

The Organic Act on the Election Commission, B.E. 2550 (2007)

Translation

By King Bhumibol Adulyadej, REX.,

Given on the 6th Day of October B.E. 2550 [2007]

Being the 62nd Year of the Present Reign

His Most Excellent Majesty Phra Bhat Somdet Phra Paramintharamaha Bhumibol Adulyadej has issued the Royal Command that,

Whereas it is deemed appropriate that there be an Organic Act on the Election Commission,

This Organic Act having certain provisions with respect to the restriction of an individual's rights and liberties, with Section 29, together with Section 31, Section 33, Section 35, Section 41 and Section 45 of the Constitution of the Kingdom of Thailand providing that such restriction may be permissible according to the provisions of the law,

This Organic Act should, therefore, be enacted, with the advice and consent of the National Legislative Assembly, as follows:

Section 1

This Organic Act is called "The Organic Act on the Election Commission, B.E. 2550 (2007)"

Section 2

This Organic Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3

The Organic Act on the Election Commission Act, B.E. 2541 (1998) shall be repealed.

Section 4

In this Organic Act:

"election" means an election of a member of the House of Representatives, a Senator, a member of a local assembly or a local administrator, as the case may be;

"polling station" includes a polling station for a referendum;

"Changwat" includes Bangkok Metropolitan Administration;

"Secretary-General" means the Secretary-General of the Election Commission.

Section 5

The Chairman of the Election Commission shall be in charge of the execution of this Organic Act, and shall have the powers to issue regulations or notifications, with the approval of the Election Commission, to carry out the implementation of this Organic Act.

The regulations or notifications under Paragraph One shall come into force upon its publication in the Government Gazette.

CHAPTER I

THE ELECTION COMMISSION

Section 6

The Election Commission under this Organic Act shall have the composition, qualifications, non-prohibited characteristics, selection methodology and approval procedures for the term of office and vacation of office of its members in accordance with the provisions of the Constitution.

Section 7

An Election Commissioner shall have the duty to submit an account showing particulars of assets and liabilities of himself or herself and of his or her spouse and children who have not become *sui juris*, including the assets and liabilities which he has assigned to be, either directly or indirectly, in the possession or care of others, to the National Counter Corruption Commission as provided by the rules and procedures prescribed by the Organic Act on the National Counter Corruption.

Section 8

For a meeting of the Election Commission, the presence of not less than three-fourths, but at least no fewer than three members, of the total number of the existing Election Commissioners shall constitute a quorum. In the case where any Election Commissioner is unable to attend the meeting, the cause of his inability to do so shall be noted in the minutes of that meeting.

A resolution of a meeting of the Election Commission shall be carried by a majority vote, except in the case of a resolution ordering a new election or revoking the right to vote in an election before the announcement of the results of an election. In such a case, the Election Commission shall decide by a vote of four-fifths of the total number of its members present, and the Chairman of the meeting and members of the Election Commission present shall exercise their vote in order to pass a resolution, and, when voting, one member of the Election Commission shall have one vote. In case where a majority is required, if there is a tie, the presiding Chairman of the meeting shall have an additional vote as a casting vote.

The Chairman of the Election Commission shall preside over its meetings. If the Chairman of the Election Commission is absent from a meeting, the Election Commissioners present shall elect one among themselves to preside over such meeting. The rules and procedures on meetings of the Election Commission shall be as prescribed by the Election Commission.

Section 9

In the case where there is no Chairman of the Election Commission, or the Chairman is unable to perform his or her duties, the Election Commissioners shall elect one among themselves to act, in his behalf, as the Chairman of the Election Commission.

