

Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006)

Translation

SOMDET PHRA PARAMINTHARAMAHA
BHUMIBHOL ADULYADEJ
SAYAMMINTHARATHIRAT BOROMMANATTHABOPHIT

Enacted on the 1st Day of October B.E. 2549 (2006);

Being the 61st Year of the Present Reign.

Phrabat Somdet Phra Paramintharamaha Bhumibhol Adulyadej Mahitalathibet Ramathibodi Chakkri Narubodin Sayammintharathirat Borommanatthabophit is graciously pleased to proclaim that:

Whereas the Leader of the Council for Democratic Reform, which successfully took over the administration of the country on 19 September B.E. 2549 (2006), made submissions to His Majesty the King that the reasons for the takeover of power and the abrogation of the Constitution of the Kingdom of Thailand were to stave off further erosion of faith and trust in the country's administration, to rectify the gross mismanagement of the country's administration and the failure to check the exercise of State power, which had led to rampant corruption and malfeasance the offenders of which could not be found and punished, resulting in severe political crisis, as well as to heal the widening divisions among the people who were being incited to take sides, eroding unity among the people within the nation and leading to a severe social crisis.

Various sectors of society had tried to resolve this crisis, but their efforts were in vain. Instead, the crisis seemed to have deteriorated to such an extent that armed clashes would ensue, leading to bloodshed and loss of life.

This was considered a grave threat to the democratic system with the King as Head of State, to the economy and to public order.

It was, therefore, necessary to set up a provisional mechanism of governance suitable to prevailing conditions, taking into consideration the rule of law in accordance with the Thai administrative custom of democratic government under the Constitutional Monarchy, the need to restore national unity, the economy and public order, the strengthening of a vigorous system of checks against corruption and an ethical code of conduct, the promotion and protection of the rights and civil liberties of the people, adherence to the United Nations Charter as well as obligations under treaties or international agreements, the promotion of friendly relations with other countries and the philosophy of Sufficiency Economy as a way of life.

At the same time, there was the need to expedite the process of drafting a new Constitution, one which would involve extensive public participation at all stages. In order for all this the case for which having been submitted to His Majesty the King to be achieved, be it, therefore, commanded by His Majesty the King that the following provisions form the Constitution of the Kingdom of Thailand (Interim) until the promulgation of a constitution that is to be drafted and submitted to His Majesty the King.

Section 1

Thailand is one and indivisible Kingdom.

The King is the Head of State and Head of the Thai Armed Forces.

The King shall be enthroned in a position of reverence and shall not be violated. The King shall not be accused in any way and shall have complete legal immunity.

Section 2

Sovereign power resides in the Thai people. The King, as Head of State, exercises such power through the National Legislative Assembly, the Council of Ministers and the Courts in accordance with the provisions stipulated in this Constitution.

Section 3

Subject to the provisions of this Constitution, the human dignity, rights, liberties and equality, which have always been enjoyed by the Thai people in accordance with the customary practice of democratic government with the King as Head of State as well as Thailand's existing international obligations, shall be protected according to this Constitution.

Section 4

The King selects and appoints the President of the Privy Council and not more than eighteen Privy Councilors to constitute the Privy Council.

The selection, appointment and removal of the President of the Privy Council and Privy Councilors shall be at the King's discretion.

The President of the National Legislative Assembly shall countersign the Royal Command appointing the President of the Privy Council and the President of the Privy Council shall countersign the Royal Command appointing Privy Councilors.

Section 5

There shall be a National Legislative Assembly consisting of no more than two hundred and fifty members appointed by the King, all of whom shall be persons of Thai nationality by birth and not less than thirty-five years of age.

The National Legislative Assembly shall function as the House of Representatives, the Senate and the National Assembly.

The selection of members of the National Legislative Assembly shall comprise persons from the public, private, social and academic sectors, from various regions, as appropriate.

In cases where there exists any law prohibiting persons from holding political positions, such law shall not be applicable to the appointment of National Legislative Assembly members.

