

CONSTITUTION OF THE KINGDOM OF THAILAND \*\*

SOMDET PHRA PARAMINTHARAMAHA

BHUMIBOL ADULYADEJ

SAYAMMINTHARATHIRAT BOROMMANATTHABOPHIT

Enacted on the 11th Day of October B.E. 2540;

Being the 52nd Year of the Present Reign.

May there be virtue. Today is the tenth day of the waxing moon in the eleventh month of the year of the Ox under the lunar calendar, being Saturday, the eleventh day of October under the solar calendar, in the 2540th year of the Buddhist Era.

Phrabat Somdet Phra Paramintharamaha Bhumibol Adulyadej Mahitalathibet Ramathibodi Chakkri Narubodin Sayammintharathirat Borommanatthabophit is graciously pleased to proclaim that whereas Constitutions have been promulgated as the principle of the democratic regime of government with the King as Head of the State in Thailand for more than sixty-five years, and there had been annulment and amendment to the Constitutions on several occasions, it is manifest that the Constitution is changeable depending upon the situation in the country. In addition, the Constitution must clearly lay down fundamental rules as the principle of the administration of the State and the guideline for the preparation of the organic laws and other laws in conformity therewith; and whereas the Constitution of the Kingdom of Thailand, B.E. 2534 as amended by the Constitution Amendment (No. 6), B.E. 2539 established the Constituent Assembly, consisting of ninety-nine members elected by the National Assembly, charged with the duty to prepare a draft of a new Constitution as the fundamental of political reform and His Majesty the King graciously granted an audience to members of the Constituent Assembly for taking His Royal speeches and receiving blessings in carrying out this task, and, thereafter, the Constituent Assembly prepared the draft Constitution with the essential substance lying in additionally promoting and protecting rights and liberties of the people, providing for public participation in the governance and inspecting the exercise of State power as well as improving a political structure to achieve more efficiency and stability,

having particular regard to public opinions and observing procedures provided in the Constitution of the Kingdom of Thailand, B.E. 2534 as amended by the Constitution Amendment (No. 6), B.E. 2539 (1996) in every respect;

Having carefully considered the Draft Constitution prepared by the Constituent Assembly in the light of the situation of the country, the National Assembly passed a resolution approving the presentation of the draft Constitution to the King for His Royal signature to promulgate it as the Constitution of the Kingdom of Thailand;

Having thoroughly examined the draft Constitution, the King deemed it expedient to grant His Royal assent in accordance with the resolution of the National Assembly;

Be it, therefore, commanded by the King that the Constitution of the Kingdom of Thailand be promulgated to replace, as from the date of its promulgation, the Constitution of the Kingdom of Thailand, B.E. 2534 promulgated on 9th December B.E. 2534.

May the Thai people unite in observing, protecting and upholding the Constitution of the Kingdom of Thailand in order to maintain the democratic regime of government and the sovereign power derived from the Thai people, and to bring about happiness, prosperity, and dignity to His Majesty's subjects throughout the Kingdom according to the will of His Majesty in every respect.

## CHAPTER I

### General Provisions

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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.

Section 4. The human dignity, right and liberty 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

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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 Councillors 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 Councillor 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 Councillors.

Section 14. A Privy Councillor 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 Councillor 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 Councillor 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 therefor.

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 Councillor 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 Councillors 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

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

Section 27. Rights and liberties recognised 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, Courts and other State organs in enacting, applying and interpreting laws.

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

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

Section 29. The restriction of such rights and liberties as recognised by the Constitution shall not be imposed on a person except by virtue of provisions of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances 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 authorising its enactment shall also be mentioned therein.

The provisions of paragraph one and paragraph two shall apply *mutatis mutandis* to rules or regulations issued by virtue of the provisions of the law.

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

Men and women shall enjoy equal rights.

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

Measures determined by the State in order to eliminate obstacle to

or to promote persons' ability to exercise their rights and liberties as other persons shall not be deemed as unjust discrimination under paragraph three.

Section 31. A person shall enjoy the right and liberty in his or her life and person.

A torture, brutal act, or punishment by a cruel or inhumane means shall not be permitted; provided, however, that punishment by death penalty as provided by law shall not be deemed the punishment by a cruel or inhumane means under this paragraph.

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

Section 32. No person shall be inflicted with a criminal punishment unless he or she has committed an act which the law in force at the time of commission provides to be an offence and imposes a punishment therefor, and the punishment to be inflicted on such person shall not be heavier than that provided by the law in force at the time of the commission of the offence.

Section 33. The suspect or the accused in a criminal case shall be presumed innocent.

Before the passing of a final judgement convicting a person of having committed an offence, such person shall not be treated as a convict.

Section 34. A person's family rights, dignity, reputation or the right of privacy shall be protected.

The assertion or circulation of a statement or picture in any manner whatsoever to the public, which violates or affects a person's family rights, dignity, reputation or the right of privacy, shall not be made except for the case which is beneficial to the public.

Section 35. 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 place without

consent of its possessor or the search thereof shall not be made except by virtue of the law.

Section 36. A person shall enjoy the liberty of travelling and the liberty of making the choice of his or her residence within the Kingdom.

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

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

Section 37. A person shall enjoy the liberty of communication by lawful means.

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

Section 38. A person shall enjoy full liberty to profess a religion, a religious sect or creed, and observe religious precepts or exercise a form of worship in accordance with his or her belief; 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 her due 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 others.

Section 39. A person shall enjoy the liberty to express his or her opinion, make speeches, write, print, publicise, and make expression by other means.

The restriction on liberty under paragraph one shall not be imposed

except by virtue of the provisions of the law specifically enacted for the purpose of maintaining the security of the State, safeguarding the rights, liberties, dignity, reputation, family or privacy rights of other person, maintaining public order or good morals or preventing the deterioration of the mind or health of the public.

The closure of a printing house or a radio or television station in deprivation of the liberty under this section shall not be made.

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

The owner of a newspaper or other mass media business shall be a Thai national as provided by law.

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

Section 40. Transmission frequencies for radio or television broadcasting and radio telecommunication are national communication resources for public interest.

There shall be an independent regulatory body having the duty to distribute the frequencies under paragraph one and supervise radio or television broadcasting and telecommunication businesses as provided by law.

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

Section 41. Officials or employees in a private sector undertaking newspaper or radio or television broadcasting businesses 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 businesses; provided that it is not contrary to their professional ethics.

Government officials, officials or employees of a State agency or

State enterprise engaging in the radio or television broadcasting business enjoy the same liberties as those enjoyed by officials or employees under paragraph one.

Section 42. 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.

Section 43. A person shall enjoy an equal right to receive the fundamental 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.

In providing education by the State, regard shall be had to participation of local government organisations and the private sector as provided by law.

The provision of education by professional organisations and the private sector under the supervision of the State shall be protected as provided by law.

Section 44. A person shall enjoy the liberty to assemble peacefully and without arms.

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

Section 45. A person shall enjoy the liberty to unite and form an association, a union, league, co-operative, farmer group, private organisation or any other group.

The restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly.

Section 46. Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law.

Section 47. 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 fulfilment of such will through the democratic regime of government with the King as Head of the State as provided in this Constitution.

The internal organisation, 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, of not less than the number prescribed by the organic law on political parties shall, if of the opinion that their political party's resolution or regulation on any matter is contrary to the status and performance of duties of a member of the House of Representatives under this Constitution or contrary to or inconsistent with fundamental principles of the democratic regime of government with the King as Head of the State, have the right to refer it to the Constitutional Court for decision thereon.

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

Section 48. 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 49. The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the purpose of public utilities, necessary national defence, exploitation of national resources, town and country planning, promotion and preservation of the quality of the environment, agricultural or industrial development, land reform, 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, and loss of the person whose property or right thereto is expropriated.

The law on expropriation of immovable property shall specify the purpose of the expropriation and shall clearly determine the period of time to fulfil that purpose. If the immovable property is not used to fulfil 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.

Section 50. 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, preventing monopoly, or eliminating unfair competition.

Section 51. 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.

Section 52. A person shall enjoy an equal right to receive standard public health service, and the indigent shall have the right to receive free medical treatment from public health centres of the State, as provided by law.

The public health service by the State shall be provided thoroughly and efficiently and, for this purpose, participation by local government organisations and the private sector shall also be promoted insofar as it is possible .

The State shall prevent and eradicate harmful contagious diseases for the public without charge, as provided by law.

Section 53. Children, youth and family members shall have the right to be protected by the State against violence and unfair treatment.

Children and youth with no guardian shall have the right to receive care and education from the State, as provided by law.

Section 54. A person who is over sixty years of age and has insufficient income shall have the right to receive aids from the State, as provided by law.

Section 55. The disabled or handicapped shall have the right to receive public conveniences and other aids from the State, as provided by law.

Section 56. The right of a person to give to the State and communities participation in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of 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 protected, as provided by law.

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

The right of a person to sue a State agency, State enterprise, local government organisation or other State authority to perform the duties as provided by law under paragraph one and paragraph two shall be protected.

Section 57. The right of a person as a consumer shall be protected as provided by law.

The law under paragraph one shall provide for an independent organisation consisting of representatives of consumers for giving opinions on the enactment and issuance of law, rules and regulations and on the determination of various measures for consumer protection.

Section 58. A person shall have the right to get access to public information in possession of a State agency, State enterprise or local government organisation, unless the disclosure of such information shall affect the security of the State, public safety or interests of other persons which shall be protected as provided by law.

Section 59. A person shall have the right to receive information, explanation and reason from a State agency, State enterprise or local government organisation before permission is given for the operation of any project or activity which may affect the quality of the environment, health and sanitary conditions, the quality of life or any other material interest concerning him or her or a local community and shall have the right to express his or her opinions on such matters in accordance with the public hearing procedure, as provided by law.

Section 60. A person shall have the right to participate in the

decision-making process of State officials in the performance of administrative functions which affect or may affect his or her rights and liberties, as provided by law.

Section 61. A person shall have the right to present a petition and to be informed of the result of its consideration within the appropriate time, as provided by law.

Section 62. The right of a person to sue a State agency, State enterprise, local government organisation or other State authority which is a juristic person to be liable for an act or omission done by its Government official, official or employee shall be protected, as provided by law.

Section 63. No person shall exercise the rights and liberties prescribed in the Constitution to overthrow the democratic regime of government with the King as Head of the State under this Constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

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

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

Section 64. Members of the armed forces or the police force, Government officials, officials or employees of State agencies, State enterprises or local government organisations shall enjoy the same rights and liberties under the Constitution as those enjoyed by other persons, unless such enjoyment is restricted by law, by-law or regulation issued by virtue of the law specifically enacted in regard to politics, efficiency, disciplines or ethics.

Section 65. A person shall have the right to resist peacefully any

act committed for the acquisition of the power to rule the country by a means which is not in accordance with the modes provided in this Constitution.

#### CHAPTER IV

##### Duties of the Thai People

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Section 66. Every person shall have a duty to uphold the Nation, religions, the King and the democratic regime of government with the King as Head of the State under this Constitution.

Section 67. Every person shall have a duty to obey the law.

Section 68. Every person shall have a duty to exercise his or her right to vote at an election.

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

The notification of the cause of failure to attend an election and the provision of facilities for attendance thereat shall be in accordance with the provisions of the law.

Section 69. Every person shall have a duty to defend the country, serve in armed forces, pay taxes and duties, render assistance to the official service, receive education and training, protect and pass on to conserve and the national arts and culture and local knowledge and conserve natural resources and the environment, as provided by law.

Section 70. A Government official, official or employee of a State agency, State enterprise or local government organisation and other State official 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.

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 right 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

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Section 71. The State shall protect and uphold the institution of kingship and the independence and integrity of its territories.

Section 72. The State shall arrange for the maintenance of the armed forces for the protection and upholding of its independence, security of the State, institution of kingship, national interests and the democratic regime of government with the King as Head of the State, and for national development.

Section 73. The State shall patronise and protect Buddhism and other religions, promote good understanding and harmony among followers of all religions as well as encourage the application of religious principles to create virtue and develop the quality of life.

Section 74. The State shall promote friendly relations with other countries and adopt the principle of non-discrimination.

Section 75. The State shall ensure the compliance with the law, protect the rights and liberties of a person, provide efficient administration of justice and serve justice to the people expediently and equally and organise an efficient system of public administration and other State affairs to meet people's demand.

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

Section 76. The State shall promote and encourage public participation in laying down policies, making decision on political issues, preparing economic, social and political development plans, and inspecting the exercise of State power at all levels.

Section 77. The State shall prepare a political development plan, moral and ethical standard of holders of political positions, Government officials, officials and other employees of the State in order to prevent corruption and create efficiency of the performance of duties.

Section 78. The State shall decentralise powers to localities for the purpose of independence and self-determination of local affairs, develop local economics, public utilities and facilities systems and information infrastructure in the locality thoroughly and equally throughout the country as well as develop into a large-sized local government organisation a province ready for such purpose, having regard to the will of the people in that province.

Section 79. The State shall promote and encourage public participation in the preservation, maintenance and balanced exploitation of natural resources and biological diversity and in the promotion, maintenance and protection of the quality of the environment in accordance with the persistent development principle as well as the control and elimination of pollution affecting public health, sanitary conditions, welfare and quality of life.

Section 80. The State shall protect and develop children and the youth, promote the equality between women and men, and create, reinforce and develop family integrity and the strength of communities.

The State shall provide aids to the elderly, the indigent, the disabled or handicapped and the underprivileged for their good quality of life and ability to depend on themselves.

Section 81. The State shall provide and promote the private sector to provide education to achieve knowledge alongside morality, provide law relating to national education, improve education in harmony with economic

and social change, create and strengthen knowledge and instil right awareness with regard to politics and a democratic regime of government with the King as Head of the State, support researches in various sciences, accelerate the development of science and technology for national development, develop the teaching profession, and promote local knowledge and national arts and culture.

Section 82. The State shall thoroughly provide and promote standard and efficient public health service.

Section 83. The State shall implement fair distribution of incomes.

Section 84. The State shall organise the appropriate system of the holding and use of land, provide sufficient water resources for farmers and protect the interests of farmers in the production and marketing of agricultural products to achieve maximum benefits, and promote the assembling of farmers with a view to laying down agricultural plans and protecting their mutual interests.

Section 85. The State shall promote, encourage and protect the co-operatives system.

Section 86. The State shall promote people of working age to obtain employment, protect labour, especially child and woman labour, and provide for the system of labour relations, social security and fair wages.

Section 87. The State shall encourage a free economic system through market force, ensure and supervise fair competition, protect consumers, and prevent direct and indirect monopolies, repeal and refrain from enacting laws and regulations controlling businesses which do not correspond with the economic necessity, and shall not engage in an enterprise in competition with the private sector unless it is necessary for the purpose of maintaining the security of the State, preserving the common interest, or providing public utilities.

Section 88. The provisions of this Chapter are intended to serve as directive principles for legislating and determining policies for the administration of the State affairs.

