitute the Selection Committee provided they represent not less than half of the full Committee.

Section 114. The Selection Committee for Senators shall appoint the member of proper persons which are proposed by the different organizations including the academia, the public sector, the private sector, occupational groups, and other groups qualified to perform Senatorial functions until the required number is met under section 111 paragraph one.

In making the selection under paragraph one, particular attention shall be paid to knowledge, skills or expertise and experience of practice relevant to the performance of Senatorial functions; to a mix of people with different branches of knowledge.

Rules, procedure and conditions for appointing Senators shall be in accordance with the organic law on the election of members of the House of Representatives and Senators.

Section 115. A person shall have the qualifications and shall not be under any prohibition shall have the right to apply or be nominated for selection as a Senator as follows:

- (1) Being of Thai nationality by birth;
- (2) Being of not less than forty years of age on the nomination day;
- (3) Having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) A person who applicants for Senator shall have such one or another characteristic as follows:
 - (a) Having his or her name appears in the house register in *Changwat* where he or she stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;
 - (b) Born in the *Changwat* where he or she stands for the election;
 - (c) Having studied in an education institution situated in *Changwat* where he or she stands for election for a consecutive period of not less than five academic years before;
 - (d) Having served in the official service before or having had his or her name appear in the house register in *Changwat* where he or she stands for election for a consecutive period of not less than five years before;
- (5) Not an ancestors, spouse or child of the members of the House of Representative or holding any position by the political party;

- (6) Not a member of any political party or holding any position by the political party, or if so, must have left no less than five years to the day of application or nomination;
- (7) Not a member of the House of Representative or having been a member of the House of Representative, and left no less than five years to the day of application or nomination;
- (8) Not being under any of the prohibitions under section 102 (1), (2), (3), (4), (5), (6), (7), (8), (9), (11), (12), (13) or (14);
- (9) Not being a Minister or having been holding any position that not be the member of the local administrative or of the local official or having been and left no less than five years;

Section 116. The member of the Senate shall not be a Minister or other political official or being an official of an independent entity

A person who having been a member of the Senate and the membership left no less than two years shall not be a Minister or holding of political party.

Section 117. Membership of the elected Senate commences on the election day and membership of the selected Senate commences on the day of announcement of the selection result by the Selective Committee for selected senators.

The term of the Senate is six years as from the election day or the day of announcement of the selection result by the Selective Committee for selected senators, as the case may be. Senators shall not serve for consecutive terms.

A senator whose membership terminates upon the expiration of the term of the Senate shall remain in office to continue to perform his duties until there is a new senator.

Section 118. Upon the expiration of the term of the elected Senate, the King will issue a Royal Decree calling for a new general election of senators, in which the election day must be fixed within thirty days as from the date of the expiration of the term of the elected Senate and the election day must be the same throughout the Kingdom.

Upon the expiration of the term of the selected Senate, the Election Commission shall issue Notifications determining the starting date and the period of new senators selection procedure, which shall be completed within sixty days as from the date of the expiration of the term of the selected Senate.

Section 119. Membership of the Senate terminates upon;

- (1) expiration of the term of the Senate;
- (2) death;
- (3) resignation;
- (4) being disqualified or being under any prohibitions under section 115;

- (5) acting in contravention of any of the prohibitions under section 116, section 265, or section 266;
- (6) the Senate passing a resolution under section 274 removing him or her from office, or the Constitutional Court having a decision terminating his or her membership under section 91, or the Supreme Court of Justice issuing the order under section 239, paragraph two, or section 240, paragraph three; in such case, his or her membership shall be deemed to have terminated as from the date of the resolution of the Senate or the decision of the Constitutional Court or the order of the Supreme Court of Justice, as the case may be;
- (7) having been absent for more than one-fourth of the number of days in a session, the length of which is not less than one hundred and twenty days without permission of the President of the Senate;
- (8) having been sentenced by a final judgment to imprisonment, notwithstanding the suspension of the infliction of punishment, except for the suspension of the infliction of punishment for an offense committed through negligence, a petty offense, or an offense of defamation.

Section 120. When the office of senator becomes vacant for reasons under section 119, the provisions under section 112, section 113, section 114, and section 118 shall apply to an election or a selection of a senator to fill the vacancy. The replacing senator shall serve only for the remainder of the term of whom he or she has replaced. In the case where the remainder of the said term is less than one hundred and eighty days, there may not be an election or a selection of a senator to fill the vacancy.

Section 121. In the case where the Senate shall consider having a person hold any position under provisions of this Constitution, a committee shall be appointed by the Senate to examine past records, behaviors, and moral conducts of the person nominated for holding such position, and to gather necessary facts and evidence to be reported to the Senate for its further consideration.

The proceeding by the committee under paragraph one shall be in accordance with the Rules of Procedure of the Senate.

Part 4

Provisions Applicable To Both Houses

Section 122. Members of the House of Representatives and senators are representatives of the Thai people, and shall honestly perform the duties for the common interest of the Thai people. Not bound by any assigned mandate, nor dominated by political influence, they shall carry out their duties for the benefits of the people honestly, faithfully, and free from conflict of interest.

Section 123. 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 or she is a member in the following words:

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

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Section 124. 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 the members of such House in accordance with its resolution.

The President and the Vice Presidents of the House of Representatives hold office until the expiration of the term or the dissolution of the House.

The President and the Vice-Presidents of the Senate hold office until the day preceding the date of the election the new President and Vice-Presidents.

The President and the Vice-Presidents of the House of Representatives and the President and the Vice-Presidents of the Senate vacate office before the expiration of the term of office under paragraph two or paragraph three, as the case may be, upon:

- (1) loss of membership of the House of which he or she is a member;
- (2) resignation;
- (3) holding a position of Prime Minister, Minister or other political official;
- (4) being sentenced by a judgment to imprisonment even if the judgment is not final or regardless whether the sentence is a suspended or not, except for negligence, minor offences, or defamation.

While in office, the President or Vice-Presidents of the House of Representatives cannot be an executive or hold any position in a political party.

Section 125. The President of the House of Representatives and the President of the Senate shall have the powers and duties to perform the functions of their respective House according to rules and regulations. The Vice-Presidents shall have the powers and duties as assigned by the President and shall act on his or her behalf during his or her absence or when the President is unable to perform duty.

The President of the House of Representatives, the President of the Senate, and their surrogate shall perform their duties impartially.

When the President and Vice-Presidents of the House of Representatives or of the Senate are not at the sitting, members of the respective House shall elect from among themselves someone to preside over that meeting.

Section 126. To have a quorum, the sitting of the House of Representatives and of the Senate must have a presence of no less than one-half of the existing members in their respective House except during interpellation under Section 156 and Section 157. The House of Representatives and the Senate may specify the rule of quorum otherwise.

A vote on consultative issues shall be based on a simple majority unless otherwise required by this Constitution.

Each member shall have one vote. If the votes are equal, the President at the sitting shall have the casting vote.

The President of the National Assembly, the President of the House of Representatives and the President of the Senate shall arrange to have the vote of each member recorded and disclose those records in places where the public may inspect, unless it is a secret ballot.

Voting to select or to express approval for a person in any position shall be made in secret unless the provisions of this Constitution require otherwise. Members are free and not bound by his or her political party's resolution or other mandate.

Section 127. Within 30 days from a general election of the House of Representatives, a sitting of the National Assembly shall be convoked so that the members can have their first sitting. Each year there shall be an ordinary general session and an ordinary legislative session. The day of the first sitting under paragraph one shall mark the beginning of the ordinary general session while the first day of the ordinary legislative session shall be left to the House of Representatives to decide. Sitting for the first time under paragraph one, if there remain fewer than 150 days to the end of the calendar year, it is possible not to have an ordinary legislative session in that particular 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 of the consideration of bills or organic law bills, the approval of an Emergency Decree, the approval of the declaration of war, the approval of a treaty, the election or approval of a person for holding office, the removal of a person from office, the 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 the existing members of both Houses, for considering other matters.

It is permissible to prorogue the general ordinary session less than 120 day subject to the approval of the National Assembly.

Section 128. 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 127 paragraph one or may command the Heir to the Throne who is sui juris or any person to perform the ceremony as His Representative.

In the interest of the public, the King may convoke the National Assembly to an extraordinary sitting.

Convocation, extension of sessions, and proroguing them shall be effected by Royal Decree under Section 129.

Section 129. Members of both Houses or members of the House of Representatives of not less than one-third of the total number of the existing members of both Houses have the right to present their petition to the King for the 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.

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The President of the National Assembly shall submit the petition to the King and countersign his Royal Command thereof.

Section 130. At the meeting of the House of Representatives and of the Senate or at a joint meeting of the National Assembly, a member may use words or make statements expressing views or vote as a matter of absolute privilege. No person shall be permitted to use it as cause for legal action.

The privilege under paragraph one does not give immunity to the member who speaks at the meeting with radio or TV coverage, specifically if the utterances appear elsewhere than the National Assembly's premises, are criminally offensive or infringe the rights of other persons who are not Ministers or members of that particular Chamber.

In the circumstances under paragraph two, if a member says something that may cause damage to a person or persons who are not Ministers or members of that House, the President of the House shall arrange a public explanation in the way demanded by the injured party and within the time limit under the rules of meeting of that particular House, without prejudice to his or her rights to sue.

The protection of the privilege under this Section shall extend to publishers and advertisers of the proceedings of the meeting in accordance with the regulations of the House of Representatives, the Senate, or the National Assembly as the case may be. It shall also extend to the person who the President allowed to speak or express views at the sitting, as well as to the licensed broadcasters and telecasters *mutatis mutandis*.

Section 131. No member of the House of Representatives or senator shall, during a session, be arrested, detained or summoned by a warrant for inquiry as the suspect in a criminal case unless permission of the House of which he or she is a member is obtained or he or she is arrested in flagrante delicto.

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

In the case where a criminal charge is brought against a member of the House of Representatives or a 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 or she is a member is obtained or it is a case concerning the organic Act on the Election of Members of the House of Representatives and the Taking of Office of Senators, the organic Act on the Election Commission, the organic Act on Political Parties; provided that the trial of the Court shall not hinder such member from attending the sitting of the House.

The trial and jurisdiction 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 a 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 or she is a member has so requested.

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

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Section 132. During the expiration of the term or the dissolution of the House of Representatives, the Senate shall not hold its sitting except in the following cases:

- (1) a sitting at which the Senate shall act as the National Assembly under section 19, section 21, section 22, section 23, and section 189, and the votes taken shall be based on the number of senators;
- (2) a sitting at which the Senator shall consider having a person hold any office under applicable provisions of this Constitution;
- (3) a sitting at which the Senate shall consider and pass a resolution removing a person from office.

Section 133. A sitting of the House of Representatives and of the Senate and a joint sitting of the National Assembly are public under the conditions stipulated in the rules of procedure of each House. 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 the existing members of each House or of both Houses, as the case may be.

Section 134. The House of Representatives and the 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 organic law bills and bills, submission of motions, consultation, debate, passing of a resolution, recording and disclosure of the passing of a resolution, interpellation, general debate, observation of the rules and orders, and other related matters. The House of Representatives and the Senate also have the power to make the rules of procedure governing codes of ethics of members and committee members, and other matters for the execution of this Constitution.

Section 135. The House of Representatives and the 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 committees under paragraph one have 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. Such power shall be enforceable by law, but shall not be applicable to magistrates or judges who perform their duties concerning the trial and adjudication of legal proceedings or the personnel administration of each Court, nor to the Ombudsmen and members of independent organizations under this Constitution, who perform their duties as provided by this Constitution or by organic Acts, as the case may be.

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 Chairman of the committee shall notify the Minister who supervises and controls the agency to which such person is attached in order to instruct him or her to act as prescribed in paragraph two, except that, in the case of the safety or benefit of importance to the State, it shall be deemed as a ground of an exemption to the compliance with paragraph two.

The privileges provided in section 130 shall also extend to the 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 the rules of procedure of the House of Representatives under section 134, the President of the House of Representatives shall determine the proportion under paragraph five.

Part 5

Joint Meetings Of the National Assembly

Section 136. A joint sitting of the National Assembly shall take place for the following purposes:

- (1) Approval of the appointment of Regent under Section 19;
- (2) Declaration of the Regent under Section 21;
- (3) Acknowledgement of amendments in the Palace Law regarding succession to the throne, B.E. 2497 under Section 22;
- (4) Acknowledgement or approval of the succession to the throne under Section 23;
- (5) Resolution to allow the National Assembly to discuss other matters during an ordinary legislative session under Section 127;
- (6) Approval of prorogation of the session under Section 127;
- (7) Opening of a session under Section 128;
- (8) Enactment of regulations on the sitting of the National Assembly under Section 137;
- (9) Approval to consider organic Bills or Bills under Section 145;
- (10) Advising on Bills or organic Bills under Section 151;
- (11) Approval to consider amendment to the Constitution, Bills, and organic Bills under Section 153 paragraph two;
- (12) Announcement of policy under Section 176;
- (13) Opening of a general debate under Section 179;
- (14) Approving declaration of war under Section 189;

(15) Listening to clarification and approving a treaty under Section 190;

(16) Amending the Constitution under Section 291.