Section 6

Membership of the National Legislative Assembly shall terminate upon:

- (1) death;
- (2) resignation;
- (3) being disqualified under Section 5;
- (4) being appointed Minister;
- (5) the National Legislative Assembly passing a resolution under Section 8 terminating his/her membership.

Section 7

The King appoints one member of the National Legislative Assembly as its President and one or more, upon the resolution of the National Legislative Assembly, as its Vice Presidents.

The provisions of Section 6 shall apply *mutatis mutandis* to the vacating of office of the President and the Vice President of the National Legislative Assembly.

The Chairman of the Council for National Security shall countersign the Royal Command appointing members, the President and Vice Presidents of the National Legislative Assembly.

Section 8

In cases where any member of the National Legislative Assembly acts in a manner detrimental to the dignity of National Legislative Assembly members or impedes the discharge of duties of National Legislative Assembly members, members of the National Legislative Assembly numbering not less than twenty persons have the right to lodge with the President of the National Legislative Assembly a complaint to request the termination of his/her membership.

The resolution of such termination of membership under paragraph 1 shall receive votes from not less than two-thirds of the total number of the existing members on the day of voting.

Section 9

At a sitting of the National Legislative Assembly, the presence of not less than one-half of the total number of its existing members is required to constitute a quorum.

The National Legislative Assembly has the power to set the rules of procedure governing the election and performance of duties of the President, Vice Presidents and committees, procedures of the sitting, submission and consideration of proposed bills, submission of motions, debate, passing of a resolution, interpellation, observation of the rules and orders and other matters for the discharge of its duties.

Section 10

The King may enact a bill into law on the advice and consent of the National Legislative Assembly.

Subject to Section 30, paragraph 1, a bill may only be introduced jointly by at least twenty-five members of the National Legislative Assembly or by the Council of Ministers, but a money bill may only be introduced by the Council of Ministers.

The term "money bill" referred to in paragraph 2 means a bill dealing with all or any of the following matters, namely, the imposition, repeal, reduction, alteration, modification, remission or regulation of taxes or duties; the allocation, receipt, custody, payment, transfer of, or obligations on, State funds; the reduction of State income; the raising of loans, a guarantee or redemption of loans, or a bill dealing with currency.

In cases of uncertainty as to whether a bill which is introduced by members of the National Legislative Assembly is or is not a money bill, power of decision in such cases shall be vested in the President of the National Legislative Assembly.

Section 11

At a sitting of the National Legislative Assembly, every member has the right to submit a motion to request the Council of Ministers to give statements of fact or explain important problems in connection with the administration of the State affairs, but the Minister has the right to refuse to answer if he or she is of the opinion that the matter should not yet be disclosed on grounds of national security or vital national interest or is a motion prohibited by existing rules.

In cases where significant problems arise, members of the National Legislative Assembly of not less than one hundred may submit a motion for debate to make inquiries of the Council of Ministers on factual matters, but may not pass a vote of confidence or no confidence.

Section 12

In cases where significant problems arise related to the administration of State affairs in regard to which the Council of Ministers deems it appropriate to seek opinion from members of the National Legislative Assembly, the Prime Minister may notify the President of the National Legislative Assembly to request that a general debate be held at a sitting of the National Legislative Assembly, but in such case, the National Legislative Assembly shall not pass a resolution on the issue debated.

Section 13

At a sitting of the National Legislative Assembly, words expressed by any person in connection with a declaration of statements of fact or opinion or casting of votes are absolutely privileged. No charge or action in any manner whatsoever shall be brought against that person.

The privilege provided for in paragraph 1 shall apply also to Assembly commissioners, printers and publishers of the minutes of sittings by order of the National Legislative Assembly or Committees, persons permitted by the presiding member to give statements of fact or opinion at sittings of the National Legislative Assembly as well as to persons who have been given the express permission of the National Legislative Assembly President to broadcast sittings of the Assembly on radio or television, but the privilege shall not be extended to members of the National Legislative Assembly whose words or statements at a sitting which is broadcast on radio or television, but which can be heard or seen outside the premises of the National Legislative Assembly and the expression of such words constitutes a criminal offence or violates the civil rights of any other person who is not a Minister or a member of the National Legislative Assembly.