In stating its policies to the National Assembly under section 211, the Council of Ministers which will assume the administration of the State affairs shall clearly state to the National Assembly the activities intended to be carried out for the administration of the State affairs in implementation of the directive principles of fundamental State policies provided in this Chapter and shall prepare and submit to the National Assembly an annual report on the result of the implementation, including problems and obstacles encountered.

Section 89. For the purpose of the implementation of this Chapter, the State shall establish the National Economic and Social Council to be charged with the duty to give advice and recommendations to the Council of Ministers on economic and social problems.

A national economic and social development plan and other plans as provided by law shall obtain opinions of the National Economic and Social Council before they can be adopted and published.

The composition, source, powers and duties and the operation of the National Economic and Social Council shall be in accordance with the provision of law.

## CHAPTER VI

### The National Assembly

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#### Part 1

#### General Provisions

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Section 90. The National Assembly consists of the House of Representatives and the Senate.

Joint or separate sittings of the National Assembly shall be in accordance with the provisions of this Constitution.

Section 91. The President of the House of Representatives is

President of the National Assembly. The President of the Senate is Vice-President of the National Assembly.

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

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

The President of the National Assembly and the person who acts as President of the National Assembly in his or her place shall be impartial in 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 92. A bill or an organic law bill may be enacted as law only by and with the advice and consent of the National Assembly.

Section 93. After a bill or an organic law bill has already been approved by the National Assembly, the Prime Minister shall present it to the King for signature within twenty days as from the date of the receipt of such bill from the National Assembly, and it shall come into force upon its publication in the Government Gazette.

Section 94. If the King refuses His assent to a bill or an organic law 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 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 95. No person shall be a member of the House Representatives or a senator simultaneously.

Section 96. 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 have the right to lodge with the President of the House of which they are members a complaint asserting that the membership of any member of such House has terminated under section 118 (3), (4), (5), (6), (7), (8), (9), (11), or (12) or section 133 (3), (4), (5), (6), (7), (9), or (10), as the case may be, and the President of the House with whom the complaint is lodged shall refer it to the Constitutional Court for decision as to whether the membership of such person has terminated.

When the Constitutional Court has made a decision, it shall notify the President of the House with which the complaint is lodged under paragraph one of such decision.

Section 97. 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

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Section 98. The House of Representatives consists of five

hundred members, one hundred of whom are from the election on a party-list basis under section 99 and four hundred of whom are from the election on a constituency basis under section 102.

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.

Section 99. 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 party-list may be voted for and the territory of Thailand shall be regarded as the whole constituency.

The party-lists of candidates in the election under paragraph one shall be prepared by political parties. Each party shall prepare one list which shall contain not more than one hundred persons and be submitted to the Election Commission before the date an application for candidacy in an election on the constituency basis commences.

Names of persons in the party-list under paragraph one shall:

- (1) consist of the names of candidates from equitably various regions;
- (2) not be repeated by the names in the lists prepared by other political parties and names of candidates in the election on the constituency basis under section 102 and;
- (3) be placed in numerical order.

Section 100. The list of any political party receiving votes of less than five percent of the total number of votes throughout the country shall be regarded as one for which no person listed therein is elected and such votes shall not be reckoned in the determination of the proportional number of the members of the House of Representatives under paragraph two.

The determination of the proportion of votes received by the party-list of each political party according to which the persons whose names are listed therein shall be regarded as being elected in that proportion shall be in

accordance with rules, procedure and conditions provided by the organic law on the election of members of the House of Representatives and senators.

It shall be deemed that the candidates whose names are in the list of each political party are elected in respective order of the allocated numbers in the list in accordance with such proportional number of the members of the House of Representatives as determined for that list.

Section 101. Subject to section 119(1), in the case where there occurs, during the term of the House of Representatives, any cause resulting in the members elected from the election on a party-list basis being less than one hundred in number, such members shall consist of the existing members.

Section 102. 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 one candidate in each constituency.

The determination of the ratio of the number of inhabitants to one member shall be made by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the year of election by the number of four hundred members of the House of Representatives.

The number of members of the House of Representatives of each Changwat shall be determined by the division of the number of inhabitants in that Changwat by such number of inhabitants per one member as determined under paragraph two. Any Changwat with inhabitants below the number of inhabitants per one member under paragraph two shall have one member of the House of Representative. 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 member.

Upon the number of members of the House of Representatives of each Changwat being obtained under paragraph three, if the number of members of the House of Representatives is still less than four hundred, any Changwat with the largest fraction remaining from the determination under paragraph three shall have an additional member of the House of Representatives and the

addition of the members of the House of Representatives in accordance with such procedure shall be made to Changwats in respective order of fractions remaining from the determination under paragraph three until the number of four hundred is obtained.

Section 103. In a Changwat where the number of members of the House of Representatives to be elected is not more than one, the area of that Changwat shall be regarded as the constituency and in a Changwat where the number of members of the House of Representatives is more than one, such Changwat 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, each constituency shall have one member of the House of Representatives.

In a Changwat which is divided into more constituencies than one, the boundary of each constituency shall be adjoining and the number of inhabitants in each constituency must be closely apportioned.

Section 104. In a general election, a voter shall have the right to cast ballot for only one list of candidates prepared by the political party and, in an election on a constituency basis, for one candidate in that constituency.

In an election of a member of the House of Representatives to replace the member of the House of Representatives elected on a constituency basis whose office becomes vacant under section 119(2), a voter shall have the right to cast ballot for one candidate in that constituency.

The election shall be by direct suffrage and secret ballot.

In each constituency, the counting of votes from every polling station altogether shall be conducted and the result of the vote-counting shall be announced publicly at any single place in that constituency as designated 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.

The provisions of paragraph four shall apply *mutatis mutandis* to the counting and announcement of votes received by each party-list in each

constituency under section 103.

Section 105. 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 naturalisation 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 appear 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 under section 103 within which his or her name appear in the house register, or who has his or her name appear 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 106. A person under any of the following prohibitions on the election day is disfranchised:

(1) being of unsound mind or of mental infirmity;

(2) being a Buddhist priest, novice, monk or clergy;

(3) being detained by a warrant of the Court or by a lawful order;

(4) being under suspension of the right to vote .

Section 107. A person having the following qualifications has the right to be a candidate in an election of members of the House of Representatives:

(1) being of Thai nationality by birth;

(2) being not less than twenty five years of age on the election day;

(3) having graduated with not lower than a Bachelors degree or its equivalent except for the case of having been a member of the House of Representatives or a senator before;

(4) being a member of any and only one political party, for a consecutive period of not less than ninety days, up to the date of applying for candidacy in an election;

(5) a candidate in an election on a constituency basis shall also possess any of the following qualifications:

(a) having 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 one year up to the date of applying for candidacy;

(b) having been a member of the House of Representatives in Changwat where he or she stands for election, a member of a local assembly or a local administrator of such Changwat before;

(c) being born in Changwat where he or she stands for election;

(d) having studied in an education institution situated in Changwat where he or she stands for election for a consecutive period of not less than two academic years before;

(e) 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 two years before.

Section 108. A political party sending member to stand for election in any constituency shall send only one member in such constituency.

Section 109. 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;

(3) being disfranchised under section 106(1), (2) or (4);

(4) having been sentenced by a judgement to imprisonment and being detained by a warrant of the Court;

(5) having been discharged for a period of less than five years on the election day after being sentenced by a judgement to imprisonment for a term

of two years or more except for an offence 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 judgement 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 assembly or a local administrator;

(10) being a senator;

(11) being an official or employee of a State agency, State enterprise or local government organisation, or other State official;

(12) being an Election Commissioner, an Ombudsman, a member of the National Human Right Commission, a judge of the Constitutional Court, a judge of an Administrative Court, a member of the National Counter Corruption Commission or a member of the State Audit Commission;

(13) being under the prohibition from holding a political position under section 295;

(14) having been removed from office by the resolution of the Senate under section 307; provided that, from the date of the resolution to the election day, the period of five years has not elapsed.

Section 110. A member of the House of Representatives shall not:

(1) hold any position or have any duty in any State agency or State enterprise, or hold a position of member of a local assembly, local administrator or local government official except other political official other than Minister;

(2) receive any concession from the State, a State agency or State enterprise, or become a party to a contract of the nature of economic monopoly with the State, a State agency or State enterprise, or a become partner or shareholder in a partnership or company receiving such concession or becoming a party to the contract of that nature;

(3) receive any special money or benefit from any State agency or

State enterprise apart from that given by the State agency or State enterprise to other persons in the ordinary course of business.

The provisions of this section shall not apply in the case where a member of the House of Representatives receives military pensions, gratuities, pensions, annuities or any other form of payment of the same nature, and shall not apply in the case where a member of the House of Representatives 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 member under the provisions of law or committee member appointed in the course of the administration of the State affairs in case he or she holds a position of other political official other than Minister.

Section 111. A member of the House of Representatives shall not, through the status or position of member of the House of Representatives, interfere or intervene in the recruitment, appointment, reshuffle, transfer, promotion and elevation of the salary scale of a Government official holding a permanent position or receiving salary and not being a political official, an official or employee of a State agency, State enterprise or local government organisation, or cause such persons to be removed from office.

Section 112. Subject to the provisions of this Constitution, rules and procedure for an election of members of the House of Representatives shall be in accordance with the organic law on the election of members of the House of Representatives and senators.

Section 113. In the interest of honesty and fairness of an election of members of the House of Representatives, the State shall provide support for the election in the following matters:

(1) preparing places for posting notices and posters relating to the election in public places owned by the State;

(2) publishing and supplying to persons having the right to vote documents relating to the election;

(3) providing places for election campaigns to candidates in the election;

(4) allocating radio and television broadcasting time to political parties;

(5) other activities specified by Notifications of the Election Commission.

The activities under (1), (4) and (5) by candidates in the election, political parties or other persons other than the State shall not be permitted.

Rules, conditions and procedure for carrying out the acts under this section shall be in accordance with the organic law on the election of members of the House of Representatives and senators, which shall afford equal opportunities.

Section 114. The term of the House of Representatives is four years from the election day.

Section 115. Upon the expiration of the term of the House of Representatives, the King will issue a Royal Decree calling for a general election of members of the House of Representatives in which the election day must be fixed within forty five days as from the date of the expiration of the term of the House of Representatives and the election day must be the same throughout the Kingdom.

Section 116. The King has the prerogative to dissolve the House of Representatives for a new election of members of the House.

The dissolution of the House of Representatives shall be made in the form of a Royal Decree in which the day for a new general election must be fixed within sixty days and such election day must be the same throughout the Kingdom.

The dissolution of the House of Representatives may be made only once under the same circumstance.

Section 117. Membership of the House of Representatives commences on the election day .

Section 118. Membership of the House of Representatives

terminates upon:

(1) expiration of the term or dissolution of the House of

Representatives;

(2) death;

(3) resignation;

(4) being disqualified under section 107;

(5) being under any prohibition provided in section 109(1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13) or (14);

(6) acting in contravention of any prohibition under section 110 or section 111;

(7) being appointed Prime Minister or Minister;

(8) resignation from membership of his or her political party or his or her political party passing a resolution, with the 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 or her membership of the political party. In such cases, his or her membership shall be deemed to have terminated as from the date of the resignation or the resolution of the political party except where such member of the House of Representatives appeals to the Constitutional Court within thirty days as from the date of the resolution of the political party for raising an objection that such resolution is of such nature as specified in section 47 paragraph three. If the Constitutional Court decides that the said resolution is not of the nature as specified in section 47 paragraph three, his or her membership shall be deemed to have terminated as 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 47 paragraph three, that member of the House of Representatives may become a member of another political party within thirty days as from the date of the decision of the Constitutional Court;

(9) loss of membership of the political party in the case where the political party of which he or she is a 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 sixty days as from the date on which the Constitutional Court issues its order. In such case, his or her membership shall be deemed to

have terminated as from the day following the date on which such period of sixty days has elapsed;

(10) the Senate passing a resolution under section 307 removing him or her from office or the Constitutional Court having a decision terminating his or her membership under section 96. In such case, his or her membership shall be deemed to have terminated as from the date on which the Senate passes a resolution or the Constitutional Court has a decision, as the case may be;

(11) having been absent for more than one-fourth of the number of days in a session the length of which is not less than ninety days without permission of the President of the House of Representatives;

(12) having been imprisoned by a final judgement to a term of imprisonment except for an offence committed through negligence or a petty offence.

The termination of membership of the House of Representatives under (7) shall be effective as from the day following the date on which the period of thirty days, from the date of the appointment by the Royal Command, has elapsed.

Section 119. When the office of member of the House of Representatives becomes vacant for any reason other than the expiration of the term or the dissolution of the House of Representatives, the following actions shall be taken:

(1) in the case where the vacancy is that of the office of a member of the House of Representatives listed in the list prepared by a political party under section 99, the President of the House of Representatives shall, by publication in the Government Gazette within seven days as 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 be a replacing member of the House of Representatives;

(2) in the case where the vacancy is that of the office of a member of the House of Representatives elected from the election on a constituency basis under section 102, an election of a member of the House of Representatives to fill the vacancy shall be held within forty five days as from the date of the vacancy unless the remainder of the term of the House of Representatives is less than one hundred and eighty days.

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

Section 120. After the Council of Ministers has assumed the administration of the 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 their members holding no ministerial positions, provided that such 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 where no political party in the House of Representatives meets the condition as prescribed under paragraph one, the leader of the political party, who receives a majority of supporting votes from the 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 152 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 the vacancy.

Part 3

The Senate

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Section 121. The Senate shall consist of two hundred members to be elected by the people.

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.

Section 122. In an election of senators, the area of Changwat shall be regarded as one constituency.

The number of senators each Changwat can have shall be determined in accordance with the procedure provided in section 102 paragraph two, paragraph three and paragraph four *mutatis mutandis*.

Section 123. The person having the right to vote at an election of senators may cast ballot, at the election, for one candidate in that constituency.

The election shall be by direct suffrage and secret ballot.

In the case where a Changwat can have more than one senator, the candidates who receive the highest number of votes in respective order in the number of senators that Changwat can have shall be elected as senators .

Section 124. The provisions of section 105 and section 106 shall apply *mutatis mutandis* to the qualifications and prohibitions to which a person having the right to be a candidate in an election of senators shall be subjected.

Section 125. A person having the following qualifications has the right to be a candidate in an election of senators:

- (1) being of Thai nationality by birth;
- (2) being of not less than forty years of age on the election day;
- (3) having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) having any of the qualifications under section 107(5).

Section 126. A person under any of the following qualifications shall have no right to be a candidate in an election of senators:

(1) being a member of or holder of other position of a political party;

(2) being a member of the House of Representatives or having been a member of the House of Representatives and his or her membership has terminated for not yet more than one year up to the date of applying for the candidacy;

(3) being or having been a senator in accordance with the provisions of this Constitution during the term of the Senate preceding the application for the candidacy;

(4) being disfranchised under section 109(1), (2), (3), (4), (5), (6), (7), (8), (9), (11), (12), (13) or (14).