Section 137. In a joint sitting of the National Assembly, the rules of procedure of the National Assembly shall apply. In the absence of such rules, the rules of procedure of the House of Representatives shall apply *mutatis mutandis*.

In a joint sitting of the National Assembly, the provisions for both Houses shall apply *mutatis mutandis*, except in forming committees. The committee members from each House shall be closely proportional to the respective total number of the existing members of both Houses.

Part 6

Legislating Organic Bills

Section 138. Enactment of Organic Bills requires the recommendation and approval of the National Assembly as follows:

- (1) Organic Act on election of members of the House of Representatives and selection of the Senate;
- (2) Organic Act on the Election Commission;
- (3) Organic Act on political parties;
- (4) Organic Act on referendum;
- (5) Organic Act on the Constitutional Court's procedure;
- (6) Organic Act on the Ombudsman;
- (7) Organic Act on the criminal procedure for holders of political positions;
- (8) Organic Act on counter corruption;
- (9) Organic Act on State audit.

Section 139. Organic Bills can only be proposed by:

- (1) The Council of Ministers
- (2) Members of the House of Representatives numbering not less than one fifth of the existing members in the House, or the combination of the House of Representatives and the Senate with members numbering not less than one fifth of the existing members of the two Houses combined;
or
- (3) The Constitutional Court, the Supreme Court, or statutory bodies, who are care-taker government under the relevant organic Act.

Section 140. Consideration of the organic Bill on the House of Representatives and the Senate shall be conducted in three stages or readings as follows:

- (1) In Stage 1, the vote concerns acceptance of the proposed Bill in principle. In Stage 2, the order of Sections is considered and the passage is based on a simple majority in each House.
- (2) In Stage 3, the proposed Bill must receive votes exceeding one half of the existing members of each House for it to become an Act.

The provisions in Part 6 of Chapter 7 on enactment of organic Bills shall apply *mutatis mutandis*.

Section 141. When the National Assembly has approved an organic Bill, before presenting it to the King for signature, a copy shall be sent to the Constitutional Court to ascertain whether it is consistent with the Constitution, which has to be completed within 30 days from the date the document is received.

If the Constitutional Court rules that the organic Bill contains a point or points in conflict with the Constitution, the said point(s) shall be dropped. If the decision says the important substances of the organic Bill contravene the provisions in the Constitution, then the entire Bill shall be rejected.

In cases of rejected Bill by the Constitutional Court that made the organic Bill dropped under paragraph 2, this organic Bill shall be sent back to the House of Representative and the Senate for adjustment, so that Bill shall not contravene the provision in the Constitution. The proposed Bill must receive votes exceeding one half of the existing members of each House for it to become an Act; and the Prime Minister shall proceed in accordance with Section 90, section 150 or Section 151 as the case may be.

Part 7

Legislative Process

Section 142. By virtue of Section 139, a Bill may be proposed only by:

- (1) Council of Ministers,
- (2) Members of the House of Representatives of no fewer than 20,
- (3) Courts or statutory agencies, only for laws connected with establishment of agencies and laws under the care of these agencies, or
- (4) Eligible voters of no fewer than 10,000 who sign a petition to propose legislation under Section 163.

If the Bill proposed by persons under (2), (3), and (4) is connected with money, it has to be endorsed by the Prime Minister.

If the propose by eligible voters under (4), and other person under (1), (2) provide the same Bill, the Bill under section 163 paragraph 4 has to be presented too.

A Bill has to propose first to the House of Representatives.

In proposing a Bill under paragraph one, it is necessary to attach to the proposed Bill, records of analysis and summary of the key points.

The Bill presented to the National Assembly must be disclosed to the public and the people must be able to have ready access to its detailed contents.

Section 143. A money Bill means the Bill concerns any one of the matters listed below:

- (1) Imposition, abolition, reduction, alteration, relief or regulations about taxes or duties;
- (2) Appropriations, receipts, maintenance, spending of State moneys, or transfer of State budgets;
- (3) Borrowing, guaranteeing, uses of loans, or commitment of State assets; and
- (4) Currency.

If in doubt whether the proposed Bill concerns money, which, if it does, shall require Prime Minister's endorsement, the decision shall be left to the power of a joint sitting between the President of the House of Representatives and the Chairs of all the Parliamentary Standing Committees.

The President of the House of Representatives shall arrange a joint sitting under paragraph two within 15 days from the day the issue arises.

The resolution of the joint sitting under paragraph two shall be based on a simple majority. If the votes for and against are equal, the President of the House of Representatives shall have the casting vote.

Section 144. For any Bill or organic Bill introduced by members of the House of Representatives which, at the stage of adopting its principle, was not a money Bill, but after amendment by the House, the President of the House decides it has the characteristics of a money Bill, the President of the House shall temporarily suspend the consideration of the Bill. Within fifteen days of the suspension, he or she shall refer it to a joint sitting of the President of the House and Chairs of all the Standing Committees to make a decision thereon.

If the joint sitting confirms under paragraph one that the amendment has made the Bill bear the characteristics of a money Bill, the President of the House of Representatives shall send the said Bill to the Prime Minister for endorsement. If the Prime Minister refuses to endorse, then the House of Representatives shall make further amendment so that the Bill is not a money Bill.

Section 145. If a Bill or organic Bill, which the Council of Ministers in its policy statement to the National Assembly under Section 176 said was necessary for the administration of State affairs, is not passed by the House of Representatives, and if the votes against it is less than one-half of the existing members of the House, the Council of Ministers may request the National Assembly to hold a joint sitting to review the resolution. If the joint sitting agrees, the National Assembly shall appoint persons, members or non-members, in equal numbers between the two Houses as specified by the House of Representatives, to form a joint committee of the National Assembly for considering the Bill in question. The joint committee shall then prepare a report and submit the Bill which it has considered to the National Assembly for approval. If it is approved, the Bill shall move forward under Section 146. Otherwise, it shall lapse.

Section 146. Under Section 168, when the House of Representatives has considered a Bill introduced under Section 142 and voted in favors, the House of Representatives shall submit the Bill in question to

the Senate for consideration. The Senate must finish its deliberation within 60 days or within 30 days if it is a money Bill. As a special case, the Senate may however extend the time limit by another 30 days maximum. All the dates must be set with regard to the session time remaining from the day the Bill reaches the Senate.

The said period in paragraph one shall not include the time the Constitutional Court takes to consider the Bill under Section 149.

If the Senate cannot finish consideration of the Bill within the time mentioned in paragraph one, it shall be deemed as if it has approved the Bill.

If the House of Representatives submit a money Bill to the Senate, the President of the House must indicate so. The President of the House of Representatives does say that it is a money Bill. The notification of the President of the House of Representatives shall be considered final.

If the President of the House of Representatives does not say that it is a money Bill, then the Bill shall be regarded as a non-money Bill.

Section 147. By virtue of Section 168, when the Senate has finished consideration of a Bill:

- (1) If the Senate agrees with the House of Representatives, the Senate shall proceed under Section 150;
- (2) If the Senate does not agree with the House of Representatives, the Senate shall suspend the Bill and return it to the House of Representatives;
- (3) If the Bill is amended, the Senate shall send the amended Bill to the House of Representatives. If the House of Representatives agrees with the amendment, the House of Representatives shall proceed under Section 150. In all other cases, each House shall appoint members and non-members of the respective Houses in equal numbers as specified by the House of Representatives to form a joint committee for considering the Bill. The joint committee shall jointly prepare a report and submit the Bill which it has considered to both Houses. If both Houses approve, the Bill shall move forward in accordance with Section 150. If either of the Houses disapproves, the Bill shall be suspended for the time being.

The joint committee may ask for documents from someone or summon him or her to give facts or opinion on the consideration of the Bill. The privilege provided in Section 1304 shall protect whoever acts under this Section as well.

The sitting of the joint committee must have the presence of half the number of committee members to have a quorum. Section 137 shall apply *mutatis mutandis*.

If the Senate does not return the Bill to the House within the stipulated time under Section 146, it shall be considered as if the Senate approves and the Bill shall move forward under Section 150.

Section 148. A Bill suspended under Section 147 may be reconsidered only after a lapse of 180 days from the date the Senate sent it back to the House of Representatives, if suspended under Section 147 (2), or from the date of rejection by one or the other House if suspended under Section 147 (3). In such cases, if the House of Representatives reaffirms in a motion to keep the original Bill or the one the joint committee

has adopted with votes of more than half the number of the existing members of the House of Representatives, then the Bill shall be considered approved and shall proceed according to Section 150.

If the suspended Bill is about money, the House of Representatives may reconsider it afresh immediately. In such cases, if the House of Representatives stand firm on the original Bill or the one the joint committee has adopted with a vote of more than half the number of the existing members of the House of Representatives, then the Bill shall be considered approved and shall proceed in accordance with Section 150.

Section 149. During the period of suspension under Section 147, the Council of Ministers or members of the House of Representatives shall not introduce Bills of the same or similar principle.

If the House of Representatives or the Senate think the new Bill introduced or submitted for their consideration has the same or similar principle to the suspended Bill, the President of the House of Representatives or the President of the Senate shall submit it to the Constitutional Court for review. If the Constitutional Court concurs, then the Bill shall be considered to have lapsed.

Section 150. After the Bill is approved by the House of Representatives and within 20 days from the day it was received from the National Assembly, the Prime Minister shall submit it to the King for His signature. And immediately following its announcement in the Government Gazette, the Bill shall be in force as law.

Section 151. If the King refuses His assent to a bill and either returns it to the National Assembly or does not return it within ninety days, the National Assembly must re-deliberate such bill. If the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of the existing members of both Houses, the Prime Minister shall present such bill to the King for signature once again. If the King does not sign and return the bill within thirty 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 152. In considering a bill the substance of which is decided by the President of the House of Representatives to be concerned with children, youth, women, older persons, 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, and with a close proportion of male and female members.

Section 153. 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 to which the King has refused His assent or which have not been returned by the King within ninety 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 or the 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 sixty 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 period of time, such draft Constitution Amendment or bill shall lapse.

The further consideration of the draft Constitution Amendment or the bill under paragraph two shall be in accordance with the rules of procedure of the House of Representatives, the Senate or the National Assembly, as the case may be.

Part 8

Control Of Enactment Contravening the Constitution

Section 154. Before the Prime Minister submits a Bill passed by the National Assembly to the King for His signature under Section 150 or before re-submitting a Bill that the National Assembly has reaffirmed under Section 151, the following shall be done:

(1) If members of the House of Representatives, of the Senate, or the two Houses combined numbering not less than one-tenth of the existing members of the two Houses combined find anything contradicting the Constitution in the Bill, or if its passage is procedurally unconstitutional, they shall express 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 cause him or her to submit that opinion to the Constitutional Court for consideration and notify the Prime Minister without delay.

(2) If the Prime Minister thinks the said Bill contains something that is in conflict with this Constitution or is procedurally unconstitutional, he shall submit such opinion to the Constitutional Court for consideration and notify the President of the House of Representatives and the President of the Senate without delay.

Pending the decision of the Constitutional Court, the Prime Minister shall suspend the process of announcement in the Government Gazette.

If the Constitutional Court rules that the Bill does contain something in conflict with this Constitution or is procedurally unconstitutional, particularly if the said text is substantively important, the Bill shall be considered to have lapsed.

If the Constitutional Court rules that the Bill contains a passage or passages that contradict this Constitution but do not come into the frame of paragraph 3, the said passage(s) shall be dropped and the Prime Minister shall proceed in accordance with Section 150 or Section 151 as the case may be.

Section 155. The provisions in Section 154 shall apply *mutatis mutandis* to Bills on the rules of procedure of the House of Representatives, of the Senate, and of the National Assembly, which have been approved by the House of Representatives, the Senate, or the National Assembly as the case may be, but have not been announced in the Government Gazette.

Part 9

Control Of the Administration Of State Affairs

Section 156. Every member of the House of Representatives and of the Senate has the right to question a Minister or Ministers about work under their responsibility. However, the Minister or Ministers have the

right not to answer if the Council of Ministers decides it is not yet time to disclose on ground that the matter concerns national security or interests.

Section 157. In administering the State affairs, an important problem, which affects national or public interest and attracts public attention, may arise and become a matter of urgency. [In the circumstances], a member of the House of Representatives may notify the President of the House in writing before the sitting of the day begins that he or she wishes to question the Prime Minister or Minister concerned with the issue without having to specify the question but asking the President of the House to enter the said item in the agenda of the day.

Interpellation or ministerial questioning may take place once a week, allowing a member of the House of Representatives to orally ask no more than three questions in accordance with the rules of procedure of the House of Representatives.

Section 158. Members of the House of Representatives of no less than one-fifth of the existing members of the House shall have the right to call for a general debate of no-confidence in the Prime Minister. The said motion must propose a suitable replacement, with qualifications specified in Section 171 paragraph two. After the motion is lodged, it is not permitted to dissolve the House unless the motion is withdrawn or the motion is not carried under paragraph three.

A motion for a general debate under paragraph one shall not be permitted without first submitting a petition under Section 271, specifically if it concerns the conduct of the Prime Minister who has become “unusually rich” through apparent misfeasance or for deliberate defiance of the provisions of the Constitution or law. When the petition is submitted under Section 271, the proceedings shall move forward without having to wait for the results of the action under Section 272.