In cases where a member of the National Legislative Assembly is detained or imprisoned, an order for his or her release shall be made at the request of the President of the National Legislative Assembly; or in the case of being charged with a criminal offence, the court shall be permitted to continue hearing the case unless the President of the National Legislative Assembly requests that the case be discontinued.

Section 14

The King appoints the Prime Minister and not more than thirty-five other ministers, upon the advice of the Prime Minister, to constitute the Council of Ministers charged with the duty of carrying out the administration of State affairs.

The King has the prerogative to remove the Prime Minister, upon the advice of the Chairman of the Council for National Security, as well as to remove ministers, upon the advice of the Prime Minister.

The Chairman of the Council for National Security shall countersign the Royal Command appointing or removing the Prime Minister.

The Prime Minister and ministers shall not be a member of the National Legislative Assembly, Constitution Drafting Assembly or Constitution Drafting Committee at the same time.

The Prime Minister and ministers have the right to attend and give statements of fact and opinions at sittings of the National Legislative Assembly but do not have the right to cast votes.

Section 15

For purposes of maintaining national security and safety, national economic security, or averting public calamity, or if there is a necessity to have a law on taxes, duties or currency which requires urgent and confidential consideration, the King has the prerogative of issuing an Emergency Decree which shall have force equal to that of an Act.

Upon promulgation of the Emergency Decree, the Council of Ministers shall, without delay, submit the Emergency Decree to the National Legislative Assembly for consideration. If approved by the National Legislative Assembly, the Emergency Decree shall continue to have force equal to that of an Act. If not approved by the National Legislative Assembly, the Emergency Decree shall lapse.

Its lapse, however, shall not affect any action undertaken during the enforcement of that Emergency Decree unless that Emergency Decree has the effect of amending or repealing the provisions of any Act, in which case 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 that Emergency Decree becomes effective.

The approval or disapproval of the Emergency Decree shall be published in the Government Gazette. In case of disapproval, it shall be effective as from the date of its publication in the Government Gazette.

Section 16

The King has the prerogative of issuing a Royal Decree which is not in contravention of the law.

Section 17

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

Section 18

Judges are independent in the trial and adjudication of cases in the name of the King and in the interest of justice in accordance with the law and this Constitution.

Section 19

There shall be a Constitution Drafting Assembly to draft the constitution consisting of the 100 persons appointed by the King in accordance with the procedures prescribed in this Constitution.

The Constitution Drafting Assembly shall have one President and not more than two Vice Presidents who are appointed by the King from the members of the Constitution Drafting Assembly in accordance with its resolution.

The Chairman of the Council for National Security shall countersign the Royal Command appointing the President and the Vice President(s) of the Constitution Drafting Assembly.

Members of the Constitution Drafting Assembly shall not be or have been members of a political party or have held positions in a political party within 2 years prior to the date of his or her selection and shall not concurrently hold positions as members of the National Legislative Assembly.

Constitution Drafting Assembly members, committee members, printers and publishers of the minutes of sittings by order of the Constitution Drafting Assembly or Committees, persons permitted by the presiding member to give statements of fact or opinion at sittings of the Constitution Drafting Assembly as well as persons who have been given the express permission of the Constitution Drafting Assembly President to broadcast sittings of the Assembly on radio or television shall enjoy the same privileges and immunities prescribed in Section 13 for members of the National Legislative Assembly.

The provisions set out in Section 9, paragraph 1 shall be applied to sittings of the Constitution Drafting Assembly; the rules of procedure of the National Legislative Assembly shall be applied *mutatis mutandis*.

Section 20

The National People's Assembly shall consist of no more than 2,000 members appointed by the King, all of whom shall be of Thai nationality by birth and not less than eighteen years of age.