Section 10

The Election Commission shall have the powers and duties as follows:

- (1) To control and arrange to hold or hold an election, or provide support for the selection, of members of the House of Representatives, Senators, members of a local assembly or local administrators, as the case may be, as well as holding a referendum, to be in an honest and fair manner;
- (2) To issue all notifications, or all the necessary regulations and stipulations, or to take actions to implement the provisions of the Constitution, the Organic Act on the Election of Members of the House of the Representatives and the Selection of Senators, the Organic Act on Political Parties, the Organic Act on Referendum and the Law on the Election of Members of Local Assemblies or Local Administrators, so that elections or referenda may be held in an honest and fair manner;
- (3) To lay down regulations on election campaigns and on any actions by political parties, candidates and voters so that they are honest and fair, and to determine the rules on State actions in providing support so that there is equality and equal opportunities in election campaigns;
- (4) To lay down regulations on providing assistance in scrutinizing elections in accordance with Section 25;
- (5) To lay down regulations on what ought to be done and what ought not to be done by political parties, candidates, and voters in relation to elections and responses to consultative questions from the Election Commission on such matters, and in this regard, the responses to the consultative questions shall be given within thirty days from the date of their receipt, and consultative questions shall not be

denied any responses simply because the event relating to such questions has not occurred;

- (6) To lay down regulations or give approval for the performance of duties by the Cabinet during the period of time when the term of the House of Representatives has terminated or when there is a resolution of the House, as follows:
 - (a) To approve appointments or transfers of government officials with permanent positions or regular salaries, employees of State Agencies and State Enterprises, or enterprises of which the State is a major shareholder as provided for in the Organic Act on Political Parties, or to dismiss the said persons from their duties or their positions, or to have someone else perform such duties in their place;
 - (b) To give approval for any action requiring the spending of a reserve budget set aside for cases of emergency or necessity;
 - (c) To lay down regulations on the utilization of State resources or State personnel for any actions that may have an impact on elections, or to approve such utilization of the resources;

In this regard, the protection of State interest, honesty and fairness, equality and equal opportunities in the elections shall be taken into consideration.

- (7) To determine measures and controls of financial contributions, contributions of assets or any other benefits that may be calculated into proceeds, to political parties; of State financial support, expenditures of a political party and candidates, as well as an open auditing of financial statements of political parties, and the control of the dispensing or accepting of proceeds for the purpose of gaining votes in elections, and in this regard, it shall be in accordance with the Organic Act on Political Parties.
- (8) To issue orders for government officials, employees or temporary employees of Government Agencies, State Agencies, State enterprises or local government agencies or other State officials to take all such actions as may be necessary in accordance with the Organic Act on the Election of Members of the House of Representatives and the Selection Senators, the Organic Act on Political Parties, the Organic Act on Referendum, and the Law on the Election of Members of Local Assemblies or Local Administrators;
- (9) To carry out the division of constituencies for an election on a constituency basis, an election according to proportional representation, and an election of members of local assemblies or local administrators, as well as arranging to have electoral rolls available;
- (10) To conduct an investigation and inquiry for fact-finding and to adjudicate and make decisions on problems or disputes that may arise with respect to the implementation of the Organic Act on the Election of Members of the House of Representatives and the Selection of Senators, the Organic Act on Political Parties, the Organic Act on Referendum or the Law on the Election of Members of Local Assemblies or Local Administrators;
- (11) To submit matters to the Speaker of the House of Representatives or the Speaker of the Senate regarding the case where the Election Commission is of the opinion that the membership of any Member of the House of Representatives or of any Senator has terminated, or to submit matters to the Constitutional Court regarding the case where the Election Commission is of the opinion that the State ministership of any minister has terminated;
- (12) To give orders revoking the right to vote as provided by law, or to order a new election or a new voting at any polling station of a referendum or at all polling stations of such a referendum, or to order a new vote-counting, when there is reasonable evidence that the election or the voting at such polling stations in a referendum, and the rules and procedures for such consideration shall be in accordance with the regulations prescribed by the Election Commission;

- (13) To announce the results of an election, the results of the selection of senators and the results of a referendum;
- (14) To promote and support or co-ordinate with Government Agencies, State Agencies, State Enterprises or local government agencies, or to support private organizations in providing to the people the education on a democratic system of government with the King as Head of State; to promote the people's political participation and the provision of assistance in the scrutiny of elections in accordance with Section 25, and in this regard, the allocation of budget for the expenditures shall be in accordance with the regulations prescribed by the Election Commission;
- (15) To lay down regulations on guidelines for the performance of duties by persons who have been appointed and invested with the powers and duties with respect to elections, the support for the selection of Senators or the voting at a referendum;
- (16) To prepare an annual performance report and observations to be submitted to the House of Representatives and the Senate; and
- (17) To perform any other activities as required by the provisions of this Organic Act, other Organic Acts or other laws, to be the powers and duties of the Election Commission.