When the general debate has ended without passing the motion of no-confidence, such a resolution shall not be on the same day the general debate ends. For the motion of no-confidence to be carried, it must have votes exceeding half the number of the existing members of the House.

Where the votes is less than half the number of the existing members of the House of the House of Representatives, those proposing the motion shall have no right to call another debate of no-confidence the rest of the session.

Where the votes exceed one-half of the existing members of the House, the President shall submit the proposed name under paragraph one to the King for His appointment. He or she shall not apply Section 172.

Section 159. Members of the House of Representatives of not less than one-sixth 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 in an individual Minister. The provisions of section 158, paragraph two, paragraph three and paragraph four shall apply mutatis mutandis.

The Minister who has vacated his office but is still holding another ministerial position after the members of the House of Representatives submits the motion under paragraph one shall still be subject to the debate for the purpose of passing a vote of no-confidence under paragraph one.

The provision of paragraph two shall apply mutatis mutandis to the Minister who has vacated his office for less than a period of ninety days when the members of the House of Representatives submit the motion under paragraph one, and who is still holding another ministerial position.

Section 160. 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 158 or section 159, members of the House of Representatives of more than half of the total number of the existing members 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 158 or section 159 after the Council of Ministers has been in office for more than two years.

Section 161. Senators of not less than one-thirds 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 162. 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 subject to the no-confidence debate shall have the duty to attend such sitting 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 shall be free from resolutions adopted by political parties in raising an interpellation, engaging in a debate, and voting in a no-confidence debate.

CHAPTER VII CITIZEN PARTICIPATION

People's Direct Political Participation

Section 163. Eligible voters of no fewer than 10,000 shall have the right to sign a petition to the President of the Senate to cause the National Assembly to consider legislation under the provisions in Chapter 3 and Chapter 5 of this Constitution.

The petition must be accompanied by the Bill being proposed.

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

At the stage of adopting the petition under paragraph 1 the House of Representatives and the Senate shall permit the Eligible voters to elucidate each petition. The extraordinary committee members shall be composed not less than one-third of the Eligible voters of the extraordinary committee.

Section 164. Eligible voters of no fewer than 20,000 can sign a petition to the President of the Senate under Section 274 to have a person removed from office under Section 270.

The petition under paragraph one must clearly state one by one the wrong-doings of the holder of office in question allegedly committed.

The rules and procedure and conditions for petition under paragraph one must be in accordance with the organic Act on counter corruption.

Section 165. An eligible voter has the right to vote in a referendum.

A referendum must be conducted under the following circumstances:

(1) Where the Council of Ministers is of the opinion that certain action may affect the interests of the nation or people, the Prime Minister with the consent of the Council of Ministers may seek advice of the President of the House or of the Senate before announcing the referendum in the Government Gazette.

(2) Where there is a law requiring a referendum:

The referendum under (1) or (2) can be either conclusive with a majority vote on the issue involved, or consultative to advise the Council of Ministers unless the law stipulates otherwise.

The vote in a referendum shall be for or against in the matter for which it is intended. It must not contradict the Constitution, nor be about an individual or a group of individuals.

Before a referendum, the State must provide adequate information, giving both those for and those against an equal opportunity to express their views.

The rules and procedure of a referendum shall be in accordance with the organic Act on referendum; that must at least be informed about the procedure, time, and the number of votes required to be decisive.

Chapter VIII

Money, Finance and Budget

Section 166. 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 time being.

Section 167. The presentation of the Annual Appropriations Bill must be accompanied by relating documents clearly showing revenue estimates and objectives, activities, work program and projects of each item of the expenditure of estimates. It must also show the financial status of the State with aggregate profiles of expenditures and revenues, benefits and the loss of revenue from tax exemptions, necessity to set a budget to fund past commitments, debt accumulation of the State as well as the financial positions of State enterprises in the fiscal year that appropriations are requested and in the previous fiscal year for additional consideration.

Any expenditure that cannot be directly allocated to government agencies, State enterprises or any other State agencies, it shall be allocated to the Central Fund, with reasons indicated.

There shall be legislation on State finance to determine the budgetary discipline, including rules on medium-range financial plan, rules on revenue provision, guidelines for preparing State expenditure estimates, management of money and assets, accounting, public funding, debt accumulation or commitment of State assets; and rules to determine the amount of reserve for emergencies and the likes, which will provide a framework for revenue provision, expenditure based on economic stability concept, sustainable economy development, and social justice.

Section 168. The House of Representatives must finish the consideration and analysis of the annual appropriations bill, a supplementary appropriations bill and a transfer of appropriations bill within one hundred and five days as from the date the bill is introduced to the House of Representatives.

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

In the consideration by the Senate, the Senate must approve or disapprove it without any amendment within twenty days as from the date the bill is introduced to 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 150 shall be taken.

If the Senate disapproves the bill, the provisions of section 148, paragraph two shall apply *mutatis mutandis*.

In the consideration of the annual appropriations bill, the supplementary appropriations bill and the transfer of 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 the expenditures which are not expenditures according to any of the following obligations:

- (1) Money for payment of the principal of a loan;

This unofficial translation has been provided by IFES Thailand and the Political Section and Public Diplomacy Office of the US Embassy-Bangkok.

(2) Interest on a loan;

(3) Money payable in accordance with the law.

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

In the case where members of the House of Representatives or senators of not less than one-tenth of the total number of the existing members of each House are of the opinion that the violation of the provisions of paragraph six has occurred, they shall refer it to the Constitutional Court for decision and the Constitutional Court shall decide it within seven days as from the date of its receipt. In the case where the Constitutional Court decides that the violation of the provisions of paragraph six has occurred, such proposal, submission of the motion, or commission of the 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 and independent organizations under this Constitution.

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 169. 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 transfer of appropriations or the law on treasury balance, except that it may be prepaid in the case of urgent necessity under the rules and procedure 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 of the country bring in a state of war or battle, the Council of Ministers has the power to transfer or use the budgets allocated for 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.

In the case where budgets for one finance activity of State agencies or State enterprises has been transferred or used for another finance activity, the Government shall report it to the National Assembly for every period of six months.

Section 170. A State agency, whose revenue 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.

The expenditure under paragraph one shall fall within the budgetary discipline under this Chapter.

Chapter IX

The Council of Ministers

Section 171. The King appoints the Prime Minister and not more than thirty-five other Ministers to constitute the Council of Ministers having the duties to carry out the administration of the State affairs on the principle of collective responsibility.

The Prime Minister shall be a member of the House of Representatives, being elected under the provisions of section 172.

The President of the House of Representatives shall countersign the Royal Command appointing the Prime Minister.

The Prime Minister shall not serve in office more than eight years.

Section 172. The House of Representatives shall complete its consideration and approval of the person suitable to be appointed as Prime Minister within thirty days as from the day the National Assembly is convoked for the first sitting under section 127.

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 of not less than one-fifth of the total number of the existing members of 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 the existing members of the House of Representatives. The passing of the resolution in such case shall be by open votes.

Section 173. In the case where the period of thirty days as from the date the National Assembly is convoked for the first sitting of members of the House of Representatives has elapsed and no one has been approved for appointment as Prime Minister under section 172 paragraph three, the President of the House of Representatives shall, within fifteen days as from the lapse of such period, present to the King for the issuance of a Royal Command appointing the person who has received the highest votes as Prime Minister.

Section 174. A Minister must possess the qualifications and must not be under any of the 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 lower than a Bachelor's degree or its equivalent;
- (4) not being under any of the prohibitions under section 102 (1), (2), (3), (4), (6), (7), (8), (9), (11), (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 offense committed through negligence or a petty offense;
- (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 175. 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 176. The Council of Ministers which will assume the administration of the State affairs must, within fifteen days as from the date it takes office, state its policies to the National Assembly and explain its administration by the directive principles of fundamental state policies under section 75; provided that no vote of confidence shall be passed. After its statement of policies to the National Assembly, the Council of Ministers shall prepare an annual plan for the administration of State affairs in accordance with the provisions of Section 76.

Before stating policies to the National Assembly under paragraph one, if there occurs a case of importance and necessary urgency which, if left delayed, will affect material benefits of the State, the Council of Ministers which has taken office may, for the time being, carry out such acts in so far as it is necessary.

Section 177. A minister has the right to attend and give statements of fact or opinions at a sitting of the House. 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 130 shall apply mutatis mutandis.

During the sitting of the House of Representatives, if a Minister is concurrently a member of the House, he or she is prohibited to vote in connection with his or her being in office, his or her performance of duties, or his or her being party to the loss or benefits in that matter.

Section 178. 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 176, and shall be responsible individually 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 179. In the case where there is an important problem in the administration of the State affairs in regard to which the Council of Ministers deems it advisable to take 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 at a joint sitting of the National Assembly. In such case, no resolution shall be passed by the National Assembly on the issue put in the debate.

Section 180. Ministers vacate office en masse upon:

- (1) the termination of ministership of the Prime Minister under section 182;
- (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 182 (1), (2), (3), (4), (5), (7), or (8), the procedure under section 172 and section 173 shall apply mutatis mutandis.

Section 181. The outgoing Council of Ministers shall remain in office for carrying out duties until the newly appointed Council of Ministers takes office but, in the case of the vacation of office under section 180 (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, dismiss, or have someone else perform the duties of a government official holding a permanent position or receiving a salary, or an official of a State agency, a State enterprise, or an enterprise, of which the State is a major shareholder, except with the approval of the Election Commission.
- (2) shall not take any action requiring the spending of a reserve budget set aside for cases of emergency or necessity, except with the approval of the Election Commission.
- (3) shall not take any action approving a work or project, or binding on the next Council of Ministers.
- (4) shall not exploit the State's resources or manpower in a way that will affect the results of the next election or be in contradiction to the rules and regulations of the Election Commission.

Section 182. 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 such a case being an offense committed through negligence, a petty offense, or an offense of defamation;
- (4) being sentenced by a judgment to imprisonment;
- (5) the passing of a vote of no-confidence by the House of Representatives under section 158 or section 159;
- (6) the issuance of a Royal Command for the removal of a Minister from his or her office under section 183;
- (7) having done an act prohibited by section 267, section 268, or section 209;
- (8) being removed from office by a resolution of the Senate under section 274.

Aside from the causes of the termination of the individual ministership under paragraph one, the ministership of Prime Minister terminates upon the expiration of term under section 171, paragraph four

The provisions of section 91 and section 92 shall apply to the termination of the ministership under (2), (3), (5) or (7), or under paragraph two. The Election Commission shall also be empowered to submit this case to the Constitutional Court for decision.

Section 183. The King has the prerogative to remove a Minister from his or her office upon the advice of the Prime Minister.

Section 184. 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 is of the opinion that it is the case of emergency and necessary urgency which 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 it would be a delay to wait 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 disapprove the Emergency Decree without delay. If the House of Representatives disapproves it, or approves it but the Senate disapproves it and the House of Representatives reaffirms its approval by the votes of not more than one-half of the total number of the existing members of the House, the Emergency Decree shall lapse; provided that it shall not affect any act done during the enforcement of such Emergency Decree.

If the Emergency Decree under paragraph one has the effect of amending or repealing any provisions of any Act and such 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 as from the day the disapproval of such Emergency Decree comes into effect.

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

The Prime Minister shall cause the approval or disapproval of the Emergency Decree to be published in the Government Gazette. In case of disapproval, it shall be effective as 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 case of reaffirmation of the Emergency Decree must take place at the first opportunity when such Houses hold their sittings.

Section 185. Before the House of Representatives or the Senate approves an Emergency Decree under section 184 paragraph three, members of the House of Representatives or senators of not less than one-

fifth of the total number of the existing members of each House have the right to submit an opinion to the President of the House of which they are members that the Emergency Decree is not in accordance with section 184, paragraph one or two, and the President of the House who receives such opinion shall then refer it to the Constitutional Court, within thirty days as from the day such opinion is received, for decision. After the Constitutional Court has given a decision thereon, it shall notify its decision to the President of the House referring such opinion.

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

In the case where the Constitutional Court decides that any Emergency Decree is not in accordance with section 184, paragraph one or two, such Emergency Decree shall not have the force of law ab initio.

The decision of the Constitutional Court that an Emergency Decree is not in accordance with section 184, paragraph one or two, must be given by votes of not less than two-thirds of the total number of members of the Constitutional Court.

Section 186. 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 which shall have the force as an Act. The Emergency Decree issued under paragraph one must be submitted to the House of Representatives within three days as from the day following the date of its publication in the Government Gazette, and the provisions of section 184 shall apply mutatis mutandis.

Section 187. The King has the prerogative to issue a Royal Decree which is not contrary to the law.

Section 188. The King has the prerogative to declare and lift the martial law in accordance with the conditions and manner under the Martial Law.

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

Section 189. The King has the prerogative to declare war with the approval of the National Assembly.

The approval resolution of the National Assembly must be passed by votes of 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 of not less than two-thirds of the total number of the existing senators.

Section 190. The King has the prerogative to conclude a peace treaty, armistice and other treaties with other countries or international organizations.