The Chairman of the Council for National Security shall countersign the Royal Command appointing the members of the National People's Assembly as stipulated in paragraph 1 above.

Paragraphs 3 and 4 of Section 5 shall apply to the selection and appointment of persons to be members of the National People's Assembly *mutatis mutandis*.

Section 21

In sittings of the National People's Assembly, the President of the National Legislative Assembly shall act as President of the National People's Assembly and the Vice President(s)

of the National Legislative Assembly shall act as the Vice President(s) of the National People's Assembly.

Sittings of the National People's Assembly and the selection of members of the Constitution Drafting Assembly shall be in accordance with the rules and procedures prescribed by the President of the National People's Assembly.

Section 22

Within 7 days of the date of its first sitting, the National People's Assembly shall have the duty of selecting from among its members 200 suitable individuals to constitute a nomination list to be graciously appointed by the King as members of the Constitution Drafting Assembly. The National People's Assembly shall be dissolved when all members of the Constitution Drafting Assembly have been selected or the above-mentioned timeframe has elapsed.

For such selection under paragraph 1, each member of the National People's Assembly is entitled to vote for no more than 3 names and the first 200 persons receiving the highest number of votes shall be deemed to be selected.

Should there be persons receiving equal votes, resulting in a nomination list of more than 200 persons, drawing by lot shall be used to decide who among those with equal votes is selected.

Section 23

Upon receipt of the list of nominees to the Constitution Drafting Assembly from the National People's Assembly, the Council for National Security shall select 100 persons from the list and submit it to the King to graciously appoint the members of the Constitution Drafting Assembly.

Should the National People's Assembly be unable to carry out its duty within the timeframe set in paragraph 1 of Section 22, the Council for National Security shall select 100 persons from among the members of the National People's Assembly and present a list of these 100 persons to the King for further appointment.

The Chairman of the Council for National Security shall countersign the Royal Command appointing the members of the Constitution Drafting Assembly.

The provisions of paragraph 4 of Section 5 shall apply *mutatis mutandis* to the appointment of the members and committee members of the Constitution Drafting Assembly under Section 25.

Section 24

Should the office of any member of the Constitution Drafting Assembly be, for any reason, vacated during the period when the performance of the Drafting Assembly's tasks under this constitution is not yet complete, the Chairman of the Council for National Security shall select a replacement from among those remaining on the list under Section 22 or from among former members of the National People's Assembly, as the case may be, within 30 days of the vacancy for appointment as members of the Constitution Drafting Assembly by the King.

During the vacancy, the Constitution Drafting Assembly shall consist of the remaining members.

Section 25

In preparing the Draft Constitution, the Constitution Drafting Assembly shall appoint a Constitution Drafting Committee, consisting of 25 eminent persons who may or may not be members of the Constitution Drafting Assembly elected in accordance with its resolution and 10 eminent persons who may or may not be members of the Constitution Drafting Assembly, on the advice of the Chairman of the Council for National Security—this, in accordance with the rules and procedures prescribed in the Royal Decree.

Section 26

Upon completion of the Draft Constitution, the Constitution Drafting Committee shall submit an explanatory note detailing to what extent the Draft Constitution differs from the Constitution of the Kingdom of Thailand B.E. 2540 (1997) as well as the reasons for the amendments to the members of the Constitution Drafting Assembly and the following organizations and persons for consideration and comment:

- (1) The Council for National Security,
- (2) The National Legislative Assembly,
- (3) The Council of Ministers,
- (4) The Supreme Court,
- (5) The Supreme Administrative Court,
- (6) The Election Commission,
- (7) The National Counter Corruption Commission,
- (8) The Auditor-General,
- (9) The Ombudsmen,
- (10) The National Human Rights Commission,
- (11) The National Economic and Social Advisory Council,
- (12) Tertiary Education Institutions.

The Constitution Drafting Committee shall disseminate/publicize the Draft Constitution and the explanatory note as per paragraph 1 above to the public as well as promote and organize public hearings.