Section 11

For purposes of the implementation of Section 10 (1), (7), (10), or (12), the Election Commission may request that the following actions be taken:

- (1) That the Office of the Auditor-General of Thailand, or a licensed auditor approved by the Election Commission, audit financial accounts of political parties, and may also do so in urgency during the period of time when there is an election; and
- (2) That the Anti-Money Laundering Office notify [the Election Commission] of the reports of transactions of political parties, persons holding positions in a political party, or of candidates in an election when there appears to be reasonable evidence that an offense has been committed or that there has been a violation of the Organic Act on the Election of Members of the House of Representatives and the Selection of Senators, the Organic Act on Political Parties, the Organic Act on Referendum, or the Law on the Election of Members of Local Assemblies or Local Administrators, as notified by the Election Commission; or that the Bank of Thailand or commercial banks under the Commercial Banking Acts, or other financial institutions, make a notification of the transfers or withdrawals or payments involved in such cases, as requested by the Election Commission, and in this regard, such notification shall be made within the period of time prescribed by the Election Commission, and no provisions of the laws prohibiting any agencies from disclosing proprietary information shall be applied to the reporting of information requested by the Election Commission.

Section 12

When there is an allegation, or it appears to the Election Commission, and there is reason to believe, that any action has been taken in violation of, or not in compliance with, this Organic Act, the Organic Act on the Election of Members of the House of Representatives and the Selection of Senators, the Organic Act on Political Parties, the Organic Act on Referendum, or the Law on the Election of Members of Local Assemblies or Local Administrators, or which may result in the election or referendum not being held in an honest and fair manner, the Election Commission shall promptly conduct an investigation or inquiry in accordance with its powers and duties, and in this regard, such investigation or inquiry shall be conducted in accordance with the regulations prescribed by the Election Commission.

Section 13

When it appears that there is reasonable evidence that any person has conducted a financial transaction, has produced, or is prepared to produce materials and equipment that may be

used to hold an election without the powers to do so, spends money or assets, or exercises influence to threaten, in order to help or harm an electoral candidate or a political party, or takes any other actions which have been announced and scheduled by the Election Commission, in order that the election would not proceed in an honest and fair manner, the Election Commission shall have the power to order such person to terminate his action temporarily within a specified period of time, but not more than sixty days.

The person who receives the order under Paragraph One has the right to appeal to the Supreme Court to withdraw such order, and if the Supreme Court is of the opinion that the action by such person has not been taken for the purpose of not allowing the election to be held in an honest and fair manner, the Supreme Court shall order such order rescinded.

Section 14

The Election Commission shall have the power to appoint a Provincial Election Committee, a Provincial Election Director, a subcommittee, a person, a group of persons, or representatives of non-governmental organizations to perform duties as entrusted by the Election Commission.

The rules and procedures for the appointment, the vacation of office, remuneration, and other forms of assistance, as well as the performance of duties and evaluation of the performance of duties of persons under Paragraph One shall be in accordance with the regulations prescribed by the Election Commission.

Section 15

The Provincial Election Committee under Section 14 shall consist of five members for each province, appointed by the Election Commission from among persons who are politically impartial, who have been witnessed to be honest and truthful, who possess the qualifications under Section 16, who are not under the prohibitions under Section 17, and who have been selected in accordance with the regulations prescribed by the Election Commission.

A member of the Provincial Election Committee under Paragraph One shall be selected and appointed basically from among persons having a domicile in that province, taking into consideration the diversity of occupations, women's participation, and their readiness to carry out their duties at all time as well.