A treaty that provides for a change in the Thai territories, the extraterritorial areas in which the Kingdom has a sovereign right, or any jurisdictional area the Kingdom has acquired through treaty or through international law, or requires the enactment of an Act for its implementation, or has extensive impacts on the country's economic and social stability, or has significant bindings on trade, investment, or national budget, must be approved by the National Assembly. This approval of the National Assembly shall be made within sixty days as from the day such a treaty is received.

Prior to the conclusion of a treaty with other countries or international organizations under paragraph two, 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, in which the Council of Ministers is required to propose the negotiation framework to the National Assembly for approval.

After the signing of the treaty under paragraph two, the Council of Ministers, before expressing its intent for any bindings, 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 or the small or medium sized entrepreneurs, the Council of Ministers shall take actions to make corrections or help the affected individuals in a timely, suitable, and fair manner.

A law shall be enacted on the procedures of the conclusion of a treaty having extensive impacts on the country's economic and social stability, or having significant bindings on trade or investment, including actions to make corrections or help the individuals affected by the observance of such a treaty with consideration of fairness between those benefiting the observance of the treaty and those affected by it, and of people.

In the case where a problem occurs under paragraph two and cannot be resolved, the Constitutional Court shall have the power to make a final decision. Provisions under section 154 (1) shall be applied mutatis mutandis to the petition of the case to the Constitutional Court for decision.

Section 191. The King has the prerogative to grant a pardon.

Section 192. The King has the prerogative to remove titles and recall decorations.

Section 193. 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 office upon death.

Section 194. A Government official or an employee of the State holding a permanent position or receiving a salary and not being a political official shall not be a political official or hold other political position.

Section 195. All laws, Royal Rescripts and Royal Commands relating to the State affairs must be countersigned by a Minister unless otherwise provided in this Constitution.

All laws which have been signed or deemed to have been signed by the King shall forthwith be published in the Government Gazette.

Section 196. Emoluments and other remuneration of Privy Councilors, President and Vice-Presidents of the House of Representatives, President and Vice-Presidents of the Senate, Leader of the Opposition in

the House of Representatives, members of the House of Representatives and senators shall be prescribed by the Royal Decree. Such emoluments and remuneration shall not be payable before the day they take their office.

Gratuities, pensions or other remuneration of Privy Councilors who vacate their office shall be prescribed by the Royal Decree.

CHAPTER X

THE COURTS

Part 1

General Provisions

Section 197. The trial and adjudication of cases are the powers of the Courts, which must proceed in accordance with the Constitution and the law and in the name of the King.

A judge is free and independent to adjudicate correctly, justly, and quickly in accordance with the Constitution and law.

Transfer of Judges and Justices without their consent is prohibited except for timing as provided by the law and promotion, or in the case of disciplinary action or being a criminal defendant, or prejudicial to an on-going trial, unavoidable necessity, or *force majeure*, as provided by law.

Judges and Justices are prohibited to hold political positions.

Section 198. All courts can only be established by Acts.

A new court for the trial and adjudication of any particular case or a case of any particular charge in place of an ordinary Court existing under the law and having jurisdiction over such case shall not be established.

A law is prohibited if it would have an effect of changing or amending the law on the organization of Courts or on judicial procedure for the purpose of its application to a particular case.

Section 199. Where there is a dispute over the competent jurisdiction among the Court of Justice, the Administrative Court, the Military Court or any other Court, it shall be decided by a committee consisting of the President of the Supreme Court of Justice as Chairman, the President of the Supreme Administrative Court, the President of such other Court, and not more than four qualified persons as members as provided by law.

The rules of submission of the dispute under paragraph one shall be as provided by law.

Section 200. The King appoints and removes judges except in the case of removal from office upon 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 and procedure of such Courts shall be in accordance with the law on the establishment of such Courts.

Section 201. 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 202. Salaries, emoluments and other benefits of judges shall be as provided by law; provided that the system of salary-scale 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 203. 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 204. The Constitutional Court consists of the President and eight other Judges to be appointed by the King upon advice of the Senate from the following persons:

- (1) three Judges of the Supreme Court of Justice holding a position of 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 with thorough knowledge and expertise of law, to be selected under Section 206;
- (4) two qualified persons in political science, public administration, or other social sciences with thorough knowledge and expertise in public administration, to be selected under Section 206.

Where no Judges in the Supreme Court of Justice or Justices in the Supreme Administrative Court are selected under (1) or (2), the general meeting of the Supreme Court or the general meeting of the Supreme Administrative Court as the case may be select qualified candidates without prohibited characteristics under Section 205 and with knowledge and expertise in law fit for the performance of duties as Constitutional Court justices under (1) or (2) as the case may be.

Those selected under paragraph one shall meet and select the President of The Constitutional Court and notify the President of the Senate.

The President of the Senate shall countersign the royal appointment of the President and Justices of the Constitutional Court.

Section 205. The qualified person under Section 204 (3) and (4) shall possess the qualifications and shall 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 Minister, an Election Commissioner, an Ombudsman, a member of the National Human Rights Commission, a member of the National Counter Corruption Commission or a member of the State Audit Commission, or having served, in the past, in a position of not lower than Deputy Prosecutor General, Director-General or its equivalent, or holding a position of not lower than Professor, or a lawyer of at least thirty years of continuous experience from the day of nomination;
- (4) Not being under any of the prohibitions under Section 100 or Section 102 (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 other position of a political party over the period of three years before taking of office;
- (7) Not being an Election Commissioner, 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.

Section 206. The selection and election of Judges of the Constitutional Court under Section 204 (3) and (4) shall proceed as follows:

- (1) There shall be a Selection 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, and one President to be selected from and among the Presidents of the statutory Independent Bodies. The Selection Committee thus formed shall select and elect the qualified persons under Section 204 (3) and (4) within thirty days from the date when selection and election has to be made and submit a name-list of those selected with their consent to the President of the Senate. The decision of the selection process is made by an open ballot and must have a vote of no less than two-third of the total number of the existing Committee members. If there are some vacancies in the Committee or if there are members but these cannot perform duties, if there are fewer than one half, the members available shall constitute the Selection Committee;

- (2) The President of the Senate shall convoke the Senate for a sitting for the purpose of passing persons of approval of the selected under (1) within 30 days from the date of receiving the name list. The vote shall be by secret ballot. If the Senate approves, the President of the Senate submits the name(s) to the King for appointment. Otherwise, in part or in whole, the President of the Senate shall send the names of those rejected back to the Selection Committee for the Constitutional Court, complete with reasons. If the Selection Committee agrees with the rejection, then the Senate shall renew the search. If the Selection Committee disagrees and resolves to confirm the original resolution with unanimous votes, the President of the Senate shall submit the name to the King for appointment.

Where it is not possible to select qualified persons within the time limit under (1), for any reason, the general meeting of the Supreme Court shall appoint three judges in the Supreme Court with positions of not lower than Judges of the Supreme Court; the general meeting of the Supreme Administrative Court shall appoint two Justices for Selection Committee to perform the functions in place of (1).

Section 207. The President and Judges of the Constitutional Court shall not:

- (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 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 independent profession has ceased to exist. This must be done within fifteen days as from the date of the election. If such 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 204 and section 206 shall apply.

Section 208. The President and Judges of the Constitutional Court shall hold office for nine years as 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 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 209. In addition to the vacation of office upon the expiration of term, the President and Justices of the Constitutional Court vacate office upon:

- (1) death;
- (2) being of seventy years of age;
- (3) resignation;
- (4) being disqualified or being under any of the prohibitions under Section 205;
- (5) having done an act in violation of Section 207;
- (6) the Senate passing a resolution under Section 274;
- (7) being sentenced by a judgment to imprisonment even if the judgment is not final or the sentence is suspended except for negligence, minor offences, or defamation.

When a case under paragraph one occurs, the remaining judges shall continue to perform their duties subject to Section 216.

Section 210. Where the President and Justices of the Constitutional Court vacate office *en masse* at the expiration of term, the steps under Section 204 and Section 206 shall be taken within thirty days as from the date of the vacation of office.

Where the President and Justices of the Constitutional Court vacate office otherwise than in the case under paragraph one, the following steps shall be taken:

- (1) In the case of a Justice of the Constitutional Court who was selected at the general meeting of the Supreme Court of Justice, Section 204 shall apply within 30 days from the date of vacating office;
- (2) In the case of a Justice of the Constitutional Court who was selected at the general meeting of the Supreme Administrative Court, Section 204 shall apply within 30 days from the date of vacating office;
- (3) In the case of a Justice of the Constitutional Court under Section 204 (3) or (4), Section 206 shall apply within 30 days from the date of vacating office.

In the case where some or all Justices of the Constitutional Court vacate office out of a session of the National Assembly, the steps under Section 204 shall be taken within 30 days from the date of the opening of a session of the National Assembly.

In the case where the President of the Constitutional Court vacates office, the provisions of Section 204 paragraph three shall apply.

Section 211. In applying the provisions of any law to any case, if the Court by itself is of the opinion that, or a party to the case raises an objection that, the provisions of such 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 submit its opinion in the course of official service, to the Constitutional Court for consideration and decision. Meanwhile, the Court can continue deliberation, but hold the judgment pending the decision from the Constitutional Court.

In the case where the Constitutional Court is of the opinion that the objection of a party under paragraph one is not essential for 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 final judgments of the Court.

Section 212. A person whose rights and freedoms provided by this Constitution have been violated is entitled to petition to the Constitutional Court for decision whether the provisions of the law contradict the Constitution.

The exercise of the rights to petition under paragraph one shall be the last resort in accordance with the provisions of the organic Act on the Constitutional Procedure.

Section 213. In the performance of 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 consideration.

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

Section 214. In the case where a dispute arises as to the powers and duties of two or more non-court organs under the Constitution, the President of the National Assembly, the Prime Minister, or such organs shall submit the matter together with an opinion to the Constitutional Court for decision.

Section 215. In the case where the Constitutional Court is of the opinion that a matter or case having been petitioned for its decision is a matter or case that it has once made a decision on, the Constitutional Court may refuse to accept the matter or case for consideration.

Section 216. The quorum of judges of the Constitutional Court for hearing and giving a decision shall consist of not less than five 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 opinions for a decision on his or her 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.

The decision of the Constitutional Court must at least consist of the background or allegation, summary of facts obtained from hearings, 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, Council of Ministers, Courts and other State organs.

The procedure of the Constitutional Court shall be in accordance with the organic Act on the Procedure of the Constitutional Court.

Section 217. 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 nominated by the President of the Constitutional Court and be approved by judges of the Constitutional Court as provided by law.

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

Part 3

Courts of Justice

Section 218. The Courts of Justice have the powers to try and adjudicate all cases except those specified by this Constitution or the law to be within the jurisdiction of other courts.

Section 219. There shall be three levels of Courts of Justice, namely: Courts of First Instance, Courts of Appeal, and the Supreme Court of Justice, except otherwise provided by this Constitution or other laws.

The Supreme Court of Justice shall have powers as provided by the Constitution or the law to consider and adjudicate cases brought before it directly, appeal cases, or review the decisions or orders of the Court of First Instance or the Court of Appeal except in cases in which the Supreme Court of Justice thinks the legal point and facts presented for appeal are not sufficiently substantive. In such cases, the Supreme Court shall have the powers not to accept the case subject to the procedure of the general meeting.

The Supreme Court shall have the power to consider and adjudicate a case connected with elections and revocation of the right to stand in the election of members of the House of Representatives. And the Appellate Court shall have the power to consider and adjudicate cases connected with elections and revocation of the right to stand in local elections and election of local administrators. The proceedings shall be in accordance with the procedure of the general meeting of the Supreme Court, using the inquisitorial method and acting quickly.

There shall be in the Supreme Court of Justice a Criminal Division for Persons Holding Political Positions, which quorum in court consists of nine Judges of the Supreme Court of Justice holding a position of 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 and on a case-by-case basis.

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

Section 220. 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 they are tendered to the King.

The promotion, salary increase, 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 in each level of Courts for preparing and presenting its opinion on such matter for consideration.

The approval by the Judicial Commission of the Courts of Justice under paragraph one and paragraph two, has to consider about erudition, performance and moral ethic of his or her mainly.

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

- (1) President of the Supreme Court of Justice as Chairman,;
- (2) Qualified members of all levels of Courts: six from the Supreme Court, four from the Appellate Courts, and two from the Courts of First Instance, who are judges of each level of Courts and elected by judicial officials of all level of Courts;
- (3) Two qualified members who are not or were not judicial officials and who are elected by the Senate.

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

In cases of no qualified members under paragraph one (3) or not complete of two qualified members; if the Judicial Commission of the Courts of Justice less than 7 members see the necessity of the pressing that shall be approved, the Judicial Commission of the Courts of Justice shall be one of the composition and shall have a meeting for making the decision.

Section 222. 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 shall be proposed by the President of the Supreme Court of Justice and must be approved by the Judicial Commission of the Courts of Justice.

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

Part 4

Administrative Courts

Section 223. 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 super-intendance or supervision of the Government on one part and a private individual on the other part, or between a State agency. State enterprise, local government organization, or State official under the superintendence or supervision of the Government on one part and another such agency, enterprise, organization or official

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on the other part, which is the dispute as a consequence of the act or omission of the 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 the act or omission of the act under the responsibility of such State agency, State enterprise, local government organization or State official in the performance of duties under the law, as provided by law.