Section 27

Upon receipt of the Draft Constitution and the explanatory note indicated in Section 26, the members of the Constitution Drafting Assembly may submit a motion of amendments, but only if it is supported in writing by not less than one-tenth of the total number of the existing members of the Constitution Drafting Assembly. The motion of amendment as well as an indication of the reasons for the amendment must be submitted prior to the convening of the Constitution Drafting Assembly under Section 28.

Members of the Constitution Drafting Assembly who have already submitted a motion of amendment or endorsed such motion submitted by other members shall not submit another motion of amendment or endorse another motion submitted by other members.

Section 28

Upon the expiry of 30 days from the date of submission of the document under Section 26, the Constitution Drafting Committee shall consider the opinions obtained under Section 26 and the motion of amendments under Section 27 and disseminate to the public a report of the amendments or non-amendments, together with explanations, and, thereafter, submit the Draft Constitution to the Constitution Drafting Assembly for consideration. The consideration of the Constitution Drafting Assembly in paragraph 1 shall be only to approve or disapprove the whole Draft Constitution and those provisions proposed for a motion of amendment by members of the Constitution Drafting Assembly under Section 27 or by the Constitution Drafting Committee. In this regard, the members of the Constitution Drafting Assembly shall not propose an amendment other than those provided in Section 27 unless it is approved by the Constitution Drafting Committee or not less than three-fifths of the members of the Constitution Drafting Assembly.

Section 29

The Constitution Drafting Assembly shall complete drafting and consideration of the Draft Constitution in accordance with Section 28, within a period of 180 days from the date on which the first meeting of the Constitution Drafting Assembly is held.

After having completed the Draft constitution, the Constitution Drafting Assembly shall disseminate it to the public. A referendum shall be organized for people to vote on whether to approve or disapprove the whole Draft Constitution not earlier than fifteen days and not later than thirty days as from its dissemination in accordance with the rules and procedure announced by the Constitution Drafting Assembly.

The referendum shall be held on the same day throughout the Kingdom.

Section 30

After having completed the Draft Constitution under Section 29, paragraph 1, the Constitution Drafting Committee shall complete drafting only those organic laws which are necessary for the holding of elections within forty-five days as from the completion of the Draft Constitution for submission to the National Legislative Assembly for its further consideration. The National Legislative Assembly shall complete consideration of those organic law bills within forty-five days as from the date of the receipt of such bills from the Constitution Drafting Committee.

To prevent conflict of interests, members of the Constitution Drafting Committee are prohibited from applying for candidacy in elections of members of the House of Representatives or holding office of senator within two years as from the termination of office of members of the Constitution Drafting Committee.

Section 31

In voting in the referendum, if the results show that people with voting rights approve the promulgation of the Draft Constitution by majority vote, the President of the National Legislative Assembly shall present it to the King. When the King has affixed signature thereon, it shall come into force upon publication in the Government Gazette.

Upon promulgation of the Constitution and the Constitution Drafting Assembly has finished drafting the organic laws in accordance with Section 30 or the timeframe stipulated under Section 30 has elapsed, whichever is earlier, the Constitution Drafting Assembly shall be dissolved.

Section 32

Should the Constitution Drafting Assembly not complete the Draft Constitution within the time period prescribed in Section 29, paragraph 1, or the Constitution Drafting Assembly does not approve the Draft Constitution under paragraph 2 of Section 28, or the people voting in the Referendum under section 31 reject, by majority vote, the promulgation of the Draft Constitution, the Constitution Drafting Assembly shall cease to function and the Council for National Security shall hold a joint meeting with the Council of Ministers to consider and revise one of the previously promulgated Constitutions of the Kingdom of Thailand within thirty days as from the date of the referendum and present it to the King for signature to promulgate as the Constitution.

At the joint meeting under paragraph 1, the Chairman of the Council for National Security shall act as chair.

The Prime Minister shall countersign the Royal Command promulgating the Constitution under this section.