Section 127. A senator shall not be a Minister or other political official.

The person having held office of senator with membership having terminated for not more than one year, shall not be a Minister or other political official unless the membership has terminated under section 133(1).

Section 128. The provisions of section 110 and section 111 shall also apply mutatis mutandis to the prohibitions to which a senator shall be subjected.

Section 129. Subject to the provisions of this Constitution, rules and procedure for an election of senators shall be in accordance with the organic law on the election of members of the House of Representatives and senators.

For the purpose of equal introduction of candidates in the election, the State shall carry out the following acts:

(1) causing notices and posters relating to the election and candidates in the election to be posted;

(2) publishing and furnishing to persons having the right to vote documents relating to the election and candidates in the election;

(3) providing places and allocating radio and television broadcasting time for introducing candidates in the election;

(4) carrying out other acts as prescribed by the Election

Commission.

Rules and procedure for carrying out the acts under paragraph two shall be in accordance with the organic law on the election of members of the House of Representatives and senators.

The introduction of candidates by themselves or other persons is permitted only insofar as provided in the organic law on the election of members of the House of Representatives and senators.

Section 130. The term of the Senate is six years as from the election day.

Section 131. Upon expiration of the term of the 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 Senate and the election day must be the same throughout the Kingdom.

For the purpose of proceeding under section 168, the senators holding office on the day on which the term of the Senate terminates under paragraph one shall continue to perform their duties until newly elected senators assume their duties.

Section 132. Membership of the Senate commences on the election day.

Section 133. Membership of the Senate terminates upon:

- (1) expiration of the term of the Senate;
- (2) death;
- (3) resignation;
- (4) being disqualified under section 125;
- (5) being under any of the prohibitions under section 126;
- (6) being under any of the prohibitions under section 127;
- (7) acting in contravention of any of the prohibitions under section 128;
- (8) the Senate passing a resolution under section 307 removing him

or her from office or the Constitutional Court having a decision terminating his or her membership under section 96; 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, as the case may be;

(9) 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;

(10) having been imprisoned by a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence.

Section 134. When the office of senator becomes vacant for any reason other than the expiration of term of the Senate, an election of a senator to fill the vacancy shall be held within forty five days as from the date of the vacancy unless the remainder of the term of the Senate is less than one hundred and eighty days.

The replacing senator may serve only for the remainder of the term of the Senate.

Section 135. In considering the selection, appointment, recommendation or approval of a person to hold any position under section 138, section 143, section 196, section 199, section 257, section 261, section 274(3), section 277, section 278, section 279(3), section 297, section 302 and section 312, the Senate shall appoint a committee for examining past records and behaviours of the person nominated for holding such position as well as gathering 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

Election Commission

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Section 136. 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 137. An Election Commissioner shall have the qualifications and shall not be under any prohibition 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) not being under any of the prohibitions under section 106 or section 109 (1), (2), (4), (5), (6), (7), (13) or (14);
- (5) not being a member of the House of Representatives or the Senate, a political official, a member of a local assembly or a local administrator;
- (6) not being or having been a member of or holder of other position in a political party throughout the period of five years preceding the holding of office;
- (7) not being an Ombudsman, a member of the National Human Right Commission, a judge of the Constitutional Court, a judge of the Administrative Court, a member of the National Counter Corruption Commission or a member of the State Audit Commission.

Section 138. The selection and election of Chairman and Election Commissioners shall be proceeded as follows:

- (1) there shall be a Selective Committee of ten members consisting of the President of the Constitutional Court as Chairman, President of the Supreme Administrative Court, Rectors of all State higher education institutions which are juristic persons, being elected among themselves to be four in number, and representatives of all political parties having a member who is a member of the House of Representatives, provided that each party shall have one representative and all such representatives shall elect among themselves to be four in number, to be in charge of the consideration and selection of five persons,

who have the qualifications under section 137 and who are suitable to be Election Commissioners, for making nomination to the President of the Senate upon consent of the nominated persons. The resolution making such nomination must be passed by votes of not less than three-fourths of the number of all existing members of the Selective Committee;

(2) the Supreme Court of Justice shall, at its general meeting, consider and select five persons who are suitable to be Election Commissioners for making nomination to the President of the Senate upon consent of the nominated persons;

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

(4) the President of the Senate shall convoke the Senate for passing, by secret ballot, a resolution electing the nominated persons under (1), (2) and (3). For this purpose, the first five persons who receive the highest votes which are more than one half of the total number of the existing senators shall be elected as Election Commissioners, but if the number of the said elected persons is less than five, the name-list of those not elected in that first occasion shall be submitted to the senators for voting on another occasion and consecutively. In such case, the persons receiving the highest number of votes in respective order up to five shall be deemed to be elected as Election Commissioner. On this occasion, if there are persons receiving equal votes in any order which result in having more than five elected persons, the President of the Senate shall draw lots to determine who are elected persons;

(5) the elected persons under (4) shall meet and elect among themselves Chairman of the Election Commission and, then, notify the President of the Senate of the result. The President of the Senate shall report to the King for further appointment.

Section 139. An Election Commissioner shall not:

(1) be a Government official holding a permanent position or receiving salary;

(2) be an official or employee of a State agency, State enterprise or local government organisation;

(3) hold any position in a partnership, a company or an organisation carrying out businesses for sharing profits or incomes, or be an employee of any person;

(4) engage in any other independent profession.

In the case where the Senate has elected a 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), (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 election. If that person has not resigned or ceased to engage in the independent profession within the specified time, it shall be deemed that that person has never been elected to be an Election Commissioner and the provisions of section 138 shall apply *mutatis mutandis*.

Section 140. Election Commissioners shall hold office for a term of seven years as from the date of their appointment by the King and shall serve for only one term.

The Election Commissioners who vacate office upon the expiration of the term shall remain in office to continue to perform their duties until the newly appointed Election Commissioners take office.

Section 141. In addition to the vacation of office upon the termination of the term, an Election Commissioner vacates office upon:

(1) death;

(2) resignation;

(3) being disqualified or being under any of the prohibitions under section 137 or section 139;

(4) having been imprisoned by a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence;

(5) the Senate passing a resolution under section 307 removing him or her from office.

When a case under paragraph one occurs, the remaining Election Commissioners may continue to perform their duties.

Section 142. 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 137 or has acted in contravention of any of the prohibitions under section 139 and the President shall refer that complaint to the Constitutional Court 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 97 shall also apply *mutatis mutandis* to the vacation of office of Election Commissioners.

Section 143. In the case where the Election Commissioners have vacated office in toto, actions under section 138 shall be taken within forty five days as from the date of the vacation.

In the case where Election Commissioners vacate office for any reason other than the expiration of term, section 138 shall apply *mutatis mutandis* to the selection and election of Election Commissioners to fill the vacancies. In this case, persons, in the twice number of the outgoing persons, who are suitable to be Election Commissioners shall be nominated to the Presidents of the Senate for election by a resolution of the Senate; provided that this procedure shall be completed within forty five days as from the date of the vacation, and the elected persons shall serve only for the remainder of the term of the replaced Commissioners.

Section 144. The Election Commission shall control and hold, or cause to be held, an election of members of the House of Representatives,

senators, members of a local assembly and local administrators including the voting in a referendum for the purpose of rendering it to proceed in an honest and fair manner.

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

Section 145. The Election Commission shall have the following powers and duties:

(1) to issue Notifications determining all activities necessary for the execution of the laws referred to in section 144 paragraph two;

(2) to give orders instructing Government officials, officials or employees of a State agency, State enterprise or local government organisation or other State officials to perform all necessary acts under the laws referred to in section 144 paragraph two;

(3) to conduct investigations and inquiries for fact-finding and decision on arising problems or disputes under the laws referred to in section 144 paragraph two;

(4) 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;

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

(6) 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 organisations 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 organisations to perform such duties as entrusted.

Section 146. Government officials, officials or employees of a State agency, State enterprise or local government organisation or other State officials shall have the duty to comply with orders of the Election Commission given under section 145.

Section 147. The Election Commission shall forthwith conduct an investigation and inquiry for finding facts in any of the following cases;

(1) an objection by a voter, a candidate in an election or a political party a member of which stood for the election in any of the constituencies has been raised that the election in that constituency has proceeded inappropriately or unlawfully;

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

(3) convincing evidence has appeared that the voting in a referendum did not proceed lawfully or an objection has been raised by a voter that the voting in a referendum in any polling station proceeded inappropriately or unlawfully;

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

Section 148. During the period in which a Royal Decree calling for an election of members of the House of Representatives or senator or a Notification calling for the voting in a referendum is effective, no Election Commissioner shall be arrested, detained or summoned by a warrant for inquiry

except in the case where 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 Chairman of the Election Commission and the Chairman may order a release of the person so arrested.

## Part 5

### Provisions Applicable to both Houses

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Section 149. 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.

Section 150. 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."

Section 151. 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.

Section 152. 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 one or paragraph two, 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.

Section 153. The President of the House of Representatives and the President of the Senate shall have the powers and duties to carry out the business of each House in accordance with its rules of procedure. The Vice-presidents have the powers and duties as entrusted by the President and act on behalf of the President when the President is not present or unable to perform his or her duties.

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

Section 154. When the President and the Vice-Presidents of the House of Representatives or the President and the Vice-Presidents of the Senate are not present at any sitting, the members of each House shall elect one among themselves to preside over such sitting.

Section 155. At a sitting of the House of Representatives or the Senate, the presence of not less than one-half of the total number of the existing members of each House is required to constitute a quorum, except that in the case of considering the agenda on interpellation under section 183 and section 184, the House of Representatives and the Senate may otherwise prescribe a quorum in the rules of procedure.

Section 156. A resolution on any issue shall be made by a majority of votes, unless it is otherwise provided in this Constitution.

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

The President of the National Assembly, the President of the House of Representatives and the President of the Senate shall cause the voting of each member to be recorded and disclose such record in a place where the public entry for its inspection is possible, except for the case of the voting by secret ballot.

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

Section 157. At a sitting of the House of Representatives or the Senate or at a joint sitting of the National Assembly, words expressed in giving statements of fact or opinions or in casting the vote by any member are absolutely privileged. No charge or action in any manner whatsoever shall be brought against such member.

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

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

Section 158. The privilege provided in section 157 extends to printers and publishers of the minutes of sittings in accordance with the rules of procedure of the House of Representatives, the Senate or the National Assembly, as the case may be, and to persons permitted by the presiding member to give statements of fact or opinions at such sitting as well as to persons who broadcasts

the sitting through radio or television with the permission of the President of such House *mutatis mutandis*.

Section 159. The National Assembly shall, within thirty days as from the date of the election of members of the House of Representatives, be summoned for the first sitting.

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

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

During the legislative ordinary session, the National Assembly shall hold a sitting only in such cases as prescribed in Chapter 2 or in cases 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.

Section 160. An ordinary session of the National Assembly shall last one hundred and twenty days but the King may prolong it.

An ordinary session may be prorogued before the end of one hundred and twenty days only with the approval of the National Assembly.

Section 161. 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 159 paragraph one or may command the Heir to the Throne who is *sui juris* or any person to perform the ceremony as His Representative.

Section 162. When it is necessary for the interests of the State, the King may convoke an extraordinary session of the National Assembly.

Section 163. 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.

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

Section 164. Subject to section 163, the convocation, the prolongation of session and the prorogation of the National Assembly shall be made by a Royal Decree.

Section 165. 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.

Section 166. 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 law on the election of members of the House of Representatives and senators, the organic law on Election Commission or the

organic law on political parties; provided that the trial of the Court shall not hinder such member from attending the sitting of the House.

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

Section 167. 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 under paragraph one shall be effective as from the date of such order until the last day of the session.

Section 168. 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 223, and the votes taken shall be based on the number of senators;

(2) a sitting at which the Senator shall elect, appoint, recommend or give approval to a person for holding any office under section 138, section 143, section 196, section 199, section 257, section 261, section 274(3), section 277, section 278, section 279(3), section 297, section 302 and section 312;

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

Section 169. Subject to section 170, a bill or an organic law bill may be introduced only by members of the House of Representatives or the Council of Ministers, but a money bill may be introduced by members of the House of Representatives only with the endorsement of the Prime Minister.

A member of the House of Representatives may introduce a bill or an organic law bill only if the political party of which he or she is a member has passed a resolution approving the introduction thereof and the bill is endorsed by not less than twenty members of the House of Representatives .

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

- (1) the imposition, repeal, reduction, alteration, modification, remission, or regulation of taxes or duties;
- (2) the allocation, receipt, custody, payment of the State funds, or transfer of expenditure estimates of the State;
- (3) the raising of loans, or guarantee or redemption of loans;
- (4) currency.

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

The President of the House of Representatives shall hold a joint sitting to consider the case under paragraph four within fifteen days as from the date such case occurs.

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

Section 170. The persons having the right to vote of not less than fifty thousand in number shall have a right to submit a petition to the President of the National Assembly to consider such law as prescribed in Chapter 3 and Chapter 5 of this Constitution.

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

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

Section 171. For any bill or any organic law bill introduced by members of the House of Representatives which, at the stage of the adoption of its principle, was not a money bill but was then amended by the House of Representatives and, in the opinion of the President of the House, such amendment has rendered it to exhibit the characteristic of a money bill, the President of the House shall suspend the consideration of such bill and, within fifteen days as from the day on which such case occurs, shall refer it to a joint

sitting of the President of the House of Representatives and Presidents of all its standing committees to make a decision thereon. If the joint sitting decides that the amendment resulted in such bill or organic law bill exhibiting the characteristic of a money bill, the President of the House shall refer it to the Prime Minister for endorsement. In the case where the Prime Minister does not endorse it, the House of Representative shall amend it so as to prevent it from being a money bill.

Section 172. A bill or an organic law bill shall be first submitted to the House of Representatives.

Section 173. When a bill which has been specified by the Council of Ministers, in its policies stated to the National Assembly under section 211, as necessary for the administration of the State affairs or when any organic law bill is not approved by a resolution of the House of Representatives and the votes disapproving it are less than one-half of the total number of the existing members of the House, the Council of Ministers may request the National Assembly to hold a joint sitting for passing a resolution on another occasion. If it is approved, the National Assembly shall appoint the persons, being or not being its members, in such an equal number as proposed by the Council of Ministers, to constitute a joint committee of the National Assembly for considering such bill or organic law bill, and the joint committee of the National Assembly shall prepare a report thereon and submit the bill or organic law bill which it has already considered to the National Assembly. If such bill or organic law bill is approved by the National Assembly, further proceedings under section 93 shall be taken. If it is not approved, such bill or organic law bill shall lapse.