The powers of the Supreme Administrative Courts under paragraph one are not combine with the adjudicate cases of the Constitution Court or any act that in the powers of the Constitution Court under that Constitution.

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

Section 224. The appointment and removal from office of an administrative judge must be approved by the Judicial Commission of the Administrative Courts as provided by 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 appointment shall be made in the number of 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 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 law.

Number of administrative judges in each Administrative Court shall be prescribed by the Judicial Commission of the Administrative Courts.

Section 225. 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 226. The Judicial Commission of the Administrative Courts consists of the following persons:

- 1) President of the Supreme Administrative Court as Chairman;
- 2) Nine qualified members who are administrative judges and elected by administrative judges 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 procedure for the election of the qualified members shall be in accordance with the provisions of the law.

In the case where there are no qualified members under paragraph one (3), or there are less than three of them, if members of the Judicial Commission of the Administrative Courts of not less than six are of the opinion that any case is an urgent matter requiring the Commission's approval, such members shall form a quorum to consider that urgent matter.

Section 227. 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 nominated by the President of the Supreme Administrative Court and be approved by the Judicial Commission of Administrative Courts as provided by law.

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

Part 5

Military Courts

Section 228. Military Courts have the powers to try and adjudicate criminal cases, of which perpetrators are within jurisdiction of the Military Courts, and other cases as provided by law.

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

CHAPTER 11

ORGANIZATIONS UNDER THE CONSTITUTION

Part 1

Independent Organizations Under the Constitution

1. Election Commission

Section 229. The Election Commission consists of a Chairman and other four 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 Chairman and Commissioners under paragraph one.

Section 230. An Election Commissioner shall have the qualifications but not any of the prohibitions as follows:

- (1) Aged not less than 40 years;

- (2) Having graduated with not lower than a Bachelor's degree or its equivalent;
- (3) Having qualifications and not having prohibitions listed in Section 205 (1), (4), (5), and (6);
- (4) Not being a Justice of the Constitutional Court, Ombudsman, Commissioner of the National Counter Corruption Commission, Commissioner of the State Audit, or Commissioner of the National Human Rights Commission.

The provisions of Section 207 shall apply *mutatis mutandis*.

Section 231. The selection and election of Chairman and Election Commissioners shall proceed as follows:

(1) There shall be a seven-member Selection Committee for Election Committee, consisting of President of The Constitutional Court, President of the Supreme Court of Justice, President of the Supreme Administrative Court, President of the House of Representatives, Opposition Leader of the House of Representatives, member that appointed by the committee of the Supreme Administrative Court. The Selection Committee shall select 3 suitable candidates with qualifications under Section 230 and submit the name list to the President of the House of Representatives with the nominees' consent. The resolution must be not less than 2 of 3 in favor. Where the Selection Committee is not complete in number, or if complete, but cannot perform, providing the remaining members represent at least half of the Selection Committee, the Selection Committee shall proceed and select Election Commissioners. In this case the section 113 paragraph 3 shall apply *mutatis mutandis*.

Persons which selected by the general meeting of the Supreme Court under paragraph one shall not be judges of the Supreme Court and shall not holder of other position in statutory agencies of the Constitution.

(2) The general meeting of the Supreme Court of Justice shall consider selecting 2 qualified persons under Section 230 and present the name list to the President of the Senate with the consent of the nominees.

(3) The selection in (1) and (2) shall be done within 30 days from the date when the selection has to occur. Where it is not possible to do the selecting within the specified time, or not able to find the complete number of persons within the time limit in (1), the general meeting of the Supreme Court of Justice shall select the remaining within 15 days from the expiry date in (1).

(4) The President of the Senate shall convoke the Senate to decide on the nominees in (1), (2), or (3), which must be done by secret ballot.

(5) Where the Senate approves the nominees the procedure shall be applied under (6). Where the Senate disapproves the nominees in part or in whole, the President of the Senate shall send the names of the rejected candidates to the Selection Committee or the general meeting of the Supreme Court of Justice as the case may be. If the Selection Committee approves the nominees, or the general meeting of the Supreme Court of Justice agrees with the resolution of the Senate, whichever case may be. If the Selection Committee or the general meeting of the Supreme Court of Justice disagrees with the Senate's resolution and unanimously affirms the Selection Committee's choice with a vote of not less than two-thirds of the general meeting of the Supreme Court of Justice, as the case may be, the name list shall be sent back to the Senate to proceed according to (6). If the affirms are not unanimously or the vote cannot

be at assign; the procedure shall recommence and make the nomination to obtain the complete number within 30 days as from the date of the expiration of the nomination time.

(6) The persons approved under (4) or (5) shall meet and elect among themselves Chairman of the Election Commission and, then, notify the President of the Senate of the results. The President of the Senate shall report to the King for royal appointment.

Section 232. Election Commissioners shall hold office for a term of seven years as from the date of their appointment by the King and serve for only one term.

An Election Commissioner who vacates office upon the expiration of the term shall remain in office and carry on his or her duties until a newly appointed Election Commissioner takes over.

The provisions of Section 209 (1), (2), (3), (5), (6), (7) and the prohibitions under Section 230 shall apply to the vacation from office of the Election Commissioners *mutatis mutandis*.

Section 233. 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 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 230 or has acted in contravention of any of the prohibitions under Section and the President shall refer that complaint to the Constitutional Court within 30 days for its decision as to whether that Election Commissioner has vacated his or her office.

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

The provisions of Section 92 shall also apply *mutatis mutandis* to vacation of office of Election Commissioners.

Section 234. In the case where the Election Commissioners have vacated office *en masse*, the proceedings under Section 231 shall be taken within 90 days as from the date of vacation.

In the case where Election Commissioners vacate office for any reason other than the expiration of term, Section 231 shall apply to the selection and election of Election Commissioners to fill the vacancies within 60 days from the date of the vacation; the elected persons shall serve only for the remainder of the term of the replaced Commissioners.

Section 235. The Election Commission shall control and hold, or cause to be held in an honest and fair manner an election of members of the House of Representatives, or selection of members of the Senate, election of members of a local assembly and local administrators including voting in a referendum.

The Chairman of the Election Commission shall have the charge and control of the execution of the organic Act on election of members of the House of Representatives and selection of Senators, the organic Act on political parties, the organic Act on the voting in a referendum and the law on the election of members of local assemblies or local administrators. He or she shall be the political-party registrar.

Section 236. The Election Commission shall have the following powers and duties:

(1) To make announcement or lay out all the necessary procedures in accordance with Section 235 paragraph 2, including the procedure for election campaigns and other activities by political parties, for

electoral candidates, electoral eligibilities so that the elections can carry on honestly and fairly; laying the guidelines for the State in promoting a level playing field for elections and equal opportunities in campaigning;

(2) To set out rules on prohibitions for Council of Ministers and Ministers while in office to ensure performance of duties under Section 181, considering public interests and honesty, impartiality, equality, and equal opportunities to be elected;

(3) To set out measures and control of political contributions, financial support by the State, the use of funds by political parties and electoral candidates, open audit of the accounts of political parties, monitoring of spending and revenue for use in voting;

(4) To give orders instructing Government officials, officials or employees of a State agency, State enterprise or local government organization or other State officials to perform all necessary acts under the laws referred to in Section 235 paragraph 2;

(5) To conduct investigations and inquiries for fact-finding and decision on arising problems or disputes under the laws referred to in Section 235 paragraph two;

(6) To order a new election or a 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 that or those polling stations has not proceeded in an honest and fair manner;

(7) To announce the results of an election and the voting in a referendum;

(8) To promote and support or coordinate with the State agencies, State enterprises or local government or support private organization, to educate people about democracy type that Thailand adopts a democratic regime of government with the King as Head of the State, and to promote people participation in the politics;

(9) To perform other acts as provided by law.

In the performance of duties, the Election Commission has the power to summon any relevant document 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 passing 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 237. Any candidate in an election, who has committed, created or supported any person to commit any act in violation of the Organic Act on Election of Members of the House of Representatives and the Taking of Office of Senators or orders and announcements of the Election Commission, causing the election not to be proceeded in an honest and fair manner, shall be deprived of his or her voting rights in accordance with the Organic Act on Election of Members of the House of Representatives and the Taking of Office of Senators.

If any such act of person under paragraph one appears to have convincing evidence that the leader or an executive member of his or her political party has acknowledged or ignored that action or has known of the act but failed to prevent or rectify it in order to ensure an honest and fair election, that political party is assumed to have sought to gain power in state administration by means other than what is provided in Section 68 of the Constitution, and in case the Constitutional Court consequently orders its dissolution, the voting rights of its leader and executive board members shall be revoked for a period of 5 years as from the date of issuance of the party dissolution order.

Section 238. The Election Commission shall forthwith conduct an investigation and inquiry for fact finding in any of the following cases;

- (1) any objection from a voter, a candidate in an election, or a political party with a member running in any of the constituencies, who established that the election in that constituency was conducted erroneously or unlawfully;
- (2) any objection from a selected or member of different organizations as specified in Section 114 para one who established that the selection of Senators was conducted erroneously or unlawfully;
- (3) convincing evidence has appeared that any member of the House of Representatives, the Senate, a member of a local assembly, or a local administrator, before being elected, committed a dishonest act that enabled him to get elected, or was dishonestly elected because of an act committed by any person or political party in violation of the organic act on election of members of the House of Representatives and the taking of office of Senators, the organic law on political parties, or the law on election of members of local assemblies and local administrators;
- (4) Convincing evidence has appeared that the voting in a referendum did not proceed lawfully, or an objection has been raised by a voter by reason that the voting at any polling station was conducted erroneously or unlawfully.

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

Section 239. In case the Election Commission decides to order a new election or disfranchisement before announcing the results of election of members of the House of Representatives or the Senate, that decision of the Election Commission shall be deemed final.

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 or Senate shall be submitted to the Supreme Court of Justice for deliberation. When the Supreme Court of Justice receives the complaint from the Election Commission, members of the House of Representatives or Senate against whom the accusation has been made shall not, as from the date of submission of the complaint, perform his or her duties until the Supreme Court of Justice has dismissed the said complaint. In case the Supreme Court of Justice has ordered a new election in any constituency or disfranchisement of any member of the House of Representatives or the Senate, the membership of such members House of Representatives or the Senate shall be terminated.

In case members of the House of Representatives and the Senate in para two cannot perform their duties; they shall not be counted as existing numbers of the House of Representatives or Senate accordingly.

Paragraphs one, two and three shall apply to the election of a local assembly or administrators. Any complaint made under paragraph two shall be lodged with the Courts of Appeal and its decision shall be deemed final.

Section 240. In case an objection has been raised by reason that the selection of Senators proceeded inappropriately or unlawfully or convincing evidence has appeared that before being selected, any member of the Senate committed any act prohibited in Section 238, the Election Commission shall forthwith conduct an investigation and inquiry.

The Election Commission shall have to forthwith submit its consideration to the Supreme Court of Justice for deliberation. Section 239, paragraphs two and three, shall apply to any Senator who cannot perform duties mutatis mutandis.

In case the Supreme Court of Justice has an order for revocation of selection or disfranchisement of any member of the Senate, membership of the said Senator shall be terminated as from the date the Supreme Court of Justice has issued the order. Selection of a new Senator to fill the vacancy shall proceed thereof.

Any objection and consideration by the Election Commission shall proceed in accordance with the Organic Act on Election of Members of the House of Representatives and the Taking of Office of Senators.

Section 241. During the period in which a Royal Decree calling for an election of members of the House of Representatives or Senate, a notification for the selection of Senators or 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 242. 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.

The Office of Ombudsman shall have autonomy in personnel management, budget and other activities as provided by law.

Section 243. The selection of the Ombudsmen shall be made in accordance with the provisions of Section 206 and Section 207 mutatis mutandis. The selective committee shall consist of seven members, namely the President of the Supreme Court of Justice, the President of Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives, and the Opposition Leader in the House of Representatives, a person elected at a general meeting of the Supreme Court of Justice, and a person elected at a general meeting of the Supreme Administrative Court. The Section 231 (1) para two shall apply mutatis mutandis.

Section 244. 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 279 para three and Section 280.

(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.

(4) to report results of investigation and performance as well as observations to the Cabinet, House of Representatives, and Senate annually and the said reports shall be published in the Government Gazette.

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 245. 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 244 (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 246: 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 205, 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 30 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 204 paragraph three and paragraph four, Section 206 and Section 207 mutatis and mutandis. The selection committee consists of 5 members, namely the President of the Supreme Court of Justice, the President of Constitutional Court, the President of the Supreme Administrative, the President of the House of Representatives and the Opposition leader in the House of Representatives.

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

The provincial counter corruption commission shall be formed with qualifications, selection process, and roles and responsibilities of members of the commission in accordance with the Organic Law on the National Counter Corruption Commission.

Section 247. 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 209 and Section 210 shall apply to the vacation, selection, and election of members of the National Counter Corruption Commission *mutatis mutandis*.

Section 248. 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 249. Members of the House of Representatives, senators, or members of both Houses numbering not less than one-fifth 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.