A member of the Provincial Election Committee shall have a term of office of four years, and shall serve for only one term.

Section 16

A member of the Provincial Election Committee shall have the following qualifications:

- (1) Be a Thai national; however, a naturalized Thai national shall have been a Thai national for at least five years;
- (2) Be at least twenty years of age on the date of application or the date giving consent for nomination;
- (3) Other qualifications as specified and announced by the Election Commission.

Section 17

A member of the Provincial Election Committee shall not be under any of the following prohibitions:

- (1) Be a Member of the House of Representatives, a Senator, a political appointee, a member of a local assembly or a local administrator;
- (2) Be or has been a member of, or a holder of other positions in, a political party throughout the period of five years prior to becoming a Committee member;
- (3) Be a judge, a Constitutional Court tribunal, an Ombudsman, a member of the National Counter Corruption Commission, a member of the Office of the Auditor-General of Thailand or a member of the National Human Right Commission;
- (4) Be a monk, a novice, a Brahmin priest, or clergy;
- (5) Be an undischarged bankrupt or having been bankrupt by fraud;

- (6) Be of unsound mind or of mental infirmity;
- (7) Be addicted to drugs;
- (8) Be under the suspension of the right to vote in an election, or has lost the right to vote as a result of not having exercised the right to vote in an election;
- (9) Having been sentenced to imprisonment by a judgment and is being detained by a warrant of the Court;
- (10) Having been sentenced to imprisonment and having been discharged for less than five years on the application date, or on the date of giving consent for nomination, except for offences committed through negligence or minor offences;
- (11) Having been expelled, dismissed, or removed from being a government official, a State agency, or a State enterprise on grounds of dishonest performance of duties, or of what is considered to be corruption;
- (12) Having been ordered by a judgment or a Court order that his or her assets dissolve on the State on grounds of unusual wealthiness or unusual increase of his or her assets;
- (13) Being suspended from holding any political office for intentionally failing to submit an account showing assets and liabilities and supporting documents as required by law, or for intentionally submitting the same with false statements, or by concealing facts that should have been revealed;
- (14) Having been removed from office by a resolution of the Senate under Section 274 of the Constitution; and
- (15) Being under other prohibitions that may result in members of the Provincial Election Committee not being impartial or being unable to perform their duties, as prescribed and announced by the Election Commission.

Section 18

At least twenty voters or a political party having reasonable evidence that any member of a Provincial Election Committee lacks the qualifications under Section 15 or Section 16 or are under prohibitions under Section 17, may petition the Election Commission to order the removal of that member of a Provincial Election Committee from office, and the rules and procedures to be applied shall be in accordance with the regulations prescribed by the Election Commission.

Upon the receipt of the petition under Paragraph One, the Election Commission shall conduct an investigation and adjudicate the case within ninety days from the date of the receipt of the petition. In doing so, the Election Commission may issue an order terminating the case, or it may order that member of the Provincial Election Committee to be suspended from the performance of duties temporarily for a period of time as specified by the Election Commission, or it may order his removal from office.

Section 19

The Election Commission may entrust a Provincial Election Committee to perform the following duties:

- (1) To direct the holding of an election and a referendum as well as the selection of senators in that province;
- (2) To suggest a division of constituencies for an election on a constituency basis to the Election Commission;
- (3) To collect and inspect data relating to the number of voters at an election or voters at a referendum;
- (4) To suggest to the Election Commission to consider appointing a person to exercise powers and perform duties with respect to the election, the support for the selection of Senators or the referendum as required by law;
- (5) To appoint a person or a group of persons to assist the Provincial Election Committee in the performance of its duties in accordance with the regulations prescribed by the Election Commission;

- (6) To perform other activities with respect to the election, the referendum, the support for the selection of Senators, the supervision of the performance of duties of a Constituency Election Committee, a Local Election Committee and the Office of a Provincial Election Committee, as well as the supervision of the activities of political parties and branches of political parties;
- (7) To promote and support or to coordinate with Government Agencies, State Agencies, State Enterprises, or local government agencies, or to support non-governmental organizations in providing education to the people on a democratic system of government with the King as Head of State, and on the promotion of political participation by the people; and
- (8) To carry out other activities as prescribed by the Election Commission.