Section 174. Subject to section 180, when the House of Representatives has considered a bill or an organic law bill submitted under section 172 and resolved to approve it, the House of Representatives shall submit such bill or organic law bill to the Senate. The Senate must finish the consideration of such bill or organic law bill within sixty days; but if it is a money bill, the consideration thereof must be finished within thirty days;

provided that the Senate may, as a special case, resolve to extend the period for not more than thirty days. The said period shall mean the period during a session and shall be counted as from the day on which such bill or organic law bill reaches the Senate.

The period referred to in paragraph one shall not include the period during which the bill or the organic law bill is under the consideration of the Constitutional Court under section 177.

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

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

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

Section 175. Subject to section 180, after the Senate has finished the consideration of a bill or an organic law bill,

(1) if it agrees with the House of Representatives, further proceedings under section 93 shall be taken;

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

(3) if there is an amendment, the amended bill or the amended organic law bill shall be returned to the House of Representatives. If the House of Representatives approves such amendment, further proceedings under section 93 shall be taken. In other cases, each House shall appoint persons, being or not being its members, in such an equal number as may be fixed by the House of Representatives, to constitute a joint committee for considering the bill or the organic law bill and the joint committee shall prepare a report thereon and submit the bill or the organic law bill which it has already considered to both Houses. If both Houses approve the bill or the organic law bill already considered by the joint committee, further proceedings under section 93 shall be taken. If either

House disapproves it, the bill or the organic law bill shall be withheld.

The joint committee has the power to demand documents from any person or summon any person to give statements of fact or opinions in respect of the consideration of the bill or the organic law bill and the privileges provided in section 157 and section 158 shall also extend to the person performing his or her duties under this section.

At a meeting of the joint committee, the presence of the members of the joint committee appointed by both Houses of not less than one-half of the total number of its members is required to constitute a quorum and the provisions of section 194 shall apply *mutatis mutandis*.

Section 176. A bill or an organic law bill withheld under section 175 may be reconsidered by the House of Representatives only after the lapse of one hundred and eighty days as from the date the bill or the organic law bill is returned to the House of Representatives by the Senate in case of withholding under section 175(2) and as from the date either House disapproves it in case of withholding under section 175(3). In such cases, if the House of Representatives resolves to reaffirm the original bill or the bill considered by the joint committee by the votes of more than one-half of the total number of the existing members of the House of Representatives, such bill or organic law bill shall be deemed to have been approved by the National Assembly and further proceedings under section 93 shall be taken.

If the bill or the organic law bill withheld is a money bill, the House of Representatives may forthwith proceed to reconsider it. In such case, if the House of Representatives resolves to reaffirm the original bill or the bill considered by the joint committee by the votes of more than one-half of the total number of the existing members of the House of Representatives, such bill or organic law bill shall be deemed to have been approved by the National Assembly and further proceedings under section 93 shall be taken.

Section 177. While a bill or an organic law bill is being withheld under section 175, the Council of Ministers or members of the House of Representatives may not introduce a bill or an organic law bill having the same or similar principle as that of the bill or the organic law bill so withheld.

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

Section 178. In the case where the term of the House of Representatives expires or the House of Representatives is dissolved, the draft Constitution Amendment, or all bills or organic law bills to which the King has refused His assent or which have not been returned by the King within 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, the bill or the organic law bill which has not yet been approved by the National Assembly if the Council of Ministers which is newly appointed after the general election so requests within 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, bill or organic law bill shall lapse.

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

Section 179. 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 180. The House of Representatives must finish the consideration of an 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 reaches 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 reaches the Senate. Upon the lapse of such period, such bill shall be deemed to have been approved; in such case and in the case where the Senate approves it, further proceedings under section 93 shall be taken.

If the Senate disapproves the bill, the provisions of section 176 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;
- (2) interest on a loan;
- (3) money payable in accordance with the law.

In the consideration by the House of Representatives 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.

Section 181. The payment of State funds shall be made only when it has been authorised 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, or except it is the case under section 230 paragraph two.

Section 182. The House of Representatives and the Senate are, by virtue of this Constitution, vested with the power to control the administration of the State affairs.

Section 183. Every member of the House of Representatives or senator has the right to interpellate a Minister on any matter within the scope of his or her authority, but the Minister has the right to refuse to answer it if the Council of Ministers is of the opinion that the matter should not yet be disclosed on the ground of safety or vital interest of the State.

Section 184. In the administration of the State affairs on any matter which involves an important problem of public concern, affects national or public interest, or requires urgency, a member of the House of Representatives may notify the President of the House of Representatives in writing prior to the commencement of the sitting of the day, that they will interpellate the Prime Minister or the Minister responsible for the administration of the State affairs on that matter without specifying the question, and the President of the House of Representatives shall place such matter on the agenda of the meeting of that day.

The interpellation and the answer to the interpellation under paragraph one may be made once a week, and a verbal interpellation by a member of the House of Representatives on a matter involving the

administration of the State affairs may be made not exceeding three times on each matter in accordance with the rules of procedure of the House of Representatives.

Section 185. Members of the House of Representatives of not less than two-fifths of the total number of the existing members of the House have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister. Such motion must nominate the suitable next Prime Minister who is also a person under section 201 paragraph two and, when the motion has been submitted, the dissolution of the House of Representatives shall not be permitted, except that the motion is withdrawn or the resolution is passed without being supported by the vote in accordance with paragraph three.

In the submission of the motion for a general debate under paragraph one, if it is concerned with the behaviour of the Prime Minister, which involves circumstances of unusual wealthiness, exhibits a sign of malfeasance in office or intentionally violates the provisions of the Constitution or law, it shall not be submitted without the petition under section 304 having been presented. Upon the submission of the petition under section 304, it may be proceeded with without awaiting the outcome of the proceedings under section 305.

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

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

In the case where a vote of no-confidence is passed by more than one-half of the total number of the existing members of the House of

Representatives, the President of the House of Representatives shall submit the name of the person nominated under paragraph one to the King for further appointment and section 202 shall not apply.

Section 186. Members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in an individual Minister.

The provisions of section 185 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

Section 187. Senators of not less than three-fifths of the total number of the existing members of the Senate have the right to submit a motion for a general debate in the Senate for the purpose of requesting the Council of Ministers to give statements of fact or explain important problems in connection with the administration of the State affairs without a resolution to be passed.

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

Section 188. 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 189. 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.

In the case where the person under paragraph two is a Government official, official or employee of State agency, State enterprise or local government organisation, 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 157 and section 158 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 191, the President of the House of Representatives shall determine the proportion under paragraph five.

Section 190. In considering a bill the substance of which is decided by the President of the House of Representatives to be concerned with children, women, the elderly, the disabled or handicapped, if the House of Representatives does not consider it by its full committee, the House of Representatives shall appoint an ad hoc committee consisting of representatives, from private organisations concerned with the respective types of persons, of not less than one-third of the total number of members of the committee.

Section 191. 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 bills and organic law 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, codes of ethics of members and committee members, and other matters for the execution of this Constitution.

Section 192. The fundamental substance of the organic laws on various matters as prescribed in the Transitory Provisions shall necessarily be contained in the organic law on such matter in accordance with this Constitution.

## Part 6

### Joint Sitzings of the National Assembly

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Section 193. The National Assembly shall hold a joint sitting in the following cases:

(1) the approval of the appointment of the Regent under section 19;

(2) the making of a solemn declaration by the Regent before the National Assembly under section 21;

(3) the acknowledgment of an amendment of the Palace Law on Succession, B.E. 2467 under section 22;

(4) the acknowledgment or approval of the succession to the Throne under section 23;

(5) the reconsideration of a bill or an organic law bill under section 94;

(6) the passing of a resolution for the consideration by the National Assembly of other matters during a legislative ordinary session under section 159;

(7) the approval of the prorogation of a session under section 160;

(8) the opening of the session of the National Assembly under section 161;

(9) the approval of the further consideration of a bill or an organic law bill under section 173;

(10) the approval of the further consideration of a Constitution Amendment, a bill or an organic law bill under section 178 paragraph two;

(11) the making of the rules of procedure of the National Assembly under section 194;

(12) the announcement of policies under section 211;

(13) the holding of a general debate under section 213;

(14) the approval of the declaration of war under section 223;

(15) the approval of a treaty under section 224;

(16) the amendment of the Constitution under section 313;

Section 194. At a joint sitting of the National Assembly, the rules of procedure of the National Assembly shall apply. While the rules of procedure of the National Assembly has not yet been issued, the rules of procedure of the House of Representatives shall apply *mutatis mutandis*.

Section 195. The provisions applicable to both Houses shall apply *mutatis mutandis* to the joint sitting of the National Assembly, except that, for the appointment of a committee, the number of committee members appointed from the members of each House must be in proportion to or in close proportion to the number of members of each House.

## Part 7

### Ombudsmen

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

The President of the Senate shall countersign the Royal Command appointing the Ombudsmen.

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

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

Section 197. The Ombudsmen have the powers and duties as follows:

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

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

(b) performance of or omission to perform duties of a Government official, an official or employee of a State agency, State enterprise or local government organisation, which unjustly causes injuries to the complainant or the public whether such act is lawful or not;

(c) other cases as provided by law;

(2) to prepare reports and submit opinions and suggestions to the National Assembly.

Section 198. In the case where the Ombudsman is of the opinion that the provisions of the law, rules, regulations or any act of any person under section 197(1) begs the question of the constitutionality, the Ombudsman shall submit the case and the opinion to the Constitutional Court or Administrative Court for decision in accordance with the procedure of the Constitutional Court or the law on the procedure of the Administrative Court, as the case may be.

The Constitutional Court or Administrative Court, as the case may be, shall decide the case submitted by the Ombudsman under paragraph one without delay.

## Part 8

### The National Human Rights Commission

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Section 199. The National Human Rights Commission consists of a President and ten other members appointed, by the King with the advice of the Senate, from the persons having apparent knowledge and experiences in the protection of rights and liberties of the people, having regard also to the

participation of representatives from private organisations in the field of human rights.

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

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

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

Section 200. The National Human Rights have the powers and duties as follows:

(1) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts for taking action. 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 propose to the National Assembly and the Council of Ministers policies and recommendations with regard to the revision of laws, rules or regulations for the purpose of promoting and protecting human rights;

(3) to promote education, researches and the dissemination of knowledge on human rights;

(4) to promote co-operation and co-ordination among Government agencies, private organisations, and other organisations in the field of human rights;

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

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

In the performance of 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 including other powers for the purpose of performing its duties as provided by law.

## CHAPTER VII

### The Council of Ministers

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Section 201. 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.

The Prime Minister must be appointed from members of the House of Representatives or persons who have been members of the House of Representatives whose membership has terminated under section 118 (7) during the term of the same House.

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

Section 202. 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 159.

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 203. In the case where the period of thirty days as from the date the National Assembly is convoked for the first sitting of its members

has elapsed and no one has been approved for appointment as Prime Minister under section 202 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 204. No Prime Minister and Ministers shall be members of the House of Representatives or senators simultaneously.

A member of the House of Representatives who has been appointed as Prime Minister or Minister shall vacate office on the day following the date on which thirty days have elapsed as from the date of the issuance of the appointing Royal Command.

Section 205. 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 206. 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 109 (1), (2), (3), (4), (6), (7), (12), (13) or (14);
- (5) having been discharged for a period of less than five years before the appointment after being sentenced by a judgment to imprisonment for a term of two years or more, except for an offence committed through negligence;
- (6) not being a senator or having been a senator whose membership has terminated for not more than one year up to the date of the appointment as

Minister except for the termination of membership under section 133 (1).

Section 207. A Minister shall not be a Government official holding a permanent position or receiving a salary except political official.

Section 208. A Minister shall not hold a position or perform any act provided in section 110, except the position required to be held by the operation of law, and shall not hold any other position in a partnership, company or any organisation which engages in a business with a view to sharing profits or incomes or be an employee of any person.

Section 209. A Minister shall not be a partner or shareholder of a partnership or a company or retain his or her being a partner or shareholder of a partnership or a company up to the limit as provided by law. In the case where any Minister intends to continue to receive benefits in such cases, such Minister shall inform the President of the National Counter Corruption Commission within thirty days as from the date of the appointment and shall transfer his or her shares in the partnership or company to a juristic person which manages assets for the benefit of other persons as provided by law.

The Minister shall not do any act which, by nature, amounts to the administration or management of shares or affairs of such partnership or company.

Section 210. A Minister has the right to attend and give statements of fact or opinions at a sitting of the House but has no right to vote. In the case where the House of Representatives or the Senate has passed a resolution requiring Ministers to attend a sitting for any matter, they shall attend the sitting.

The provisions of section 157 and section 158 governing privileges shall apply *mutatis mutandis*.

Section 211. 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; provided that no vote of confidence shall be passed.

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 212. Ministers shall carry out the administration of the State affairs in accordance with the provisions of the Constitution, laws and the policies stated under section 211, and shall be responsible 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 213. 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 214. In the case where the Council of Ministers is of the opinion that any issue may affect national or public interests, the Prime Minister, with the approval of the Council of Ministers, may consult the President of the House of Representatives and the President of the Senate for the purpose of publishing in the Government Gazette calling for a referendum.

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

The publication under paragraph one shall fix the date of the referendum, which shall not be earlier than ninety days and shall not be later than one hundred and twenty days as from the date of its publication in the

Government Gazette, and the date of the referendum shall be the same throughout the Kingdom.

While the publication under paragraph one is in force, the State shall take action to ensure that persons who agree or disagree with such issue can express their opinions equally.

The persons having the right to vote in an election of members of the House of Representatives shall have the right to vote in a referendum.

If it appears from the referendum that the people voting in the referendum are less than one-fifth of the persons having the right to vote, the issue for which consultation is sought shall be deemed to be disapproved by a majority of people. If the people voting in the referendum are more than one-fifth of the persons having the right to vote and it appears that the people voting in the referendum approve it by a majority of votes, the issue for which consultation is sought shall be deemed to be approved by a majority of people.

The referendum under this section shall have the mere effect of advice given to the Council of Ministers on that issue.

The rules and procedure for voting in a referendum shall be in accordance with the organic law on referendum.

Section 215. Ministers vacate office en masse upon:

(1) the termination of ministership of the Prime Minister under section 216;

(2) the expiration of the term or the dissolution of the House of Representatives;

(3) the resignation of the Council of Ministers.

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

The provisions of section 118(7) and paragraph two thereof and section 204 shall not apply to the outgoing Council of Ministers which remains in office for carrying out duties under paragraph two.

In the case where the ministership of the Prime Minister terminates under section 216 (1), (2), (3), (4), (6) or (8), the procedure under section 202 and section 203 shall apply mutatis mutandis.

Section 216. The ministership of an individual Minister terminates upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any of the prohibitions under section 206;
- (4) being sentenced by a judgment to imprisonment;
- (5) the passing of a vote of no-confidence by the House of Representatives under section 185 or section 186;
- (6) having done an act prohibited by section 208 or section 209;
- (7) the issuance of a Royal Command under section 217;
- (8) being removed from office by a resolution of the Senate under section 307.

The provisions of section 96 and section 97 shall apply to the termination of the ministership under (2), (3), (4) or (6).