In case the accused member of the National Counter Corruption Commission shall not perform his or her duties according to paragraph three and the remaining number of National Counter Corruption Commission is less than half the total number of the National Counter Corruption Commission, the President of the Supreme Court of Justice and the President of the Supreme Administrative Court shall jointly appoint a person who shall meet the qualifications and shall not be under the same prohibitions as the accused member to temporarily act as a replacement member of the National Counter Corruption Commission. The interim member shall perform the duty until the replaced member may resume his or her duty or until the Supreme Court of Justice Criminal Division for Persons Holding Political Positions shall hand down a verdict that the accused member has committed wrongful act.

Section 250. 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 272 and Section 279 para three;

- (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 275;
- (3) to investigate and decide whether a state official who holds an executive post or a Government official who holds a position from the Director level upwards or the equivalent has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office, including any state official or Government official at lower level who has colluded with the said state official or Government official to commit a wrongful offence or other offences that the National Counter Corruption Commission deems appropriate to investigate and decide the case in accordance with the Organic Act pertaining to the National Counter Corruption Commission.
- (4) to inspect the accuracy, actual existence, as well as change of assets and liabilities of persons holding positions under Section 259 and Section 264 as stated in the account and supporting documents submitted;
- (5) to supervise and observe the ethics of persons holding political positions;
- (6) 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 in the Government Gazette and disseminate it to the public; and
- (7) to carry out other actions as provided by the law.

Section 213 shall apply to the performance of duties of the National Counter Corruption Commission *mutatis mutandis*.

The President and members of the National Counter Corruption Commission are the judicial officials by law.

Section 251. 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 252. 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 selection of members of the State Audit Commission shall be made in accordance with the provisions of Section 204 paragraph three and paragraph four, Section 206 and section 207 mutatis and mutandis. The composition of the Selection Committee shall be made in accordance with the provisions of Section 243.

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.

Qualifications, prohibitions, selection, election, and vacation of office of members of the State Audit Commission and the Auditor-General as well as powers and duties of the State Audit Commission, the Auditor-General and the Office of the State Audit Commission shall be in accordance with the organic law on 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.

Section 253. 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 Auditor-General shall have the powers and duties in the state audit and is independent and impartial.

Section 254. 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 Office of the State Audit Commission shall have autonomy in personnel administration, budget and other activities as provided by law.

Part 2

Other Organizations Under the Constitution

1. Prosecution Organization

Section 255. Public prosecutors shall have the powers and duties as provide by this Constitution and laws pertaining to powers and duties of public prosecutors as well as other laws.

A public prosecutor has independence in considering the prosecution of cases and shall perform his or her duties impartially.

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 commands an independent administrative unit in charge of the management of manpower, budget, and other undertakings under the direct control of the prosecutor general in accordance with provisions of the law.

The public prosecutor must not be a board member of any public enterprise or other state services in the same manner unless permission is given by the Public Prosecution Commission. The public prosecutor shall not pursue any occupation or profession or other activities that may affect the performance of duty or tarnish the dignity of governmental position holding and not be a member, manager or legal advisor or any other similar post holder in any business company.

The Section 202 shall apply mutatis mutandis.

2. National Human Rights Commission

Section 256. 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 2004 paragraph three, Section 206, Section 207, and Section 209 (2) shall apply mutatis and mutandis. The selection of the Selective Committee shall be made in accordance with the provisions of Section 243.

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

Section 257. The National Human Rights have the powers and duties as follows:

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- (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 file lawsuit with the court of justice on behalf of the injured when requested and deemed appropriate to solve problems of public human rights violation as specified by law;
- (5) to suggest policy and recommendation to revise laws, regulations to the national Assembly and the Council of Ministers to promote and protect human rights
- (6) to promote education, research and dissemination of information on human rights;
- (7) to promote cooperation and coordination among government agencies, private organizations, and other organizations in the field of human rights;
- (8) 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;
- (9) 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 258. 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 relevant laws.

The economic and social development plans or other plans as provided by law have to be approved by the National Economic and Social Advisory Council prior to their implementation.

The organization's composition, powers and duties, and functioning shall be in accordance with the provisions of the law.

The Office of the National Economic and Social Advisory Council shall have autonomy in personnel administration, budget and other activities as provided by law.

CHAPTER XII

INSPECTION OF THE EXERCISE OF STATE POWER

Part 1

Scrutiny Of Assets

Section 259. Persons holding the following political positions shall submit an account showing particulars of their assets and liabilities and those of their spouses and children who have not yet become *sui juris* to the National Counter Corruption Commission each time taking or vacating office:

- (1) Prime Minister;
- (2) Minister;
- (3) Member of the House of Representatives;
- (4) Senator;
- (5) Other political official;
- (6) Local administrator and member of a local assembly as provided by law.

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

The submission of an account showing the particulars of assets and liabilities under paragraph one and paragraph two shall include the assets which the political office holder has entrusted to others or are in possession and care of others, directly or otherwise.

Section 260. The account showing the particulars of assets and liabilities under Section 259 shall disclose the particulars of assets and liabilities actually existing as of the date of submission, and shall be submitted within specified periods as follows:

- (1) Taking office: within 30 days as from the date of taking office;
- (2) Vacating office: within 30 days as from the date of the vacation;
- (3) In the case where the person under Section 259, who has already submitted the account, dies while being in office or before submitting the same after vacating office, an heir or an administrator of an estate of such person shall submit an account showing the particulars of assets and liabilities existing on the date of such person's death within 90 days as from the date of the death.

The holder of a position of Prime Minister, Minister, local administrator, member of a local assembly, or person holding a political position, shall re-submit an account showing the particulars of assets under (2) and liabilities within 30 days after one year of vacating office.

Section 261. The account showing the particulars of assets and liabilities, along with supporting documents of the Prime Minister, Ministers, members of the House of Representatives, members of the Senate, shall be disclosed to the public within 30 days from the closing date of account submission. The account of other political office holders shall be disclosed only if such disclosure is useful in considering or deciding a case, or at the request of the Court, or interested party, or the National Counter Corruption Commission.

The President of the National Counter Corruption Commission shall convene a meeting of the Commission to determine the accuracy and the actual existence of the assets and liabilities declared without delay.

Section 262. In the case where the submission of the account is made by reason of vacation of office or death of a person holding a political position, the National Counter Corruption Commission shall inspect the change of assets and liabilities of such person and prepare a report of the inspection for publication in the Government Gazette.

In the case where it appears that the amount of assets of the person under paragraph one has increased abnormally, the President of the National Counter Corruption Commission shall send all the 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 if guilty as charged the increased portion of the assets shall go to the State. The provisions of Section 272 paragraph 5 shall apply *mutatis mutandis*.

Section 263. A holder of a political position who intentionally fails to submit an account showing assets and liabilities and supporting documents as statutorily required, or intentionally submits the same with false statements, or conceals 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 act is discovered, as the case may be.

If such case under paragraph one occurs, the National Counter Corruption Commission shall submit the case to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for decision.

When the final judgment of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions said that any holder of the political position had violated under paragraph one, the provisions of Section 92 shall apply *mutatis mutandis* and that person shall be barred from taking political office or a position in a political party for 5 years as from the date of the decision.

Section 264. The provisions of Section 259, Section 260, Section 261 and paragraph 2, and Section 263 paragraph 1 shall apply to State officials as prescribed by the National Counter Corruption Commission, *mutatis mutandis*.

The National Counter Corruption Commission may disclose the account showing the particulars of assets and liabilities and the supporting documents submitted to an interested party if such disclosure is useful in the prosecution of a case or decision on an offence as provided in the organic Act on counter corruption.

Part 2

Acts Detrimental To Public Interests (Acts of Conflict of Interest)

Section 265. A member of the House of Representatives as a member of the Senate shall:

- (1) Not hold any position or have any function in any Government agency, State agency or State enterprise; or hold a position of member of a local assembly, be a local administrator or local government official;
- (2) Not receive, interfere, or intervene in the granting of any concession from the State, a State agency or State enterprise; or be a partner in contract in business with the attributes of economic monopoly with the State, a State agency or State enterprise; or a be a partner or shareholder in a partnership or company receiving such concession or be a party to the contract of that nature, directly or otherwise;
- (3) Not receive any special money or benefit from any State enterprise, over and above what the State agency or State enterprise pays to other persons in the normal course of business;
- (4) Not violated that prohibited by the section 48;

The provisions of this Section shall not apply in the case where a member of the House of Representatives or a member of the Senate receives pensions, gratuities, year's pensions from members of the Royal family, annuities or any other form of payment of the same nature, nor in the case where a member of the House of Representatives or a member of the Senate accepts or holds a position of committee member of the National Assembly, the House of Representatives or the Senate, or committee member appointed as a qualified person under the provisions of law or committee member appointed in the course of administering the State affairs.

The substance in (2), (3), and (4) shall apply to the spouse and offspring of a member of the House of Representatives or a member of the Senate as well as to other persons who are married partners or offspring of that member of the House of Representatives or that member of the Senate in the form of a assignee, collaborator, or assignee of the House of Representatives or the Senate.

Section 266. A member of the House of Representatives or a member of the Senate is not permitted to use his or her status or position of being a member of the House of Representatives or a member of the Senate to interfere or intervene for his or her personal benefits or others or a political party, directly or otherwise in the following matters:

- (1) Performance of civil service, or performance of routine duties of a civil servant, staff or employee of a civil service agency, State agency, State enterprise, business in which the State holds a majority stake, or local government;
- (2) Recruitment, appointment, reshuffle, transfer, promotion, and salary increase of a Government official holding a permanent position, receiving a salary and not being a political official, an

official or employee of State agency, State enterprise, and business with the State as a majority stakeholder, or local government organization; or

- (3) Removal from office of a Government official holding a permanent position, receiving a salary and not being a political official, an official or employee of State agency, State enterprise, and business with the State as a majority stakeholder, or local government organization.

Section 267. The provisions of Section 265 shall apply to the Prime Minister and Ministers. Except for holding a position and performing duties according to the provisions of the law, the Prime Minister or Ministers are prohibited to hold a position in a partnership, company, or business enterprise pursuing profits or income to be shared, or be an employee of any person.

Section 268. The Prime Minister or Ministers are prohibited to do what is provided under Section 266, except in the exercise of powers and duties in administering the State affairs in accordance with a policy declared in the National Assembly as provided by law.

Section 269. The Prime Minister or a Minister shall not be a partner or shareholder of a partnership or a company, nor retain his or her being a partner or shareholder of a partnership or a company up to the limit permitted by law. If the Prime Minister or a Minister wishes to continue receiving the said benefits, the Prime Minister or a Minister must inform the President of the National Counter Corruption Commission within 30 days as from the date of the appointment, and transfer his or her shares in the partnership or company to a juristic person which manages assets for or on behalf of others as provided by law.

The Prime Minister or a Minister shall not engage in any act which, by its nature, is tantamount to administration or management of shares or affairs of the said partnership or company.

The provisions of this Section shall apply to the spouse and offspring that not become one's legal age of the Prime Minister and the Minister and the provisions of Section 259 paragraph 3 shall apply *mutatis mutandis*.

Part 3

Removal From Office

Section 270. The Senate shall have the power to remove from office persons in political or official positions, including Prime Minister, Minister, member of the House of Representatives, Senator, President of the Constitutional Court, President of the Supreme Court of Justice, President of the Supreme Administrative Court or Prosecutor General, for having become unusually wealthy indicative of possible commission of corruption, malfeasance in office or malfeasance in judicial office, or for an intentional exercise of power contrary to the provisions of the Constitution or law, or for serious violation, or non-compliance with the ethical standard.

The provisions under 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 Act on counter corruption.

Section 271. Members of the House of Representatives of not less than one-fourth of the existing members of the House have the right to lodge with the President of the Senate a complaint requesting the Senate to pass a resolution under Section 274 to remove a person under Section 270 from office. The said request must clearly state the grounds of allegation and list the wrongful acts that the said person has allegedly committed.

Senators of not less than one-fourth of the existing members of the Senate shall have the right to lodge with the President of the Senate a complaint requesting the Senate to pass a resolution under Section 274 to remove a Senator from office.

Eligible voters of not fewer than 20,000 shall have the right to sign a petition to have a person in Section 270 removed from office under Section 164.

Section 272. Upon receipt of the request under Section 271, the President of the Senate shall refer the matter to the National Counter Corruption Commission for investigation without delay. After the investigation is completed, the National Counter Corruption Commission shall prepare a report thereon and submit it to the Senate. The said report shall clearly state which of the counts charged in the request are *prima facie* and which are not, and how reliable the evidence and witnesses are, along with a conclusion and recommendations of how to proceed next.

In the case where the National Counter Corruption Commission is of the opinion that a certain count or counts in the request are important, the National Counter Corruption Commission may make a separate report specifically on the said counts and submit it to the President of the Senate under paragraph one for consideration in advance if so wished.

If the National Counter Corruption Commission passes a resolution with a vote of no less than one-half of the existing Commissioners that the accusation has a *prima facie* case, the accused holder of office shall not, as from the date of such 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 its opinion to the President of the Senate for proceeding in accordance with Section 264 and to the Prosecutor General for instituting prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. [On the other hand], if the National Counter Corruption Commission is of the opinion that the accusation has no *prima facie* case, such accusation shall lapse.