The rules and procedures on the performance of duties of a Provincial Election Committee shall be in accordance with the regulations prescribed by the Election Commission.

Section 20

In performing its duties with respect to an election, the support for the selection of Senators, or a referendum, the Election Commission shall have the power to give an order instructing Government agencies, State agencies, State enterprises, or local government agencies to carry out any matter under their authority, or instructing those agencies to issue orders for government officials, employees, or temporary employees of Government agencies, State agencies, State enterprises, or local government agencies to perform any necessary act with respect to the election, the support for the selection of Senators, or the referendum as the Election Commission deems appropriate.

Any Government official, employee or temporary employee of a State agency having the duty to comply with the order of the Election Commission under Paragraph One or in accordance with Section 10 (8), who fails to comply with such order without reasonable cause, shall be deemed to be in breach of discipline, and the Election Commission shall submit the case to the person who has the authority to take disciplinary action against such official or employee so that the person with the authority may proceed with the case according to his powers and duties.

In the case where non-compliance with the order under Paragraph Two causes damage to the election, the support for the selection of Senators, or the referendum, it shall be deemed that such person is in serious breach of discipline.

Section 21

In the case where the Election Commission is of the opinion that a person is in violation of this Organic Act, the Organic Act on the Election of Members of the House of Representatives and the Selection of Senators, the Organic Act on Political Parties, the Organic Act on Referendum, or the Law on the Election of Members of Local Assemblies or Local Administrators, the Election Commission shall have the powers to report that person to Administrative officials or the police in accordance with the Criminal Procedure Code for an investigation to be conducted, or to report such person to the Competent Investigator, and the Election Commission shall have the powers to file both a criminal and a civil plaint or an Administrative plaint in court, and in such a case the Election Commission shall be deemed to be the injured party under the Criminal Procedure Code and other Acts, and the Election Commission shall be exempt from all court fees.

In taking actions under Paragraph One, or in the case where the Election Commission shall have to file a plaint in court, the Election Commission may entrust any Election Commissioner, the Secretary-General, an employee of the Office of the Election Commission, a public prosecutor or a State official to act in its behalf, and the Administrative officials or the police, the Competent Investigator, or the public prosecutor shall facilitate and expedite the proceedings so that they may be concluded quickly.

Section 22

The filing of a lawsuit with respect to the exercise of Administrative powers, or the carrying out of Administrative actions by the Election Commission or by the Office of the Election Commission in accordance with the resolution of the Election Commission, where it is not an

adjudication of a case by the Election Commission by virtue of the powers granted it directly by the Constitution, such a lawsuit shall be filed with the Supreme Administrative Court.

Section 23

The Election Commission shall arrange to have electoral rolls of each province regularly prepared from the household registers under the Act on the Household Registration.

Any interested person shall have the right to inspect the electoral rolls under Paragraph One and may apply for the correction thereof.

In taking the action under Paragraph One, the Election Commission may request to be linked to the Database of the Household Registration so that it may use the database to prepare electoral rolls, or it may entrust the Registrar under the Household Registration Act or any other person it deems appropriate to prepare the electoral rolls in its behalf, and to do so in accordance with the rules and procedures prescribed by the Election Commission.

Section 24

In the case where there is a cause for the Election Commission to conduct an investigation and inquiry for fact finding and decision on problems or disputes that have arisen with respect to the implementation of the Organic Act on the Election of Members of the House of the Representatives and the Selection of Senators, the Organic Act on Political Parties, the Organic Act on Referendum, or the Act on the Election of Members of Local Assemblies or Local Administrators in accordance with the provisions of the Constitution, the Election Commission shall forthwith proceed with the matter.