Section 217. The King has the prerogative to remove a Minister from his or her office upon the advice of the Prime Minister.

Section 218. 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 is effective.

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 219. Before the House of Representatives or the Senate approves an Emergency Decree under section 218 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 218 paragraph one, and the President of the House who receives such opinion shall then refer it to the Constitutional Court 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 218 paragraph one, 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 218 paragraph one must be given by votes of not less than two-thirds of the total number of members of the Constitutional Court.

Section 220. 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 218 shall apply mutatis mutandis.

Section 221. The King has the prerogative to issue a Royal Decree which is not contrary to the law.

Section 222. 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 223. 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 224. The King has the prerogative to conclude a peace treaty, armistice and other treaties with other countries or international organisations.

A treaty which provides for a change in the Thai territories or the jurisdiction of the State or requires the enactment of an Act for its implementation must be approved by the National Assembly.

Section 225. The King has the prerogative to grant a pardon.

Section 226. The King has the prerogative to remove titles and recall decorations.

Section 227. 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 228. A Government official holding a permanent position or receiving a salary and not being a political official shall not be a political official or hold other political position.

Section 229. Emoluments and other remuneration of Privy Councillors, 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.

Gratuities, pensions or other remuneration of Privy Councillors, President and Vice-Presidents of the House of Representatives, President and Vice-Presidents of the Senate, Prime Minister, Ministers, Leader of the Opposition in the House of Representatives, members of the House of Representatives and senators who vacate their office shall be prescribed by the Royal Decree.

Section 230. The establishment of a new Ministry, Sub-Ministry or Department which requires an increase of positions or the number of Government officials or employees shall be made in the form of an Act.

The amalgamation or transfer of Ministries, Sub-Ministries or Departments which has or does not have the effect of establishing a new Ministry, Sub-Ministry or Department and which does not require an increase of positions or the number of Government officials or employees, or the dissolution of a Ministry, Sub-Ministry or department shall be made in the form of a Royal Decree.

An increase of positions or the number of Government officials or employees in a Ministry, Sub-Ministry or Department which is newly established or in the Ministry, Sub-Ministry or Department which is amalgamated or to which the transfer is made shall not be permitted within three years as from the date of the amalgamation or the transfer thereof under paragraph two.

The Royal Decree under paragraph two shall also specify the powers and duties of the newly established Ministry, Sub-Ministry or Department, the transfer of powers and duties under the provisions of the law vested in the original Government agency or officials and the transfer of officials and employees, budget, assets and liabilities.

The execution under paragraph two in respect of a Ministry, Sub-Ministry or Department already established by an Act shall be made in the form of a Royal Decree. The Royal Decree so issued shall be deemed to have the effect of amending, in the relevant parts, the provisions of the Act or law which has the same force as an Act.

Section 231. All laws, Royal Rescripts and Royal Commands

relating to the State affairs must be countersigned by a Minister unless otherwise provided in this Constitution.

Section 232. All laws which have been signed or deemed to have been signed by the King shall forthwith be published in the Government Gazette.

## CHAPTER VIII

### The Courts

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#### Part 1

#### General Provisions

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Section 233. 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.

Section 234. All Courts may be established only 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.

Section 235. A law having an effect of changing or amending the law on the organisation of Courts or on judicial procedure for the purpose of its application to a particular case shall not be enacted.

Section 236. The hearing of a case requires a full quorum of judges. Any judge not sitting at the hearing of a case shall not give judgement or a decision of such case, except for the case of force majeure or any other unavoidable necessity as provided by law.

Section 237. In a criminal case, no arrest and detention of a person may be made except where an order or a warrant of the Court is obtained, or

where such person commits a flagrant offence or where there is such other necessity for an arrest without warrant as provided by law. The arrested person shall, without delay, be notified of the charge and details of such arrest and shall be given an opportunity to inform, at the earliest convenience, his or her relative, or the person of his or her confidence, of the arrest. The arrested person being kept in custody shall be sent to the Court within forty eight hours as from the time of his or her arrival at the office of the inquiry official in order for the court to consider whether there is a reasonable ground under the law for the detention of the arrested person or not, except for the case of force majeure or any other unavoidable necessity as provided by law.

A warrant of arrest or detention of a person may be issued where:

(1) there is reasonable evidence that such person is likely to have committed a serious offence which is punishable as provided by law; or

(2) there is reasonable evidence that such person is likely to have committed an offence and there also exists a reasonable cause to believe that such person is likely to abscond, tamper with the evidence or commit any other dangerous act.

Section 238. In a criminal case, a search in a private place shall not be made except where an order or a warrant of the Court is obtained or there is a reasonable ground to search without an order or a warrant of the Court as provided by law.

Section 239. An application for a bail of the suspect or the accused in a criminal case must be accepted for consideration without delay, and an excessive bail shall not be demanded. The refusal of a bail must be based upon the grounds specifically provided by law, and the suspect or the accused must be informed of such grounds without delay.

The right to appeal against the refusal of a bail is protected as provided by law.

A person being kept in custody, detained or imprisoned has the right to see and consult his or her advocate in private and receive a visit as may be appropriate.

Section 240. In the case of the detention of a person in a criminal case or any other case, the detainee, the public prosecutor or other person acting in the interest of the detainee has the right to lodge with the Court having criminal jurisdiction a plaint that the detention is unlawful. Upon receipt of such plaint, the Court shall forthwith proceed with an ex parte examination. If, in the opinion of the Court, the plaint presents a prima facie case, the court shall have the power to order the person responsible for the detention to produce the detainee promptly before the Court, and if the person responsible for the detention can not satisfy the Court that the detention is lawful, the Court shall order an immediate release of the detainee.

Section 241. In a criminal case, the suspect or the accused has the right to a speedy, continuous and fair inquiry or trial.

At the inquiry stage, the suspect has the right to have an advocate or a person of his or her confidence attend and listen to interrogations.

An injured person or the accused in a criminal case has the right to inspect or require a copy of his or her statements made during the inquiry or documents pertaining thereto when the public prosecutor has taken prosecution as provided by law.

In a criminal case for which the public prosecutor issues a final non-prosecution order, an injured person, the suspect or an interested person has the right to know a summary of evidence together with the opinion of the inquiry official and the public prosecutor with respect to the making of the order for the case, as provided by law.

Section 242. In a criminal case, the suspect or the accused has the right to receive an aid from the State by providing an advocate as provided by law. In the case where a person being kept in custody or detained cannot find an advocate, the State shall render assistance by providing an advocate without delay.

In a civil case, a person has the right to receive a legal aid from the State, as provided by law.

Section 243. A person has the right not to make a statement

incriminating himself or herself which may result in criminal prosecution being taken against him or her.

Any statement of a person obtained from inducement, a promise, threat, deceit, torture, physical force, or any other unlawful act shall be inadmissible in evidence.

Section 244. In a criminal case, a witness has the right to protection, proper treatment, necessary and appropriate remuneration from the State as provided by law.

Section 245. In a criminal case, an injured person has the right to protection, proper treatment and necessary and appropriate remuneration from the State, as provided by law.

In the case where any person suffers an injury to the life, body or mind on account of the commission of a criminal offence by other person without the injured person participating in such commission and the injury cannot be remedied by other means, such person or his or her heir has the right to receive an aid from the State, upon the conditions and in the manner provided by law.

Section 246. Any person who has become the accused in a criminal case and has been detained during the trial shall, if it appears from the final judgement of that case that the accused did not commit the offence or the act of the accused does not constitute an offence, be entitled to appropriate compensation, expenses and the recovery of any right lost on account of that incident, upon the conditions and in the manner provided by law.

Section 247. In the case where any person was inflicted with a criminal punishment by a final judgment, such person, an interested person, or the public prosecutor may submit a motion for a review of the case. If it appears in the judgment of the Court reviewing the case that he or she did not commit the offence, such person or his or her heir shall be entitled to appropriate compensation, expenses and the recovery of any right lost by virtue of the judgment upon the conditions and in the manner provided by law.

Section 248. In the case where there is a dispute on 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 provided by law as members.

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

Section 249. Judges are independent in the trial and adjudication of cases in accordance with the Constitution and the law.

The trial and adjudication by judges shall not be subject to hierarchical supervision.

The distribution of case files to judges shall be in accordance with the rules prescribed by law.

The recall or transfer of case files shall not be permitted except in the case where justice in the trial and adjudication of the case shall otherwise be affected.

The transfer of a judge without his or her prior consent shall not be permitted except in the case of termly transfer as provided by law, promotion to a higher position, being under a disciplinary action or becoming a defendant in a criminal case.

Section 250. Judges shall not be political officials or hold political positions.

Section 251. 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 252. 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 253. 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 254. 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

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Section 255. The Constitutional Court consists of the President and fourteen judges of the Constitutional Court to be appointed by the King upon advice of the Senate from the following persons:

(1) five 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) five qualified persons in law elected under section 257;

(4) three qualified persons in political science elected under section 257.

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

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

Section 256. The qualified person under section 255 (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;

(4) not being under any of the prohibitions under section 106 or section 109 (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 preceding the taking of office;

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

Section 257. The selection and election of judges of the Constitutional Court under section 255 (3) and (4), shall be proceeded as

follows:

(1) there shall be a Selective Committee for judges of the Constitutional Court consisting of the President of the Supreme Court of Justice, Deans of the Faculty of Law, or the equivalent, of all State higher education institutions, being elected among themselves to be four in number, Deans of the Faculty of Political Science, or the equivalent, of all State higher education institutions, being elected among themselves to be four in number, and representatives of all political parties having a member who is a member of the House of Representatives provided that each party shall have one representative and all such representatives shall elect among themselves to be four in number, as members. The Committee shall have the duties to select and prepare a list of names of ten qualified persons under section 255 (3) and six qualified persons under section 255 (4) and submit it to the President of the Senate with the consent of the nominated persons within thirty days as from the date when a ground for the selection of persons to be in such office occurs. The resolution making such nomination must be passed by votes of not less than three-fourths of the total number of the existing members of the Committee;

(2) the President of the Senate shall convoke the Senate for a sitting for the purpose of passing a resolution, by secret ballot, electing the nominated persons in the list under (1). For this purpose, the first five persons in the name-list of qualified persons under section 255 (3) and the first three persons in the name-list of qualified persons under section 255 (4) who receive the highest votes which are more than one-half of the total number of the existing senators shall be elected as judges of the Constitutional Court, but if the number of the persons elected from the name-list of the qualified persons under section 255 (3) is less than five or the number of the persons elected from the name-list of the qualified persons under section 255 (4) is less than three, the name-list of those not elected on the first occasion shall be submitted to the senators for voting on another occasion consecutively. In such case, the persons receiving the highest number of votes in respective order in the specified number shall be elected as judges of the Constitutional Court. If there are persons receiving equal votes in any order which result in having more than five or three persons, as the case may be, the President of the Senate shall draw lots to determine who are elected persons.

The provisions of section 255 paragraph two and paragraph three shall apply mutatis mutandis.

Section 258. 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 organisation or a director or adviser of a State enterprise or State agency;

(3) hold any position in a partnership, a company or an organisation 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 261 shall apply.

Section 259. 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 260. In addition to the vacation of office upon the expiration of term, the President and judges 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 256;
- (5) having done an act in violation of section 258;
- (6) the Senate passing a resolution under section 307 for the removal from office;
- (7) being sentenced by a judgement to imprisonment.

When a case under paragraph one occurs, the remaining judges shall continue to perform their duties subject to section 267.

Section 261. In the case where the President and judges of the Constitutional Court vacate office en masse at the expiration of term, the proceedings under section 255 and section 257 shall be taken within thirty days as from the date of the vacation of office.

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

(1) in the case of the judge of the Constitutional Court who was elected at the general meeting of the Supreme Court of Justice, section 255 (1) shall apply mutatis mutandis; provided that the election thereunder shall be completed within thirty days as from the date of the vacation of office;

(2) in the case of the judge of the Constitutional Court who was elected at the general meeting of the Supreme Administrative Court, section 255 (2) shall apply mutatis mutandis; provided that the election thereunder shall be completed within thirty days as from the date of the vacation of office;

(3) in the case of the judges of the Constitutional Court under section 255(3) or (4), section 257 shall apply mutatis mutandis. In such case, the nomination of suitable persons to be qualified judges of the Constitutional Court under section 255 (3) or (4) shall be presented to the President of the Senate by

submitting names of persons in the double number of the outgoing judges and the Senate shall pass a resolution for the election within thirty days from the date of the vacation office.

In the case where some or all judges of the Constitutional Court vacate office out of a session of the National Assembly, the proceedings under section 257 shall be taken within thirty days as 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 255 paragraph two shall apply *mutatis mutandis*.

Section 262. After any bill or organic law bill has been approved by the National Assembly under section 93 or has been reaffirmed by the National Assembly under section 94, before the Prime Minister presents it to the King for signature:

(1) if members of the House of Representatives, senators or members of both Houses of not less than one-tenth of the total number of the existing members of both Houses are of the opinion that provisions of the said bill are contrary to or inconsistent with this Constitution or such bill is enacted contrary to the provisions of this Constitution, they shall submit their opinion to the President of the House of Representatives, the President of the Senate or the President of the National Assembly, as the case may be, and the President of the House receiving such opinion shall then refer it to the Constitutional Court for decision and, without delay, inform the Prime Minister thereof;

(2) if not less than twenty members of the House of Representatives, senators or members of both Houses are of the opinion that the provisions of the said organic law bill are contrary to or inconsistent with this Constitution or such organic law bill is enacted contrary to this Constitution, they shall submit their opinion to the President of the House of Representatives, the President of the Senate or the President of the National Assembly, as the case may be, and the President of the House receiving such opinion shall then refer it to the Constitutional Court for decision and, without delay, inform the Prime Minister thereof;

(3) if the Prime Minister is of the opinion that the provisions of the said bill or organic law bill are contrary to or inconsistent with this Constitution

or it is enacted contrary to the provisions of this Constitution, the Prime Minister shall refer such opinion to the Constitutional Court for decision and, without delay, inform the President of the House of Representatives and the President of the Senate thereof.

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

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

If the Constitutional Court decides that the provisions of such bill or organic law bill are contrary to or inconsistent with this Constitution otherwise than in the case specified in paragraph three, such conflicting or inconsistent provisions shall lapse and the Prime Minister shall proceed further in accordance with section 93 or section 94, as the case may be.

Section 263. The provisions of section 262 (2) shall apply mutatis mutandis to draft rules of procedure of the House of Representatives, draft rules of procedure of the Senate and draft rules of procedure of the National Assembly which have already been approved by the House of Representatives, the Senate or the National Assembly, as the case may be, but remain unpublished in the Government Gazette.

Section 264. In the application of 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 stay its trial and adjudication of the case and submit, in the course of official service, its opinion to the Constitutional Court for consideration and decision.

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 judgements of the Courts.