In the case where the Prosecutor General is of the opinion that the report, documents and opinion submitted by the National Counter Corruption Commission under paragraph four are not sufficiently complete to institute prosecution, the Prosecutor General shall notify the National Counter Corruption Commission for further proceedings, specifying the incomplete items. In such case, the National Counter Corruption Commission and the Prosecutor General shall appoint a working committee, consisting of their representatives in an equal number, for collecting evidence so as to make it complete and submit it to the Prosecutor General for further prosecution. In the case where the working committee is unable to reach a decision on 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 273. Upon receipt of the report under Section 272, the President of the Senate shall convoke a sitting of the Senate for considering the said matter without delay.

In the case where the National Counter Corruption Commission submits the report out of Parliamentary 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 issuance of a Royal Command convoking an extraordinary session of the National Assembly. The President of the National Assembly shall countersign the Royal Command.

Section 274. A Senator shall be free to cast a vote, which shall be by secret ballot. A resolution for the removal of any person from office shall have votes of no less than three-fifths of the total number of the existing members of the Senate.

A person who is removed from office shall vacate office or be released from government service as from the date of the Senate's resolution. Such person shall be deprived of political position or rights to work in government service for 5 years.

The Senate's resolution under this Section shall be final and no request for removal of such person from office shall be made on the same ground, albeit without prejudice 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 275. In the case where Prime Minister, Minister, member of the House of Representatives, Senator, or another political office has been accused of becoming unusually wealthy, or of malfeasance in office according to the penal code or of 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 in paragraph one shall apply to the said individual or others including the ring leader, instigator or supporter, giver and procurer or pledgor of assets or other benefits to the person in paragraph one offered as an incentive to act or omit the act or to delay the act contrary to his or her duties.

The petition to the National Counter Corruption Commission may disclose the account showing the particulars of assets and liabilities and the supporting documents submitted to an interested party if such disclosure is useful in the prosecution of a case or decision on an offence as provided in the organic Act on counter corruption.

The request to the National Counter Corruption Commission to proceed under section 250 (2) shall provided in the organic Act on counter corruption that said to prevent and suppress the corruption.

Section 276. In a case where a general meeting of the Supreme Court of Justice agrees to proceed a petition lodged under Section 275 paragraph four, the general meeting of the Supreme Court of Justice shall appoint an independent investigator who is politically impartial and renowned for his honesty, or refer the matter to the National Counter Corruption Commission to conduct an investigation under Section 250 (4) instead of appointing an independent investigator.

Qualifications, duties and power, investigation procedure, and other proceeding necessary for independent investigator shall be in accordance with the provisions of the law.

When the independent investigator inquires into the facts, summarizes the case, and prepares an opinion, if the accusation is *prima facie*, the reports and existing documents including the opinion shall be sent to the president of the Senate to proceed under Section 273 and send the case summary and the opinion to the Attorney-General to enter a charge before the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. The provision in Section 272 paragraph five shall apply *mutatis mutandis*.

Section 277. In a trial, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall rely primarily on the case of the National Counter Corruption Commission or the independent investigator's as the case may be, and may conduct an investigation in order to obtain additional facts or evidence as it sees fit.

The procedure of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall be in accordance with an organic bill on the criminal procedure for persons holding political positions, and the provisions of Section 213 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 131 shall not apply to a trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

Section 278. 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 convicted of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has acquired new witnesses or evidence which might substantially alter the fact of the case, he or she may appeal to a general meeting of the Supreme Court of Justice within 30 days of the date of the issuance of judgment.

The rules for appeal and judicial procedure of the general meeting of the Supreme Court of Justice shall be in accordance with the rules of procedure set by the general meeting of the Supreme Court of Justice.

CHAPTER XIII

MORALITY OF PERSONS HOLDING POLITICAL POSITIONS, GOVERNMENT OFFICIALS

Section 279. The ethical standard for persons holding political positions, government officials, and State officials of all categories shall be in conformity with the established Code of Ethics.

There shall be mechanisms and working systems to ensure the effective enforcement of the ethical standard under paragraph one, including penalties based on the severity of the case.

Violation of or failure to observe the ethical standard in paragraph one shall be regarded as a disciplinary infringement. In the case where persons holding political positions violate or fail to observe the Code of Ethics, the ombudsmen shall report to the National Assembly, the Council of Ministers, or the local assembly concerned as the case may be. Serious offenses shall be referred to the National Counter Corruption Commission for proceedings, which can be used as grounds for removal from office under Section 270.

The consideration, recruitment, selection, and appointment of a person to a position connected with the exercise of State powers, including transfers, promotions, salary increase, and punishment, shall be in accordance with the morality system and with due consideration to the ethical conduct of the said person.

Section 280. For the benefits of proceedings under this chapter, the ombudsmen shall have the powers and duties to advise or make recommendations on the preparation or improvement of the Code of Ethics under Section 279, paragraph one; to promote the awareness of ethics among persons holding political positions, government officials, and State officials; and to report any acts of violations of the Code of Ethics to those responsible for the enforcement of the Code of Ethics may proceed to ensure compliance under Section 279, paragraph three.

In the case of serious violation or failure to observe the ethical standard, or if there is a reasonable ground to believe that the actions taken by responsible authorities prove unjust, the ombudsmen may conduct an investigation and disclose the results of the finding to the public.

CHAPTER XIV

LOCAL GOVERNMENT

Section 281. Subject to Section 1, the State shall give autonomy to localities 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 units in providing public services and participating in local problem resolutions.

Any locality with attributes that meet the conditions of self-government has the right to be established as a local government organization as provided by the law.

Section 282. The supervision of a local government organization must be exercised in so far as it is necessary, and must have clear rules, procedure, and conditions which are consistent with and suitable for the structure of a local government, and must be for protecting local interests or the interests of the country as a whole, provided that it must not affect the substantive principle of self-government according to the will of the people in the locality, nor go beyond the provisions of law.

For the supervision under paragraph one, there shall be a central standard as a guideline for local governments to choose for their own practice, in which the suitability and differences in development and management capability of each local government structure shall be taken into consideration, and which does not affect the ability of decision-making according to the needs of the local government. Mechanisms to check the performance of duties should be established with the people as its principle.

Section 283. A local government shall have powers and duties to maintain and provide public services for the benefits of the local people. All local government organizations shall have autonomy in laying down policies for their governance, administration, provision of public services, personnel administration, money and finance; and shall have specific powers and duties in conformity with the development of provinces and the country as a whole.

Local government organizations shall receive support and encouragement to promote their strength in independent administration and effectively respond to the needs of people in the locality. A local financial system shall be developed to facilitate the provision of full range of public services. For cost effectiveness and efficiency of service, there shall be an effort or joint effort to establish bodies in charge of providing public services.

There shall be laws governing the steps and procedures for decentralization to delineate the powers and duties and income distribution between the State and provincial governments and the local government organization; and among the local government organizations themselves, which must take into account the increase of power decentralization in accordance with capability of each local government organization structure. There shall also be a monitoring and evaluating system carried out under the provisions of law by a committee which shall consist of representatives of relevant government agencies, representatives of local government organizations, and persons with qualifications as stipulated by law, in equal numbers.

There shall be laws on local income to regulate powers and duties in collecting taxes and duties and other income of local government organizations, which have appropriate rules for different types of taxes and duties, government resource management, balanced income and expenses under the powers and duties of local government organizations. For this purpose, levels of local economic development, financial status of the local government organization, and the government's financial stability shall be taken into account.

In the case where there has already been a delineation of powers and duties and income distribution to local government organizations, the committee under paragraph three must regularly review the case on a period of not more than five years, to consider the appropriation of the designation of powers and duties, and past income distributions. The increase of power decentralization to local government organizations must be taken into account with high importance.

The proceeding under paragraph five shall take effect after the permission of the council of ministers and the report sent to the National Assembly.

Section 284. 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 approved by the 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, local administrative committee, or local administrators shall hold office for a period of four years.

A member of a local administrative committee or a 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, and shall not have a conflict of interests in holding a position under the provisions of the law.

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 shall be in accordance with the provisions of the law.

In the case where there is a dissolution of a local assembly or local administrators have vacated the office and a local administrative committee or local administrators must be temporarily appointed, the provisions of paragraph three and paragraph six shall not apply, as provided by the law.

A special form of a local government organization with different administrative structure from the provisions of this Section can be established in accordance with the provisions of the law, but the local assembly or local administrators must be elected.

Section 265, Section 266, Section 267 and Section 268 shall apply to members of a local assembly, local administrative committee, or local administrators as the case may be *mutatis mutandis*.

Section 285. If eligible voters in a local government organization consider that a member of the local assembly or local administrator of that local government organization should not resume office, they shall have the right to vote for the removal of such person from office. The number of eligible petitioners, rules and procedures for petition, scrutiny, and voting shall be in accordance with the provisions of the law.

Section 286. Eligible voters in a local government organization shall have the right to lodge with the president of the local assembly a request for consideration in issuing local ordinances.

The number of eligible petitioners, rules and procedures for petition and scrutiny shall be in accordance with the provisions of the law.

Section 287. People living in the locality have the right to participate in the administration of local government organizations. The local government organizations shall arrange for public participation.

In the case where action of the local government organization will substantially affect the life and living conditions of the people in the locality, the local government organization must provide information in details to the people before taking any action for a suitable period of time. In the case deemed reasonable or requested by eligible voters in the locality, public hearings must be held prior to that action, or the people shall be allowed to have their say in a referendum under the provisions of the law.

Local government organizations shall prepare performance reports on their budgets, expenditure and year-round performance for public disclosure so that the people can get involved in the examination and supervision of the management of local government organizations.

For the budget preparation of a local government organization under paragraph three, the provisions of Section 168, paragraph six, shall apply *mutatis mutandis*.

Section 288. The appointment and removal of government officials and employees of a local government organization shall be in accordance with the need of and suitability for each locality. Personnel administration in local government organizations must have a consistent standard, and may enjoy cooperative development or personnel exchanges between local government organizations. Prior approval shall be obtained from the local government official committee, which is a central body for local personnel management as provided by the law.

In personnel administration of the local government organization, there shall be an organization to uphold a system of good governance among the local government officials, to establish a system to protect governance and ethics in personnel management as provided by the law.

The local government official committee under paragraph one shall consist of an equal number of representatives of relevant government agencies, representatives of local government organizations, and persons with qualifications as stipulated by law, as provided by the law.

The transfer, promotion, salary increase, and punishment of the officials and employees of a local government organization shall be in accordance with the provisions of the law.

Section 289. A local government organization has the duty to conserve the local arts, customs, knowledge and good culture.

A local government organization has the right to provide education and professional training in accordance with the suitability to and the needs 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 arts, customs, knowledge, and good culture.

Section 290. 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 elements as its substance:

- (1) Management, preservation, and exploitation of natural resources and environment in the area of the locality;
- (2) Participation in the preservation of 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 considering an initiation of any project or activity outside the area of the locality which may affect the quality of the environment, health, or sanitary conditions of the inhabitant in the area.
- (4) Participation of the people in the locality.

CHAPTER XV

AMENDMENT OF CONSTITUTION

Section 291. 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 50,000 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 consideration in the second reading shall be made section by section and a public hearing shall be held to seek viewpoints from voters who have proposed the amendment;

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 150 and Section 151 shall apply mutatis mutandis.

TRANSITIONAL PROVISIONS

Section 292. The Privy Council which exists on the announcement of the effective date of this constitution shall be the Privy Council by the provisions of this constitution.

Section 293. The National Legislative Assembly as per The Constitution for the Kingdom of Thailand (the temporary one) B.E.2549 shall perform its duty as The National Assembly, House of the Representatives and House of the Senators by the provisions of this constitution until the first sitting of the National Assembly is held in accordance with Section 127.

During the period of time under paragraph one, if any provision of this constitution or of other laws requires the President of The National Assembly, the President of House of the Representatives or the President of Senate to countersign His Royal Command, the President of The National Assembly shall countersign His Royal Command thereof.

For the first period of commencement, if there is still no House of Senate and it is necessary to hold the first sitting of The National Assembly in accordance with Section 127, The National Legislative Assembly shall perform the duty of the House of Senate, with the exception of the consideration to appoint or to remove a person from an office as provided by this Constitution until the House of Senate

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comes into existence under this constitution, and any affair which has been carried out by The National Legislative Assembly during the said period of time, shall take effect as being done by the House of Senate, and in case that any provision of this constitution or other laws requires the President of the House of Senate to countersign His Royal Command, the President of The National Legislative Assembly shall countersign His Royal Command.

It is prohibited not to apply with the provisions of Section 93, Section 94, Section 101, Section 102, Section 106, Section 109, Section 111, Section 113, Section 114, Section 115, Section 119, Section 120, Section 197 paragraph four, Section 261 and the provisions of any laws which forbid persons to take a political position, enforcing the position taking of members of The National Legislative Assembly.

It is required to apply with the provision of Section 153 to enforce the termination of The National Legislative Assembly *mutatis mutandis*.