Section 33

Emoluments and other remunerations of the Presidents and Vice Presidents of the National Legislative Assembly and the Constitution Drafting Assembly, the members of the Council for National Security, the National Legislative Assembly, the Constitution Drafting Assembly, the Constitution Drafting Committee and members of the Constitutional Tribunal shall be as prescribed in the Royal Decree.

Section 34

For the benefit of the maintenance of national security and public order, there shall be a Council for National Security consisting of the persons stipulated in the Announcement by the Council for Democratic Reform No. 24 dated 29 September B.E. 2549 (2006).

The Chairman of the Council for National Security may appoint not more than fifteen additional members to the Council.

The Leader, Deputy Leaders, Members, Secretary-General and Assistant Secretary-General of the Council for Democratic Reform shall be Chairman, Vice Chairmen, Members, Secretary-General and Assistant Secretaries-General of the Council for National Security, respectively.

Should the Chairman of the Council for National Security not be present or is unable to perform his duties, the Vice Chairmen of the Council for National Security in order of precedence provided by the Chairman of the Council for National Security shall act as Chairman of the Council for National Security; and where both the Chairman of the Council for National Security and the Vice Chairmen of the Council for National Security are not present or are unable to perform their duties, the members of the Council for National Security shall select one among themselves to act as Chairman of the Council for National Security.

Should the Chairman of the Council for National Security or the Prime Minister deem it appropriate, he may request a joint meeting of the Council for National Security and the Council of Ministers to consider and resolve any problems related to the maintenance of national security and public order as well as to consult on other matters from time to time.

Section 35

Any matter prescribed by law that is under the authority of the Constitutional Court or problems regarding whether any law is or is not in contravention of the Constitution shall be considered as under the purview of the Constitutional Tribunal, which consists of the President of the Supreme Court of Justice as President, the President of the Supreme Administrative Court as Vice President, 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 by secret ballot as members and two judges of the Supreme Administrative Court elected at a general meeting of the Supreme Administrative Court by secret ballots as members.

The Office of the Constitutional Court, as provided for by the law on the Office of the Constitutional Court, shall function as support staff and be responsible for other activities assigned by the President of the Constitutional Tribunal.

The quorum for trial and adjudication, judicial procedure and verdicts shall be prescribed by the Constitutional Tribunal and shall be published in the Government Gazette.

Any case or other matter still pending under the purview of the Constitutional Court prior to 19 September B.E. 2549 (2006) shall be transferred to the authority and responsibility of the Constitutional Tribunal.

Section 36

All announcements and orders of the Council for Democratic Reform or orders of the Leader of the Council for Democratic Reform issued as of 19 September B.E. 2549 (2006) until the date of promulgation of this Constitution, be they in any form or enforced in a legislative, executive, or judicial manner, shall continue to be in force. These announcements or orders, as well as any actions taken under them, whether before or after the promulgation of the Constitution, shall be deemed lawful and constitutional.

Section 37

All matters that the Leader and the Council for Democratic Reform, including any related persons who have been assigned by the Leader or the Council for Democratic Reform or who have obtained orders from the persons assigned by the Leader or the Council for Democratic Reform pursuant to the seizure of State administration on 19 September B.E. 2549 (2006) to take actions prior to or after said date for enforcement of legislative, executive, judicial purposes, including meting out punishment and other administrative acts, whether as principal, supporter, instigator or assigned person, which may be in

breach of the law, shall be absolutely exempted from any wrongdoing, responsibility and liabilities.

Section 38

Where no provision in this Constitution is applicable, the case shall be decided in accordance with the customary practice of democratic government with the King as Head of State.

Should a problem arise about interpretation of paragraph 1 and it falls under the purview of the National Legislative Assembly or in the case that the Council of Ministers requests a decision from the National Legislative Assembly, the National Legislative Assembly shall make a final ruling.

Section 39

Before the Council of Ministers takes office, the Chairman of the Council for National Security shall act as Prime Minister and Council of Ministers.

Countersigned by

General Sonthi Boonyaratglin

Leader of the Council for Democratic Reform

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