Section 265. 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 organisation 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 266. In the case where a dispute arises as to the powers and duties of organs under the Constitution, such organs or the President of the National Assembly shall submit a matter together with the opinion to the Constitutional Court for decision.

Section 267. The quorum of judges of the Constitutional Court for hearing and giving a decision shall consist of not less than nine judges. The decision of the Constitutional Court shall be made by a majority of votes, unless otherwise provided in this Constitution.

Every judge of the Constitutional Court who constitutes a quorum shall give a decision on his 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.

Section 268. The decision of the Constitutional Court shall be deemed final and binding on the National Assembly, Council of Ministers, Courts and other State organs.

Section 269. The procedure of the Constitutional Court shall be prescribed by the Constitution Court, which must be done by a unanimous resolution of its judges, and shall be published in the Government Gazette.

The procedure of the Constitutional Court under paragraph one must also be founded at least upon fundamental guarantees with regard to the openness of hearing, the opportunity to the parties to express their opinions before the decision of the case, the right of the parties to inspect documents relating to them, the opportunity to challenge the judge of the Constitutional Court and the reasoning of the decision or order of the Constitutional Court.

Section 270. The Constitutional Court shall have its independent secretariat, with the Secretary-General of the Office of the Constitutional Court as the superior responsible directly to the President of the Constitutional Court.

The appointment of the Secretary-General of the Office of the Constitutional Court must be approved by judges of the Constitutional Court.

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

### Part 3 Courts of Justice

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Section 271. 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 272. There shall be three levels of Courts of Justice, viz, Courts of First Instance, Court of Appeal and the Supreme Court of Justice, except otherwise provided by this Constitution or other laws.

There shall be in the Supreme Court of Justice a Criminal Division for Persons Holding Political Positions the quorum of which 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 the organic law on criminal procedure for persons holding political positions.

Section 273. 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, increase of salaries and punishment of judges of the Courts of Justice must be approved by the Judicial Commission of the Courts of Justice. For this purpose, the Judicial Commission of the Courts of Justice shall appoint a sub-committee in each level of Courts for preparing and presenting its opinion on such matter for consideration.

Section 274. The Judicial Commission of the Courts of Justice consists of the following persons:

- (1) President of the Supreme Court of Justice as Chairman;
- (2) twelve qualified members of all levels of Courts, four persons from each level, who are judges of each level of Courts and elected by judicial officials of all levels 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.

Section 275. The Courts of Justice shall have an independent secretariat, with the Secretary-General of the Office of the Courts of Justice as the superior responsible directly to the President of the Supreme Court of Justice.

The appointment of the Secretary-General of the Office of the Courts of Justice must be approved by the Judicial Commission of the Courts of Justice.

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

#### Part 4

#### Administrative Courts

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Section 276. Administrative Courts have the powers to try and adjudicate cases of dispute between a State agency, State enterprise, local government organisation, or State official under the superintendence 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 organisation, or State official under the superintendence or supervision of the Government on one part and another such agency, enterprise, organisation or official 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 organisation, 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 organisation or State official in the performance of duties under the law, as provided by law.

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

Section 277. 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.

Section 278. 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 279. 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.

Section 280. The Administrative Courts shall have an independent secretariat, with the Secretary-General of the Office of the Administrative Courts as the superior responsible directly to the President of the Supreme Administrative Court.

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

The Office of the Administrative Courts shall have autonomy in personnel administration, budget and other activities

## Part 5 Military Courts

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Section 281. Military Courts have the powers to try and adjudicate military criminal cases and other cases as provided by law.

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

## CHAPTER IX

### Local Government

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Section 282. Subject to section 1, the State shall give autonomy to the locality in accordance with the principle of self-government according to the will of the people in the locality.

Section 283. Any locality which meets the conditions of self-government shall have the right to be formed as a local government organisation as provided by law.

The supervision of a local government organisation must be exercised in so far as it is necessary as provided by law but must be for protecting local interests or the interests of the country as a whole; provided, however, that it shall not substantially affect the principle of self-government according to the will of the people in the locality otherwise than as provided by law.

Section 284. All local government organisations shall enjoy autonomy in laying down policies for their governance, administration, personnel administration, finance and shall have powers and duties particularly on their own part.

The delineation of powers and duties between the State and a local government organisation and among local government organisations themselves shall be in accordance with the provisions of the law, having particular regard to the promotion of decentralisation.

For the purpose of the continual development of decentralisation to a higher level, there shall be the law determining plans and process of decentralisation, the substance of which shall at least provide for the following matters.

- (1) the delineation of powers and duties in the management of

public services between the State and a local government organisation and among local government organisations themselves;

(2) the allocation of taxes and duties between the State and a local government organisation, having regard to burdens of the State vis-à-vis the local government organisation and those among local government organisations themselves;

(3) the setting up of a committee to perform the duties in (1) and (2) consisting, in an equal number, of representatives of relevant Government agencies, representatives of local government organisation and qualified persons possessing the qualifications as provided by law.

In the case where the delineation of powers and duties and the allocation of taxes and duties under (1) and (2) have been made for any local government organisation, the committee under (3) shall review them every five years as from the date of the delineation of powers and duties or the date of the allocation of taxes and duties, as the case may be, in order to consider the suitability of the delineation of powers and duties and the allocation of taxes and duties previously made, having particular regard to the promotion of decentralisation.

The proceeding under paragraph four shall be effective when the approval of the Council of Ministers has been obtained and the National Assembly has been notified thereof.

Section 285. A local government organisation shall have a local assembly and local administrative committee or local administrators.

Members of a local assembly shall be elected.

A local administrative committee or local administrators shall be directly elected by the people or shall be from the approval of a local assembly.

An election of members of a local assembly and local administrative committee or local administrators who must be directly elected by the people shall be made by direct suffrage and secret ballot.

Members of a local assembly, local administrative committee or local administrators shall hold office for the period of four years.

A member of a local administrative committee or local administrator shall not be a Government official holding a permanent position or

receiving a salary or an official or employee of a State agency, State enterprise or local government organisation.

The qualifications of the person having the right to vote and the 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 rules and procedure therefor shall be in accordance with the provisions of the law.

In the case where there is a dissolution of a local assembly or where members of a local assembly have vacated office en masse under section 286 and a local administrative committee or local administrators must be temporarily appointed, the provisions of paragraph two, paragraph three and paragraph six shall not apply, as provided by law.

Section 286. If persons, having the right to vote in an election in any local government organisation, of not less than three-fourths of the number of the voters who are present to cast ballot consider that any member of the local assembly or any administrator of that local government organisation is not suitable to remain in office, such member or administrator shall vacate the office, as provided by law.

The voting under paragraph one shall be made by not less than one-half of the total number of the persons having the right to vote.

Section 287. Persons, having the right to vote in any local government organisation, of not less than one-half of the total number of the persons having the right to vote in that local government organisation shall have the right to lodge with the President of the local assembly a request for the issuance by the local assembly of local ordinances.

The request under paragraph one shall be accompanied by the draft local ordinances.

The rules and procedure for the lodge of request and the examination thereof shall be as provided by law.

Section 288. The appointment and removal of officials and employees of a local government organisation shall be in accordance with the

need of and suitability to each locality and shall obtain prior approval from the Local Officials Committee, as provided by law.

The Local Officials Committee under paragraph one shall consist, in an equal number, of representatives of relevant Government agencies, representatives of local government organisations and qualified persons possessing the qualifications as provided by law.

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

Section 289. A local government organisation has the duty to conserve local arts, custom, knowledge or good culture.

A local government organisation has the right to provide education and professional training in accordance with the suitability to and the need of that locality and participate in the provision of education and training by the State; provided that it shall not be contrary to section 43 and section 81, as provided by law.

In providing education and training in the locality under paragraph two, the local government organisation shall also have regard to the conservation of local arts, custom, knowledge and good culture.

Section 290. For the purpose of promoting and maintaining the quality of the environment, a local government organisation has powers and duties as provided by law.

The law under paragraph one shall at least contain the following matters as its substance:

(1) the management, preservation and exploitation of the natural resources and environment in the area of the locality;

(2) the 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) the participation in considering the 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.

## CHAPTER X

### Inspection of the Exercise of State Power

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#### Part 1

#### Declaration of Accounts Showing Particulars of Assets and Liabilities

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

- (1) Prime Minister;
- (2) Ministers;
- (3) members of the House of Representatives;
- (4) senators;
- (5) other political officials;
- (6) local administrators and members of a local assembly as

provided by law.

The account under paragraph one shall be submitted together with the supporting documents evidencing the actual existence of such assets and liabilities as well as a copy of the personal income tax return of the previous fiscal year. The declarer shall certify the accuracy of the account and copies of the submitted documents by affixing his or her signature on every page thereof.

Section 292. The account showing particulars of assets and liabilities under section 291 shall disclose the particulars of assets and liabilities actually existing as of the date of the submission thereof and shall be submitted within such time as follows:

- (1) in the case of the taking of office, within thirty days as from the date of taking office;
- (2) in the case of the vacation of office, within thirty days as from

the date of the vacation;

(3) in the case where the person under section 291, who has already submitted the account, dies while being in office or before submitting the same after the vacation of office, an heir or an administrator of an estate of such person shall submit an account showing the particulars of assets and liabilities existing on the date of such persons death within ninety days as from the date of the death.

In addition to the submission of the account under (2), the person holding a position of Prime Minister, Ministers, local administrator, member of a local assembly or the person holding a political position but having vacated office shall also re-submit an account showing particulars of assets and liabilities within thirty days as from the date of the expiration of one year after the vacation of office.

Section 293. When the account showing the particulars of assets and liabilities and its supporting documents have been received, the President of the National Counter Corruption Commission or the member of the National Counter Corruption Commission as entrusted by the President shall affix his or her signature on every page of the account.

The account and supporting documents under paragraph one submitted by the Prime Minister and Ministers shall be disclosed to public without delay but not later than thirty days as from the date of the expiration of the time limit for the submission of such account. The account of the persons holding other positions shall not be disclosed to any person unless the disclosure will be useful for the trial and adjudication of cases or for the making of a decision and is requested by the courts or the State Audit Commission.

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

Section 294. In the case where the submission of the account is made by reason of the vacation of office or death of any person holding a political position, the National Counter Corruption Commission shall inspect the change of assets and liabilities of such person and prepare a report of the

inspection. Such report shall be published in the Government Gazette.

In the case where it appears that the assets of the person under paragraph one have unusually increased, the President of the National Counter Corruption Commission shall send all documents together with the inspection report to the Prosecutor General to institute an action in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions so that the unusually increasing assets shall vest in the State.

The provisions of section 305 paragraph five shall apply *mutatis mutandis*.

Section 295. Any person holding a political position who intentionally fails to submit the account showing assets and liabilities and the supporting documents as provided in this Constitution or intentionally submits the same with false statements or conceals the facts which should be revealed shall vacate office as from the date of the expiration of the time limit for the submission under section 292 or as from the date such act is discovered, as the case may be, and such person shall be prohibited from holding any political position for five years as from the date of the vacation of office.

When the case under paragraph one occurs, the National Counter Corruption Commission shall refer the matter to the Constitutional Court for further decision, and when the decision of the Constitutional Court is given, the provisions of section 97 shall apply *mutatis mutandis*.

Section 296. The provisions of section 291, section 292, section 293 paragraph one and paragraph three and section 295 paragraph one shall apply *mutatis mutandis* to other State officials as provided by the organic law on counter corruption.

## Part 2

### The National Counter Corruption Commission

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Section 297. 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 without any of the prohibitions under section 256.

The provisions of section 257 and section 258 shall apply to the selection and election of members of the National Counter Corruption Commission *mutatis mutandis*. For this purpose, the Selective Committee for members of the National Counter Corruption Commission shall consist of fifteen members, viz, the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, Rectors of all State higher education institutions which are juristic person, being elected among themselves to be seven in number, and representatives of all political parties having a member who is a member of the House of Representatives; provided that each party shall have one representative and all such representatives shall elect among themselves to be five in number.

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

Section 298. 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 term shall remain in office to continue to perform their duties until the newly appointed members take office.

Section 260 and section 261 shall apply to the vacation, selection and election of members of the National Counter Corruption Commission *mutatis mutandis*.

Section 299. Members of the House of Representatives of not less than one-fourth of the total number of the 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 under any circumstance which is

seriously detrimental to the dignity of the holding of office, in order to request the Senate to pass a resolution removing him or her from office.

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

Section 300. Members of the House of Representatives, senators or members of both Houses of not less than one-fourth of the total number of the 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 of corruption or malfeasance in office.

The request under paragraph one shall clearly, itemise the circumstance in which such 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 or her duty until the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has dismissed the said request.

Section 301. The National Counter Corruption Commission shall have the following powers and duties:

(1) to inquire into facts, summarise the case and prepare opinion to be submitted to the Senate according to section 305;

(2) to inquire into facts, summarise the case and prepare opinions to be submitted to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions in accordance with section 308;

(3) to inquire and decide whether a State official has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office in order to take further action in

accordance with the organic law on counter corruption;

(4) to inspect the accuracy, actual existence as well as change of assets and liabilities of the persons holding positions under section 291 and section 296 as stated in the account and supporting documents submitted;

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

(6) to carry on other acts as provided by law.

Section 146 and section 265 shall apply to the performance of duties of the National Counter Corruption Commission *mutatis mutandis*.

Section 302. The National Counter Corruption Commission shall have an independent secretariat, with the Secretary-General of the National Counter Corruption Commission as the superior responsible directly 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 personnel administration, budget and other activities as provided by law.

### Part 3

#### The Removal from Office

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Section 303. A person holding a position of Prime Minister, Minister, member of the House of Representatives, senator, President of the Supreme Court of Justice, President of the Constitutional Court, President of the Supreme Administrative Court or Prosecutor General, who is under the circumstance of unusual wealthiness indicative of the commission of corruption, malfeasance in office, malfeasance in judicial office or an intentional exercise of power contrary to the provisions of the Constitution or law, may be removed

from office by the Senate.

The provisions of paragraph one shall also apply to the persons holding the following positions:

(1) Election Commissioner, Ombudsman, judge of the Constitutional Court, and member of the State Audit Commission;

(2) judge, public prosecutor or high ranking official in accordance with the organic law on counter corruption.

Section 304. Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House or voters of not less than fifty-thousand in number have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 307 removing the persons under section 303 from office. The said request shall clearly itemise circumstances in which such persons have allegedly committed the act.

Senators of not less than one-fourth of the total number of the existing members of the Senate have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 307 removing a senator from office.

The rules, procedure and conditions for the lodging of the complaint by the voters under paragraph one shall be in accordance with the organic law on counter corruption.

Section 305. Upon receipt of the request under section 304, the President of the Senate shall refer the matter to the National Counter Corruption Commission for investigation without delay.

When the investigation is complete, the National Counter Corruption Commission shall prepare a report thereon for submission to the Senate. The said report shall clearly state whether, and to what extent, the accusation put in the request is prima facie case and shall state the reasons therefor.