Section 294. The Constitution Drafting Assembly and the Constitution Drafting Committee under the Constitution for the Kingdom of Thailand (the temporary one) B.E.2549 shall come to an end upon the announcement of the effective date of this constitution.

For the sake of getting rid of any gain and loss, it is prohibited the Constitution Drafting Committee to contest in the election for the members of the House of Representatives, or to take any post as members of the House of Senate within two years from date of leaving the position under paragraph one.

Section 295. The National Legislative Assembly shall take consideration of the drafts of the Organic Act on the election of members of the House of Representatives and selection of the Senate, the Organic Act on political parties, and the Organic Act on the Election Commission, which have been received from the Constitution Drafting Committee, and shall complete it within the period of time as specified by the Constitution for the Kingdom of Thailand (the temporary one) B.E.2549.

In case of having passed the timeframe in paragraph one, yet the National Legislative Assembly still has not completed the consideration of the said organic acts, the President of the National Legislative Assembly shall submit them to the King, within seven days, for His signature, and to regard it as the

National Legislative Assembly having approved those drafts of the Organic Acts.

During the time when the Organic Act on political parties and the Organic Act on the Election Commission as per paragraph one are not taking effect yet, the Organic Act on political parties B.E.2541 and the Organic Act on the Election Commission B.E.2541 shall be in continual force until the said Organic Acts shall take effect.

Section 296. The election of members of the House of Representatives under this constitution shall be carried out with completion within ninety days as well as the acquisition of the Senate under this constitution to be completed within one hundred and fifty days, as from date of Section 295 of the Organic Act taking effect.

To participate in the first general election of members of the House of Representatives after the announcement of the effective date of this constitution the qualified applicants for the election shall be

members of any one political party for not less than thirty days up to the date of the election. As for the period of time under Section 101 (4) (Gor.), a period of one year shall be applied and the period of time under Section 101 (4) (Khor.) and (Ngor.), a period of two years shall be applied.

For the first period of commencement, those ex members of the Senate being elected for the first time under the Constitution for the Kingdom of Thailand B.E.2540 are prohibited from becoming members of the Senate to be acquired for the first time under this constitution, and it is prohibited not to apply with the provision of Section 115 (9) and Section 116 paragraph two, for the enforcement of the ex members of the Senate who were elected for the last time under the Constitution for the Kingdom of Thailand B.E.2540.

Section 297. For the first period of commencement, members of the Senate from appointment shall take office for a term of three years as from date of becoming a membership and it is prohibited to apply with the provision forbidding to take office continually beyond one term, for enforcement with the said persons for the next appointment after ending of their membership.

Section 298. The Cabinet which is taking office on the announcement of the effective date of this constitution, remains the Cabinet under the provision of this constitution and shall vacate its office *en masse* as soon as the newly appointed Cabinet under this constitution takes the office.

The Council for National Security under the Constitution for the Kingdom of Thailand (the temporary one) B.E.2549 shall vacate its office *en masse* together with the Cabinet which is in the office on the date of announcement of this constitution.

It is prohibited to apply with the provision of Section 171 paragraph two, Section 172, Section 174, and Section 182 (4) (7) and (8) for enforcement of taking an office of the Prime Minister and the ministers who exercise the executive administration on the announcement of the effective date of this constitution.

Section 299. The Ombudsmen who are in the office upon the announcement of the effective date of this constitution shall be the Ombudsmen under the provision of this constitution and shall continue to take their office until their term expires, by counting the term as from date of appointment by HM the King and the said Ombudsmen shall make selection among themselves and to complete it within sixty days as from the announcement of the effective date of this constitution and the provision of Section 242 paragraph two and paragraph three shall apply *mutatis mutandis*.

Section 300. The Constitutional Tribunal under the Constitution (Interim) B.E. 2549 (2006) shall be the Constitutional Court under this Constitution. The President of the Supreme Court of Justice shall serve as President of the Constitutional Court, and the President of the Supreme Administrative Court shall serve as Vice President. However, the judges of the Supreme Court of Justice and the judges of the Supreme Administrative Court elected under section 35 of the Constitution (Interim) B.E. 2549 (2006) shall continue to serve as judges of the Constitutional Court until the appointment of new judges of the Court under this Constitution is made. The appointment shall not take more than one hundred and fifty days as from the date of appointments of the President of the House of Representatives and the Leader of the Opposition in the House of Representatives following the first general election of MPs under this Constitution.

Provisions of section 205 (3), section 207 (1) (2), and section 209 (5) shall not apply to the holding of office of judges of the Constitutional Court under paragraph one.

Provisions of section 35, paragraph two, paragraph three, and paragraph four of the Constitution (Interim) B.E. 2549 (2006) shall remain in force until the organic Act on the Procedures of the Constitutional Court is enacted.

Any case or other still pending under the purview of the Constitutional Tribunal under paragraph one shall be proceeded by the Constitutional Court under this Constitution, and after the appointment of judges of the Constitutional Court under this Constitution, all the pending cases and matters shall be transferred to the authority and duty of the newly appointed Constitutional Court.

During the period of no enactment of the organic Act on the Procedures of the Constitutional Court, the Constitutional Court shall have the power to issue its stipulations on the procedures and the making of verdict. However, it is required that the said organic Act must be enacted within one year as from the date of the promulgation of this Constitution.

Section 301. The selection of the State Audit Commission and the Auditor-General shall be made within one hundred and twenty days as from the date of appointments of the President of the House of Representatives and the Leader of the Opposition in the House of Representatives following the first general election of MPs under this Constitution. If there is still no President of the Constitutional Court coming from the selection under this Constitution, the Selective Committee for members of the State Audit Commission and the Auditor-General shall consist of the existing members.

During the period of no State Audit Commission, the Auditor-General shall exercise the authority on behalf of the President of the State Audit Commission and on behalf of the State Audit Commission.

Section 302. The following organic Acts shall remain in force under the conditions prescribed in this section;

- (1) The organic Act on the Ombudsmen B.E. 2542 (1999) - President of the Ombudsmen shall serve as the caretaker under this organic Act.
- (2) The organic Act on Counter Corruption B.E. 2542 (1999) - President of the National Counter Corruption Commission shall serve as the caretaker under this organic Act.
- (3) The organic Act on State Audit B.E. 2542 (1999) - President of the State Audit Commission shall serve as the caretaker under this organic Act.
- (4) The organic Act on the Criminal Procedures against Persons Holding Political Positions B.E. 2542 (1999) - President of the Supreme Court of Justice shall serve as the caretaker under this organic Act.

An amendment of organic Act by an Act enacted during the enforcement of the Constitution (Interim) B.E. 2549 (2006) shall constitute an amendment of organic Act under this Constitution.

The caretakers under the organic Acts under paragraph one shall make adjustments to their organic Acts in accordance with what is prescribed by this Constitution within one year as from the date of the promulgation of this Constitution. In the case where there is no one serving as such caretaker, the one-year time frame shall begin as from the date of his appointment.

The House of Representatives shall complete the consideration of the organic law bills under this Constitution within one hundred and twenty days as from the date of the introduction of the bills to the House of Representative, and the Senate shall complete the consideration of these bills within ninety days as from the day of the introduction of the bills to the Senate.

The resolution approving or disapproving the amendment of the organic law bills shall be passed by the votes of not less than half of the members of each House.

The Election Commission shall prepare an organic law bill on referendum in accordance with what is prescribed by this Constitution. Provisions of paragraph three, paragraph four, and paragraph five shall apply mutatis mutandis.

Section 303. In the initial period, the Council of Ministers assuming the administration of the State affairs in the wake of the first general election under this Constitution shall prepare or make adjustments to the followings laws within the time prescribed;

- (1) Laws pertaining to the determination of details about promotion and protection of rights and liberties under section 40 and section 44, laws pertaining to provisions under Part 7/Liberty of Expression of Individuals and Media), Part 8/Education Rights and Liberties, Part 9/Right to Receive Public Health and Welfare Services from State, Part 10/Right to Receive Information and Lodge Complaints (including a law on individual information under section 56), and Part 12/Right to Assembly, a law on independent consumer protection under section 61 paragraph two, a law on independent council of political development under section 78 (7), a law on independent law reform body under section 81 (4), a law on council of farmers under section 84 (8), a law on the establishment of people's political development funds under 87 (4), and a law on the National Human Rights Commission under section 256 within one year as from the date of the statement of policies (by the Council of Ministers) to the National Assembly under section 176;
- (2) Law on the development of national education under section 80 with focuses on formal education, informal education, self-determined education, self study, lifelong learning, and community college or other forms, including adjustments to relevant laws for the setting up of agency responsible for educational management that is suitable for and consistent with every level of educational system of the fundamental education, within one year as from the date of the statement of policies to the National Assembly under section 176;
- (3) Law pertaining to the provision under section 190, paragraph five, at least with the details on the procedure of the conclusion of treaty, which ensures the checks and balances between the Council of Ministers and the National Assembly, transparency, efficiency, and popular participation, and also with the details on independent study and research carried out before the negotiation of the

treaty without a conflict of interest between the State and the researcher at any time during the enforcement of the treaty, within one year as from the date of the statement of policies to the National Assembly under section 176;

- (4) Laws pertaining to section 86 (1) and section 167, paragraph three within two years as from the date of the statement of policies to the National Assembly under section 176;
- (5) Laws pertaining to the determination of plan and procedure of decentralization, local revenue, establishment of local government organizations, local government officials, and others under Chapter 14, Local Government, in accordance with what is prescribed by this Constitution within two years as from the date of the statement of policies to the National Assembly under section 176. These laws shall also be enacted in the form of a local code.

In the case where any law enacted prior to the promulgation of this Constitution has its content and substance in conformity with this Constitution, it shall be regarded as an exception from the proceeding under this section.

Section 304. The code of ethics under section 279 shall be established within one year as from the promulgation of this Constitution.

Section 305. 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 an independent state agency in charge of the allocation of frequencies and the supervision of radio and television broadcasting and telecommunication businesses, which shall be made no later than 180 days after statement of the government's policy to the National Assembly. The law shall at least specify provisions concerning formation of specific committees as separate entities inside the organization to supervise radio and television broadcasting and to supervise telecommunications businesses and include provisions to supervise and protect the businesses, establish communication resource development fund and promote public participation in public mass communication. This law shall not affect the concessions or contracts that have been granted or made before the promulgation of this Constitution until such concessions and contracts expire.
- (2) By virtue of Section 296 paragraph 3, the provisions of Section 102 (10) specifically concerning the status of being a Senator, Section 115 (9) and Section 116 paragraph 2 shall not apply to the election of members of the House of Representatives and their assumption of political positions for the first time under this Constitution.
- (3) Provisions of Section 141 shall not apply to the enactment of the organic law under Section 295.
- (4) Provisions of Section 167 paragraphs 1 and 2 two, Section 168 paragraph 9, Section 169 only on the specification of source of income to reimburse the prepaid expenditure, and Section 170 shall not apply for one year after the promulgation of this Constitution.

- (5) Any action concerning the preparation and observation of any treaty that has already been concluded before the promulgation of this Constitution shall proceed and Section 190 paragraph 3 shall not apply to this. Section 190 paragraph three shall apply only to unfinished action that has to be proceeded.
- (6) Provisions of Section 209 (2) shall not apply to the National Human Rights Commission, whose members are still holding office on the date of promulgation of this Constitution.
- (7) Provisions of Section 255 paragraph 5 and Section 288 paragraph 3 shall not apply for a period of one year as from the date of promulgation of this Constitution.

Section 306. At the preliminary stage, Supreme Court Judges, who have served in positions not lower than Supreme Court Judges and reached 60 years of age in fiscal year 2007 shall perform their duties as Senior Supreme Court Judges as stipulated in Section 219 up until the enactment of a new law specifying procedures for performance of duties of Senior Supreme Court Judges.

Within one year as from the date of promulgation of this Constitution, a law governing criteria for Judge of Court of Justice to be in office for up to 70 years of age and the Judges of Court of Justice, who have reached 60 years of age in what fiscal year and have already performed the duty for at least 20 years and passed a physical test, to hold positions not higher than what they have ever held, shall be enacted.

The law to be enacted in paragraphs 1 and 2 shall contain provisions specifying details of Judges who reach 60 years of age in what fiscal years for the first 10 years and must gradually resign from office and who to resume the position of the senior Judge in the Court of Justice.

The provisions in paragraphs two and three shall apply to the public prosecutors *mutatis mutandis*.

Section 307. Qualified members of the Judicial Commission of Court of Justice who are still in office on the date of promulgation of the Constitution shall resume their positions except for qualified members who have reached 60 years of age in fiscal year 2007 and members who have moved to other courts. Qualified members of the Judicial Commission of Court of Justice shall remain in office for not more than 180 days as from the date of promulgation of the Constitution.

Section 308. The Council of Ministers which administers affairs of the State on the date of promulgation of this Constitution 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 81 (3) within one year of the date of the promulgation of this Constitution. The said law shall at least contain the provisions promoting public participation in the law.

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 309. All actions that have been endorsed by the Interim Constitution of the Kingdom of Thailand B.E. 2549 as being lawful and constitutional, including all subsequent actions and activities taken both before and after the promulgation of this Constitution shall be deemed lawful and constitutional under this Constitution.