In the investigation and inquiry under Paragraph One, the Election Commission shall provide an opportunity for the petitioner, the objected person or the accused person to learn of the cause of the petition, the objection, or the accusation, and to give facts in writing and to adduce evidence, including an opportunity to present statements to the Election Commission. In case where the petitioner, the objected person, or the accused person has no written statement of facts, no adducing of evidence, or does not appear before the Election Commission to present facts as prescribed by the Election Commission without a reasonable cause, it shall be deemed that such a person has foregone his opportunity to make a statement, adduce evidence, or to offer oral statements, and the Election Commission shall continue to proceed with its case.

Each Election Commissioner who has voted on any matter shall affix his or her signature to such a resolution, and the Election Commission shall prepare the decision, which shall be in writing stating the facts and reasons, with all the Election Commissioners voting on the resolution affixing their signatures thereto.

In case where any Election Commissioner has voted on a decision on any matter, but has not yet affixed his or her signature to such decision because his or her term of office has terminated or because of any other necessary cause that prevents him or her from doing so, the Chairman of the Election Commission shall record the cause in the decision document in place of the signature of that Election Commissioner. However, if it is a case where the Chairman of the Election Commission and a number of Election Commissioners are unable to affix their signatures, the remaining Election Commissioners shall record the cause, and if it is a case where the whole Election Commission is unable to affix their signatures, the Secretary-General shall record the cause.

The methodology of the investigation and inquiry and adjudication, as well as the methodology of filing the plaint with the court shall be in accordance with the regulations prescribed by the Election Commission.

Section 25

Any private organization wishing to assist in the performance of functions of the Election Commission with respect to the inspection of an election, or to take action under Section 10 (14), shall submit an application to do so to the Election Commission. After the Election Commission has completed the review of the application and is of the opinion that the private organization is politically impartial and is capable of performing such duties, the

Election Commission shall have the powers to certify such a private organization [to assist in the inspection of an election].

In each election, the Election Commission shall have the powers to appoint a representative(s) of the private organization certified under Paragraph One to assist in the inspection of an election and to report to the Election Commission if such representative should find that the election has proceeded in a dishonest and unfair manner or contrary to laws.

The rules and procedures for applying for certification, for certification revocation of certification, the performance of a private organization, the support, and the evaluation of the performance of such private organization shall be in accordance with the regulations prescribed by the Election Commission.

Section 26

In the performance of duties in accordance with this Organic Act, the Election Commission shall have the following powers:

- (1) To ask that Government agencies, State agencies, State enterprises or local government agencies provide facts in writing, or an opinion on the performance of duties, or to submit any document, or any other evidentiary documents that may be relevant for consideration;
- (2) To ask that officials of the agencies under (1), State officials, public prosecutors, competent investigators, or any person provide facts in writing, or to come in to give statements, or submit any document, or other relevant evidentiary documents, within the period of time specified by the Election Commission, for consideration;
- (3) To ask that any person provide facts in writing, or to come in to give a statement, or submit any document as evidence, or relevant evidentiary evidence, within the period of time specified by the Election Commission, for consideration;
- (4) To request the cooperation of the court to submit any other relevant document, exhibit, or evidentiary document, for consideration; and
- (5) To enter, or appoint any person to enter, any polling place, a place for voting at a referendum, or a place for counting votes of an election or a referendum.

Section 27

In the performance of duties in accordance with this Organic Act, an Election Commissioner, member of a Provincial Election Committee, a director of Provincial Election, and a member of a subcommittee appointed by the Election Commission shall be officials in accordance with the Penal Code.

Section 28

Salaries, emoluments and other benefits of the Chairman of the Election Commission and the Election Commissioners shall be in accordance with the laws specific to such matters.

Section 29

An Election Commissioner, a member of a Provincial Election Committee, a director of Provincial Election, and a member of a subcommittee shall not engage in a wrongfully act in order to help or harm any candidate or political party in an election, or commit an act, or omit an act dishonestly or wrongfully in the performance of duties with respect to an election or a referendum.

In the case where the person under Paragraph One performed his or her duties in good faith, he or she shall be protected from civil, criminal or administrative liability.

CHAPTER II THE OFFICE OF THE ELECTION COMMISSION

Section 30

There shall be the Office of the Election Commission, as an independent organization under the Constitution, and as a juristic person under the supervision of the Election Commission, with the Chairman of the Election Commission as the highest superior.