In the case where the National Counter Corruption Commission is of the opinion that the accusation put in the request is an important matter, the National Counter Corruption Commission may make a separate report

specifically on the said accusation and refer it to the Senate in advance.

If the National Counter Corruption Commission passes a resolution that the accusation has a prima facie case, the holder of the position against whom the accusation has been made shall not, as from the date of such 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 306 and to the Prosecutor General for instituting prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. If the National Counter Corruption Commission 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 so complete as to institute prosecution, the Prosecutor General shall notify the National Counter Corruption Commission for further proceedings and, for this purpose, the incomplete items shall be specified on the same occasion. In such 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 complete evidence and submit it to the Prosecutor General for further prosecution. In the case where the working committee is unable to reach a decision as to the prosecution, the National Counter Corruption Commission shall have the power to prosecute by itself or appoint a lawyer to prosecute on its behalf.

Section 306. Upon receipt of the report under section 305, 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 session of the Senate, the President of the Senate shall inform the President of the National Assembly in order to tender a petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly. The President of the Senate shall countersign the Royal Command.

Section 307. A senator shall have autonomy in casting a vote, which must be by secret ballot. A resolution for the removal of any person from office shall be passed by votes of not 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 resolution of the Senate. Such person shall be deprived of the right to hold any political position or to serve in the government service for five years.

The resolution of the Senate under this section shall be final and no request for the removal of such person from office shall be made on the same ground, without, however, 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

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Section 308. In the case where the Prime Minister, a minister, member of the House of Representatives, senator or other political official has been accused of becoming unusually wealthy, or of the commission of malfeasance in office according to the Penal Code or a dishonest act in the performance of duties or corruption according to other laws, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall have the competent jurisdiction to try and adjudicate the case.

The provisions of paragraph one shall also apply to the case where the said person or other person is a principal, an instigator or a supporter.

Section 309. A person injured by the act under section 308 shall have the right to lodge with the National Counter Corruption Commission the petition for action to be taken under section 301 (2) in accordance with the organic law on counter corruption.

The provisions of section 305 paragraph one, paragraph four and paragraph five shall apply mutatis mutandis.

Section 310. In a trial, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall rely on the file of the National Counter Corruption Commission and may conduct an investigation in order to obtain additional facts or evidence as it thinks fit.

The provisions of section 265 shall apply to the performance of 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 166 and section 167 shall not apply to a trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

Section 311. An adjudication of a case shall be made by a majority of votes; provided that every judge constituting the quorum shall prepare his or her written opinion and make oral statements to the meeting prior to the passing of a resolution.

The opinion shall at least contain the following particulars:

- (1) name of the accused person;
- (2) the matter on which the accusation is made;
- (3) accusation and a summary of facts derived from trials;
- (4) reasons given for the decision of both questions of law and questions of fact;
- (5) provisions of the law referred to;
- (6) decision and actions to be taken in connection with the assets concerned, if any.

Orders and decisions of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall be disclosed and final.

## CHAPTER XI

### State Audit

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Section 312. 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 Chairman and nine other members appointed by the King with the advice of the Senate, from persons with expertise and experience in state audit, accounting, internal audit, finance and other fields.

The State Audit Commission shall have an independent secretariat, with the Auditor-General as the superior responsible directly to the Chairman of the State Audit Commission, as provided by the organic law on state audit.

The King shall appoint the Auditor-General with the advice of the Senate from persons with expertise and experience in state audit, accounting, internal audit, finance or other fields.

The President of the Senate shall countersign the Royal Command appointing the Chairman and 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 qualifications and procedure for the election of persons to be appointed as members of the State Audit Commission and the Auditor-General shall be made in the manner which can secure persons of appropriate qualifications an integrity and which can provide for the guarantee of the independence in the performance of duties of such persons.

## CHAPTER XII

### Amendment of the Constitution

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Section 313. An amendment of the Constitution may be made

only under the rules and procedure as follows:

(1) a motion for amendment must be proposed either by the Council of Ministers or members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House of Representatives or members of both Houses of not less than one-fifth of the total number of the existing members thereof. Members of the House of Representatives may propose or jointly propose such motion only upon the resolutions of the political parties to which they belong;

A motion for amendment which 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 of not less than one-half of the total number of the existing members of both Houses;

(4) the voting in the second reading for consideration section by section shall be decided by a simple majority of votes;

(5) at the conclusion of the second reading, there shall be an interval of fifteen days after which the National Assembly shall proceed with its third reading;

(6) the voting in the third and final reading shall be by roll call and open voting, and its promulgation as the Constitution must be approved by votes of more than one-half of the total number of the existing members of both Houses;

(7) after the resolution has been passed in accordance with the above rules and procedure, the draft Constitution Amendment shall be presented to the King, and the provisions of section 93 and section 94 shall apply mutatis mutandis.

Transitory Provisions

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Section 314. The Privy Council holding office on the date of the promulgation of this Constitution shall be the Privy Council under the provisions of this Constitution.

During the termination of membership of senators en masse under section 323, the President of the Privy Council shall also act as the Privy Council while the remainder of the Privy Council shall act as the National Assembly under section 19, section 21, section 22 and section 23; provided that section 20 paragraph three and section 24 paragraph three shall not apply. The Privy Council shall elect one among themselves to act as President pro tempore.

Section 315. As from the date of the promulgation of this Constitution, the House of Representatives under the Constitution of the Kingdom of Thailand, B.E. 2534 as last amended by the Constitution Amendment (No. 6), B.E. 2539 shall act as the House of Representatives under this Constitution until the date of the election of members of the House of Representatives under section 324; and the Senate under the Constitution of the Kingdom of Thailand, B.E. 2534 as last amended by the Constitution Amendment (No. 6), B.E.2539 shall act as the Senate under this Constitution until the expiration of the period of four years, as from the date of the appointment of senators by the King under paragraph five (1) or the date of the election of senators under paragraph five (2), as the case may be.

Members of the House of Representatives holding office on the date of the promulgation of this Constitution shall be members of the House of Representatives under this Constitution until the expiration of term of the House, the dissolution thereof, or the termination of membership under section 323, as the case may be. In the case where the office of a member of the House of Representatives becomes vacant for any reason whatsoever, the House shall consist of its remaining members.

Senators holding office on the date of the promulgation of this Constitution shall be senators under this Constitution until membership of senators terminates under the Constitution of the Kingdom of Thailand, B.E. 2534 as last amended by the Constitution Amendment (No. 6), B.E. 2539 or under section 323, as the case may be. In the case where the office of a senator

becomes vacant for any reason whatsoever, the Senate shall consist of the remaining senators.

Section 107 (3), section 118 (7), section 121, section 125 (2) and (3), section 126 (2) and (3), section 127, section 130 and section 134 shall not apply to the members of the House of Representatives under paragraph two and the senators under paragraph three.

In the case where membership of senators under paragraph three has been caused to have terminated en masse under paragraph three, there shall be the first election of senators under this Constitution as follows:

(1) in the case where membership of senators terminates at the expiration of a term of four years as from the date of their appointment by the King, the election shall be held within sixty days before the expiration of the term of four years. In such case, the term of the Senate and membership of the elected senators shall commence as from the date of the termination of membership of senators under paragraph three;

(2) in the case where membership of senators has terminated under section 323, the election shall be held in accordance with the organic law on election of members of the House of Representatives and senators. If such law has not yet been enacted, the law on election of members of the House of Representatives as in force on the date of the promulgation of this Constitution shall apply in so far as it is not contrary to or inconsistent with this Constitution; provided that a term "member of the House of Representatives" shall be replaced by the term <sup>ε</sup>senator<sup>ε</sup> everywhere it appears and that the Chairman of the Election Commission appointed under section 319 shall have charge and control of the execution of such law. In the case where the Election Commission is of the opinion that any provision of the law on election of members of the House of Representatives is contrary to, or inconsistent with, or does not correspond with this Constitution, the Election Commission shall have the power to lay down necessary regulations in substitution of that provision in order for the election to proceed in an honest and fair manner. Such regulations and opinions that the provision of the said law is contrary to, or inconsistent with, or does not correspond with this Constitution shall be referred to the Constitution Court for consideration of their constitutionality before their publication in the Government Gazette.

The election of senators under (2) shall be held within ninety days as from the expiration of two hundred and forty days from the date of the promulgation of this Constitution and shall not be done on the same date as that of the election of members of the House of Representatives under section 324.

Section 316. The President and Vice-Presidents of the House of Representatives and the Leader of the Opposition in the House of Representatives holding office on the date of the promulgation of this Constitution shall be the President, Vice-Presidents and Leader of the Opposition of the House of Representatives under this Constitution.

The President and Vice-Presidents of the Senate holding office on the date of the promulgation of this Constitution shall be the President and Vice-Presidents of the Senate under this Constitution until the expiration of term of the Senate under section 315 or the vacation of office before the expiration of term under section 323.

Parliamentary committees carrying out duties on the date of the promulgation of this Constitution shall be the parliamentary committees under this Constitution.

The rules of procedure of the House of Representatives, the rules of procedure of the Senate and the rules of procedure of the National Assembly as in force on the date of the promulgation of this Constitution shall continue to be in force in so far as it is not contrary to or inconsistent with this Constitution and shall cease to be in force upon any of the following circumstances:

(1) the termination or dissolution of the House of Representatives under section 315 paragraph one or the occurrence of the circumstance under section 323;

(2) the issuance of new rules of procedure of the Senate in accordance with this Constitution, which must not be later than two hundred and forty days as from the date of the promulgation of this Constitution; or

(3) the issuance of new rules of procedure of the National Assembly in accordance with the Constitution, which must not be later than two hundred and forty days as from the date of the convocation of the National Assembly after the first general election of members of the House of Representatives under this Constitution.

Section 317. The Council of Ministers carrying out the administration of the State affairs on the date of the promulgation of this Constitution shall be the Council of Ministers under this Constitution.

The provisions of section 156 of the Constitution of the Kingdom of Thailand, B.E. 2534 as last amended by the Constitution Amendment (No. 6), B.E. 2539 shall apply to a debate for a vote of no-confidence in an individual Minister and the Council of Ministers under paragraph one or to a debate for a vote of no-confidence in an individual Minister and in the Council of Ministers newly appointed while the election of members the House of Representatives under section 324 has not yet been held, as the case may be. If the vote of no-confidence has passed by the prescribed number of votes, the Minister or the Council of Ministers shall vacate office.

When the election of members the House of Representatives has been held under section 324, the Council of Ministers under paragraph one or the Council of Ministers appointed before the election under section 324, as the case may be, shall vacate office; provided that such Council of Ministers shall continue to perform duties until the newly appointed Council of Ministers has taken office.

The provisions of section 118 (7), section 127, section 201, section 202, section 203, section 204, section 206 (2), (3) and (6), section 209, section 215 paragraph four and section 216 (5) shall not apply to the holding and the vacation of office of the Prime Minister and Ministers under this section.

Section 318. In the initial period, the Judicial Commission under the law on judicial service shall be the Judicial Commission of the Courts of Justice under this Constitution until the Judicial Commission of the Courts of Justice under section 274 is constituted. The election of members of the Judicial Commission shall be in accordance with the law on judicial service.

All necessary acts for the implementation of section 274 of this Constitution shall be carried out within three years as from the date of the promulgation of this Constitution.

Section 319. In the initial period, the Senate shall elect the

Election Commissioners under section 136 within thirty days as from the date of the promulgation of this Constitution; provided that the period of time prescribed under section 138 shall not apply.

In the initial period in which there is no the President of the Supreme Administrative Court, the Selective Committee for Election Commissioners shall have nine members consisting of Rectors of all State higher education institutions which are juristic persons, being elected among themselves to be five in number, representatives of all political parties having a member who is a member of the House of Representatives; provided that each party shall have one representative and all such representatives shall elect among themselves to be four in number.

While the organic law on the Election Commission has not yet been promulgated, the Election Commission shall lay down necessary regulations for the performance of its duties under this Constitution. Such regulations shall be submitted to the Constitutional Court for consideration of their constitutionality before their publication in the Government Gazette and shall be in force until the organic law on the Election Commission comes into force.

Section 320. In the initial period, the Constitutional Council under the Constitution of the Kingdom of Thailand, B.E. 2534 as last amended by the Constitution Amendment (No. 6), B.E. 2539 shall be the Constitutional Court under this Constitution until the Constitutional Court under paragraph two has been established.

In the initial period, there shall be an election of judges of the Constitutional Court under section 255 and section 257 within forty five days as from the date of the promulgation of this Constitution.

While there is no the Supreme Administrative Court, section 255(2) shall not apply and the Constitutional Court shall consist of the President of the Constitutional Court and twelve judges of the Constitutional Court appointed by the King from persons under section 255(1), (3) and (4).

Section 321. The Commission of Counter Corruption and the Office of the Commission of Counter Corruption under the law on counter

corruption shall be the National Counter Corruption Commission and the Office of the National Counter Corruption Commission under this Constitution, as the case may be, until the National Counter Corruption Commission has been appointed or the Office of the National Counter Corruption Commission has been established in accordance with the provisions of this Constitution, which shall be done within two years as from the date of the promulgation of this Constitution.

For the purpose of implementing this Constitution, the National Counter Corruption Commission under paragraph one shall prescribe necessary regulations for the performance of its duties under this Constitution. Such regulations shall be submitted to the Constitutional Court for consideration of their constitutionality before their publication in the Government Gazette and shall be in force until the organic law on counter corruption comes into force.

In the initial period, while there is no the President of the Supreme Administrative Court, the Selective Committee for members the National Counter Corruption Commission under section 297 paragraph three shall have fourteen members consisting the President of the Supreme Court of Justice, the President of the Constitutional Court, Rectors of all State higher education institutions which are juristic persons, being elected among themselves to be seven in number, and representatives of all political parties having a member who is a member of the House of Representatives; provided that each party shall have one representative and all such representatives shall elect among themselves to be five in number.

Section 322. In the initial period, Election Commissioners, Ombudsmen, members of the National Human Rights Commission, judges of the Constitutional Court, members of the National Counter Corruption Commission and members of the State Audit Commission, who are elected by the resolution of the Senate under section 315 paragraph three, shall hold office for half a period of the term designated for such office. For the purpose of the first election of such persons by the Senate elected under this Constitution, the provisions allowing the holding of such office for only one term shall not apply

Before the election of senators under this Constitution, the removal of persons from office under this Constitution shall be made by a resolution of a

joint sitting of the House of Representatives and the Senate under section 315, and section 109(14), section 118(10), section 133(8), section 141(5), section 168(3), section 216(8), section 260(6), section 299, section 303, section 304 and section 307 shall apply mutatis mutandis.

Section 323. Within two hundred and forty days as from the date of the promulgation of this Constitution, the National Assembly shall complete the consideration and approval of the organic law bill on the election of members of the House of Representatives and senators, the organic law bill on the Election Commission, and the organic law bill on political parties; provided that the House of Representatives shall not be dissolved during such period.

The act under paragraph one shall be proceeded as follows:

(1) the House of Representatives shall complete the consideration of the organic law bills under paragraph one within one hundred and twenty days as from the date of the promulgation of this Constitution. In the case where such period of time has expired but the consideration of all the organic law bills under paragraph one has not yet been completed, membership of members of the House of Representatives shall terminate en masse and there shall not be a general election under this Constitution until all the organic law bills under paragraph one have been approved, or unless it is the case under section 324. In such cases, the Senate shall act as the National Assembly and shall complete the introduction and consideration of such organic law bills within ninety days as from the day following the expiration of the period of one hundred and twenty days after the date of the promulgation of this Constitution;

(2) in the case where the House of Representatives has considered all the organic law bills under paragraph one within the time prescribed under (1), the Senate shall complete the consideration of such bills within ninety days as from the date of receiving them;

(3) in the case where the Senate is unable to complete the consideration of all the organic law bills under paragraph one within the time prescribed under (1) or (2), membership of all senators shall terminate en masse. Any organic law bill which has been approved by the House of Representatives shall be deemed to have been approved by the National Assembly, and section 93 and section 94 shall apply to such bill mutatis mutandis.

When the organic law bill has been, or is deemed to have been, approved by the National Assembly under this section, the Prime Minister shall proceed in accordance with section 93 forthwith, and the time prescribed in section 93 shall not apply.

The provisions of section 169 in so far as it concerns a money bill shall not apply to the introduction and consideration of the organic law bills under paragraph one by members of the House of Representatives or the senators under paragraph (1) and (2).

Section 168 shall not apply to the proceeding under this section.

Section 324. An election of members of the House of Representatives shall be held upon any of the following circumstances:

(1) in the case where all organic law bills have been approved by the National Assembly within the time prescribed in section 323 paragraph one, or by the House of Representatives or the Senate acting as the National Assembly under section 323 within the time prescribed in the section 323, the Election Commission under section 319 shall hold an election under this Constitution within sixty days as from the date of the expiration of term or the dissolution of the House of Representatives, or when the circumstance under section 323 occurs;

(2) in the case where the House of Representatives and the Senate are unable to complete the consideration and approval of the organic law bills under section 323 paragraph one within the prescribed time, an election of members of the House of Representatives under this Constitution shall be held within ninety days as from the date of the expiration of the time under section 323 paragraph one. The law on the election of members of the House of Representatives as in force on the date of the promulgation of this Constitution shall apply to the election in so far as it is not contrary to or inconsistent with this Constitution and, for this purpose, the Chairman of the Election Commission established under section 319 shall have charge and control of the execution of such law, and in the case where the Election Commission is of the opinion that any provision of the law on the election of members of the House of Representatives is contrary to or inconsistent with this Constitution, the Election Commission shall have the power to prescribe necessary regulations in

substitution of that provision in order to enable the election to proceed in an honest and fair manner. Such regulations and the opinion that such provision of law is contrary to or inconsistent with this Constitution shall be submitted to the Constitutional Court for consideration of their constitutionality before their publication in the Government Gazette.

When the election of members of the House of Representatives and senators have been held under this Constitution but the organic laws under section 323 paragraph one have not yet been all enacted, the House of Representatives and the Senate shall consider the approval of the bills not yet enacted under section 323; provided that the time limit shall commence as from the date of the general election of members of the House of Representatives and the provisions of (2) and section 315 paragraph five (2) shall apply *mutatis mutandis*.

Section 325. The period of time under section 107(4) shall not apply to the first general election of members of the House of Representatives after the promulgation of this Constitution.

Section 326. In addition to the provisions of this Constitution, the organic law on the election of members of the House of Representatives and senators shall at least contain the following matters as its substance:

(1) the declaration of the reason for inability to be present to vote and the provision of facilities for the election;

(2) the permission of persons having the right to vote under section 105 paragraph two to cast ballot;

(3) the preparation of name-list of candidates in an election on a party-list basis, inspection, and deletion from candidacy of repeated names of candidates and the publicity of names of candidates listed;

(4) the prescription of the form of ballot-papers, in which space shall be provided for an entry of a mark indicating the intention to cast a ballot for no candidate, and the publicity of the number of persons intending to cast ballot for no candidate;

(5) the support of an election of members of the House of Representatives and the introduction of candidates in an election of senators by the State including the procedure under which the introduction of candidates in

an election of senators can be made by the candidates themselves or by other persons;

(6) the limitation of electoral expenditure by a candidate, the appointment of a treasurer by a candidate, the inspection of electoral expenditure and the declaration of the result of the inspection;

(7) the counting of votes and the announcement of the result of the vote-counting in an election of members of the House of Representatives in each constituency, which must be done openly in only one place unless otherwise provided by the Election Commission due to the necessity in a particular locality;

(8) the counting of votes and the announcement of the result of the vote-counting in an election of senators;

(9) the announcement of the name of the elected person from the candidates in an election on a party-list basis and the elevation of the person whose name is listed in the next order to replace the elected person who vacates office.

Section 327. In addition to the provisions of this Constitution, the organic law on the Election Commission shall at least contain the following matters as its substance:

(1) powers and duties of the Election Commission;

(2) the activities to be carried out by the Election Commission, which shall at least include the division of constituencies, the procurement of rolls of voters and the re-counting of votes;

(3) the provision of education to the people on the democratic regime of government with the King as Head of the State;

(4) the investigation, inquiry and decision process of the Election Commission;

(5) the bringing of a lawsuit before the Court by the Election Commission in respect of offences relating to an election or political parties;

(6) the co-operation to be given to the Election Commission by Courts, public prosecutors, inquiry officials, or other State agencies;

(7) the acknowledgement and appointment of representatives of private organisations for the purpose of the supervision of an election;

(8) the establishment of an independent secretariat to carry out activities in connection with personnel administration, budget and other

activities, with the Chairman of the Election Commission as the highest superior;

(9) the commencement of the time at which the Election Commission may control, hold or cause to be held, an election of a local assembly or local administrators, which shall not be later than ten years as from the date of the promulgation of this Constitution.

Section 328. In addition to the provisions of this Constitution, the organic law on political parties shall at least contain the following matters as its substance:

(1) the formation of a political party, which shall be carried out by at least not less than fifteen persons, and the entry of the formation of a political party in the Register of Political Parties;

(2) the dissolution of a political party; provided that failure of a political party to send candidates to stand for election or to have a member who has been elected in an election shall not be invoked as a ground for the dissolution;

(3) the conduct of activities of a political party and the preparation of report on the operation of a political party;

(4) the support to be given by the State in the formation and the development of branches of a political party;

(5) financial support or other benefits to be given by the State to a political party, the limitation of expenditure of a political party in an election, and the control of the donation to a political party;

(6) the examination of a financial status of a political party including the examination and the disclosure of income sources and expenditure of a political party;

(7) the preparation of an account indicating revenues and expenses of a political party and an account indicating assets and liabilities of a political party, which must disclose its income sources and annual expenditure in every calendar year, for submission to the Election Commission for examination and publication.

Section 329. Within two years as from the date of the promulgation of this Constitution, the following organic laws shall be enacted:

- (1) the organic law on Ombudsmen;
- (2) the organic law on counter corruption;
- (3) the organic law on criminal procedure for persons holding political positions;
- (4) the organic law on the State audit;
- (5) the organic law on referendum.

Section 330. In addition to the provisions of this Constitution, the organic law on Ombudsmen shall at least contain the following matters as its substance:

- (1) the performance of duties of the Ombudsman;
- (2) the co-operation to be given to the Ombudsmen by Courts, public prosecutors, inquiry officials, or other State agencies;
- (3) qualifications of and procedure for the appointment of the Secretary-General of the Office of the Ombudsmen;
- (4) powers and duties of the Office of the Ombudsmen.

Section 331. In addition to the provisions of this Constitution, the organic law on counter corruption shall at least contain the following matters as its substance:

- (1) the description of characters of unusual wealthiness and acts amounting to corruption;
- (2) the prohibition of the commission of an act representing a conflict between personal interests and public interests for which holders of political positions or other State officials must be accountable both during the currency of office and after the vacation of office;
- (3) positions and classes of judges or public prosecutors, and positions and ranks of Government officials, officials and holders of other positions in respect of which a declaration of assets and liabilities is required or from which removal may be made under this Constitution;
- (4) the provision for the declaration by holders of political positions and other State officials of assets and liabilities together with the supporting documents, rules for the consideration and inspection of such assets and liabilities every certain period of time, and rules for the disclosure of the

account of assets and liabilities;

(5) the procedure for making an accusation that a holder of a political position or State official has been unusually wealthy, corrupted, or committed malfeasance in office or malfeasance in judicial office or an act indicative of such circumstances; provided that the circumstances, evidence or clues shall reasonably be stated;

(6) the procedure for the investigation of facts and preparation of a file in the case where a holder of a political position is accused, having regard to the status of the position by virtue of which a high degree of favour-or-disfavour powers can be exercised and to reasonable protection of the person accused;

(7) the procedure of the Senate for the removal of persons from office, which shall be open except where it is necessary for the protection of important public interests or where a resolution shall be made by secret ballot;

(8) the procedure for investigating and giving decision in the case where a State official has been unusually wealthy, committed corruption or malfeasance in office or malfeasance in judicial office; provided that the procedure to be prescribed shall be suitable to the rank of the position and reasonable protection of the accused person;

(9) the institution of a criminal action against other State official not holding a political position in a Court having competent jurisdiction to try and decide criminal cases;

(10) the co-operation to be given to the National Counter Corruption Commission by Courts, inquiry officials or Government agencies;

(11) the proceeding under section 305 paragraph five for the initiation of an action including the power to bring the accused person to trial;

(12) rules and procedure for compensation for assets in the case where such assets have been transferred or removed;

(13) penalties to be inflicted on the President or a member of the National Counter Corruption Commission in the case of the commission of an unjust act, corruption, malfeasance in office, which must not be less than twice heavier penalties than those provided in the law prescribing such offences.

Section 332. In addition to the provisions of this Constitution, an organic law on criminal procedure for persons holding political positions shall at

least contain the following matters as its substance:

- (1) competence of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions;
- (2) criminal procedure for holders of political positions, which shall be founded upon the inquisitorial system as to which the file-brief prepared by the National Counter Corruption Commission shall principally be relied on and the principles of equal hearing and right of defence of the accused persons shall be observed;
- (3) open trials except where it is necessary for the protection of important public interests;
- (4) the prohibition of repetitious or duplicate institution of actions for the same offence;
- (5) the appointment of a person to institute prosecution under section 305;
- (6) execution of orders or judgements of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions;
- (7) other matters necessary for the expeditious and fair trial and adjudication of cases and, in particular, for the co-operation to be given to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions by other Courts, inquiry officials, or other State agencies.

Section 333. In addition to the provisions of this Constitution, the organic law on State audit shall at least contain the following matters as its substance:

- (1) the powers and duties of the State Audit Commission, viz, the policy-making, the provision of advice and recommendations, the recommendation for the correction of defects and errors in the State audit, the prescription of standard rules for the State audit, the prescription of rules and procedure for disciplinary actions in budget and finance, the prescription of administrative penalties, the consideration and decision, in the capacity as the highest organ, of disciplinary liability as well as budget and financial liability and the selection of a person suitable to be the Auditor-General;
- (2) the performance of duties of members of the State Audit Commission and the Auditor-General;

(3) the establishment of the Office of the State Audit Commission which has autonomy in its personnel administration, budget, work performance and other activities.

Section 334. In the initial period, the following acts shall be accomplished within the time limit hereunder provided:

(1) the laws under section 68, section 199, section 200, section 248, section 270, section 275 and section 284 paragraphs two and paragraph three shall be enacted within two years as from the date of the promulgation of this Constitution;

(2) within two years as from the date of promulgation of this Constitution, there shall be enacted the law prescribing rules for the transfer of a judge of a Court of Justice who will be sixty years of age in any fiscal year to be a senior judge sitting in a Court of First Instance as from the day following the date of the end of such fiscal year in which he or she reaches the age of sixty until the end of the fiscal year in which such person becomes sixty five years of age. Any such senior judge who, upon the appraisal as provided by law, is still capable of performing duties shall continue to hold office until the end of the fiscal year in which such person becomes seventy years of age;

(3) the Administrative Courts under section 276 shall be established within two years as from the date of the promulgation of this Constitution;

(4) the local administrative committee or local administrators elected by direct suffrage or with the approval of the local assembly under section 285 paragraph three shall be caused to be in existence within two years as from the date of the promulgation of this Constitution, except for the case under section 335(7).

Section 335. In the initial period, the following provisions shall not apply to the following cases:

(1) the provisions of section 29 paragraph two and paragraph three shall not apply to the law as in force on the date of the promulgation of this Constitution or already approved by the National Assembly before the date of the promulgation of this Constitution. If there is enactment of a new law on that

matter or there is any amendment to such law, it shall comply with section 29; provided that this requirement shall also apply to rules or regulations issued by virtue of the provisions of the law mutatis mutandis;

(2) the provisions of section 40 shall not apply until the law implementing such provisions has been enacted, which shall not be later than three years as from the date of the promulgation of this Constitution; provided that such law shall not affect any licence, concession, or contract valid on the date such law comes into force until the expiration of such licence, concession, or contract;

(3) the provisions of section 43 paragraph one shall not apply until the implementation of such provisions has been carried out, which shall not be later than five years as from the date of the promulgation of this Constitution;

(4) the provisions of section 170 and section 209 shall not apply until the law implementing such provisions has been enacted, which shall not be later than two years as from the date of the promulgation of this Constitution;

(5) the provisions of section 236 and section 249 paragraph three and paragraph five shall not apply to a trial of the Courts of Justice and section 273 paragraph two shall not apply to the Judicial Commission under section 318; provided that action shall be taken in implementation of such provisions not later than five years as from the date of the promulgation of this Constitution;

(6) the provisions of section 237 shall not apply until the law has been amended in implementation of such provisions, which shall not be later than five years as from the date of the promulgation of this Constitution;

(7) the provisions of section 285 paragraph two and paragraph three shall not apply to members or the administrator of Tambon Administrative Organisation ex officio who hold office on the date of the promulgation of this Constitution until the expiration of the term of office of members elected by the Council of such Tambon Administrative Organisation;

(8) the provisions of section 288 paragraph two shall not apply to the composition of the Local Officials Committee until the law has been amended or enacted in implementation of such provisions, which shall not be later than two years as from the date of the promulgation of this Constitution.

Section 336. When the period of five years as from the date of the

promulgation of this Constitution has elapsed, the Election Commission, the Constitutional Court, or the National Counter Corruption Commission shall have the power to submit to the National Assembly or the Council of Ministers a report presenting opinions on the amendment of this Constitution or other laws.

Countersigned by

Wanmuhamadnoor Matha

President of the National Assembly

Certified correct translation

(Dr. Ackaratorn Chularat)

Secretary-General of the Council of State

Office of the Council of State