The affairs of the Office of the Election Commission shall not be subject to the Labor Protection Act, the Labor Relations Act, the Social Security Act and the Workers' Compensation Act.

Section 31

The Office of the Election Commission shall have the duties and responsibilities for the general affairs of the Election Commission and the Political Party Registrar, and shall have the following powers and duties:

- (1) To be responsible for the administrative work of the Office of the Election Commission, the Registrar of Political Parties, and the Senator Selection Committee, as well as to study and compile various data relevant to the work of the Election Commission, the Registrar of Political Parties, and the Senator Selection Committee;
- (2) To study and encourage that there be the study and research on elections, the selection of Senators, referenda and the development of political parties;
- (3) To disseminate academic knowledge, provide knowledge and education on political development and the development of a democratic system of government with the King as Head of State to the public, as well as to candidates, to promote the people's political participation and encourage people to exercise their right to vote in an honest and fair manner;
- (4) To receive a petition with respect to the performance of duties of an official who has the powers and duties relating to an election, the selection of Senators, or a referendum, and of the authorities who have the powers and duties to keep law and order in an election, the selection of Senators, or who have the powers and duties relating to the violation of an election law, or the corruption or dishonest act in an election of a candidate, voter, political party or any other person, in order to start proceedings against them in accordance with the regulations prescribed by the Election Commission;
- (5) To carry out any other activities as entrusted by the Election Commission.

Section 32

For the supervision of the Office of the Election Commission, the Election Commission shall have the powers to issue regulations or notifications relating to the management of personnel, budget, finance and property, supplies and other activities on the following matters:

- (1) The organization of the departments of the Office of the Election Commission and the scope of their duties;
- (2) The designation of positions, salary scales and other remuneration of the Secretary-General, staff and employees of the Office of the Election Commission;
- (3) The selection, recruitment, appointment, removal from office, determination of ethical standards, efficiency, performance evaluation, discipline and disciplinary action, termination of office, petition and appeal against penalties of the Secretary-General, and staff of the Office of the Election Commission, including the procedures and conditions for employment of temporary employees of the Office of the Election Commission;
- (4) The selection, prescription of wages or remuneration, as well as special premium for government officials, staff, or temporary employees who work as temporary employees or wage earners for the Office of the Election Commission under Section 37;
- (5) The administration and management of finance and properties, budgeting, and supplies of the Office of the Election Commission; and

- (6) The provision of welfare or other support to the Secretary-General, employees, or temporary wage-earners of the Office of the Election Commission.

For the purpose of personnel management, the Election Commission shall be the Personnel Management Committee for the Office of the Election Commission, and shall have the powers to appoint a subcommittee to assist it in personnel management, and in making the appointments, it shall take into consideration the Office's employees' participation and the participation of qualified outsiders.

Section 33

The Office of the Election Commission shall have one Secretary-General, appointed by the Chairman of the Election Commission with the approval of the Election Commission, to be the superior official of officers and employees of the Office of the Election Commission and to be responsible for the performance on the affairs of the Office of the Election Commission, directly to the Chairman of the Election Commission or the designated Election Commissioner. There may be a Deputy Secretary-General to assist the Secretary-General in the performance of official duties.

The Secretary-General shall be the secretary of the Election Commission.

Section 34

The Secretary-General shall be nonpartisan, a person of integrity, has Thai nationality by birth, not over sixty-five years of age, and shall have qualifications, experience and success in the area of administration as prescribed by the Election Commission.

The Secretary-General shall hold office for a term of five years as from the day of the appointment and may be re-appointed, but for no more than two consecutive terms.

Section 35

The Secretary-General shall have the duties of controlling and supervising the conduct of the general affairs of the Office of the Election Commission to be in accordance with the laws, regulations, notifications and resolutions of the Election Commission and shall have the following powers:

- (1) To recruit, appoint, remove, promote, reduce salary or wages of, and discipline election officers or employees, as well as to dismiss election officers or employees, of the Office of the Election Commission, in accordance with the regulations of the Election Commission laid down under Section 32 (3) and (4);
- (2) To lay down regulations on the performance of duties of election officers or employees of the Office of the Election Commission, and of government officials, election officers or employees under Section 37; and
- (3) To lay down regulations on the performance of duties of the Office of the Election Commission, in so far as such regulations are not in contravention with the regulations or notifications or resolutions of the Office of the Election Commission.

Section 36

In conducting an affair of the Office of the Election Commission in relation to outsiders, the Secretary-General shall be the representative of the Office of the Election Commission. For this purpose, the Secretary-General may authorize any person to conduct such an affair on his or her behalf, provided that it is in accordance with the regulations prescribed by the Election Commission.

Section 37

The Election Commission may request government officials, officers, or employees of a government agency, a local government agency, a State enterprise, or other State agencies to come and perform duties temporarily as election officers or employees under the Office of the Election Commission, subject to the approval of their superiors or employers, as the case may be.

Any government official, government officer or employee who has been granted approval to perform duties as an election officer or employee of the Office of the Election Commission under Paragraph One shall be deemed to have permission to be released from government service, or from any of his or her duties in order to do leave to do other work, and the

period of time during which he or she performs his or her duties under the Office of the Election Commission shall be counted as part of the period of time used in the calculation of his or her pension or other similar benefits as if he or she were in the government service or were working full time for his or her regular work, as the case may be.

In the case where the government official, government officer or employee under Paragraph One requests to return to government service or to resume the previous office within the approved period of time, such person shall have the right to be assigned and appointed to hold office and receive the monthly salary in accordance with the agreement concluded for the approval under Paragraph One.

Section 38

The Office of the Election Commission shall submit budgetary appropriations, to be used as subsidy for the Election Commission and the Office of the Election Commission, in the Annual Budget Appropriations Bill or in the Supplementary Budget Appropriations Bill, as the case may be.

In the case where the Election Commission is of the opinion that the appropriations allocated are not sufficient, it shall submit a proposal for a budget amendment directly to House of Representatives' Budget Appropriations Committee.

In submitting a proposal for budgetary appropriations under Paragraph One and Paragraph Two, the Election Commission shall notify the Council of Ministers of its existing revenues and assets as well.

In the case where the expenditures for elections, the selection of Senators, or a referendum are in excess of the budget allocations received by the Office of the Election Commission, the State shall provide more subsidy to be sufficient for the work of the Office of the Election Commission.

Section 39

The incomes and properties for the operation of the Office of the Election Commission shall consist of:

- (1) Subsidies under Section 34;
- (2) Incomes from fees or properties of the Office of the Election Commission; and
- (3) Other incomes as provided by laws.

Section 40

The incomes of the Office of the Election Commission shall not be incomes remitted to the Ministry of Finance according to the Law on Treasury Balance, the Law on Budgetary Procedure, or other laws.

The Office of the Election Commission shall prepare the balance sheet of incomes and expenditures under Paragraph One and submit it to the Council of Ministers at the end of every fiscal year, and the Council of Ministers shall prepare and submit such report to the House of Representatives and the Senate in due course.

Immovable properties which the Office of the Election Commission has acquired by incomes of the Office of the Election Commission itself shall be under the ownership of the Office of the Election Commission.

The Office of the Election Commission shall have the powers to govern and oversee and maintain the properties of the Office of the Election Commission.

Section 41

The properties of the Office of the Election Commission shall be the properties of the State and shall not be subject to judicial execution, and no one shall raise the statute of limitations as the cause for defense or complaint.

Section 42

The Office of the Election Commission shall prepare a balance sheet, finance account and working account and submit them to an auditor within ninety days after the end of the accounting year.

The Office of the Auditor-General of Thailand shall be the auditor who audits the accounts of the Office of the Election Commission and shall examine and certify all types of accounts and all types of finance of the Office of the Election Commission, as well as evaluate the expenses and properties of the Office of the Election Commission by demonstrating clearly as to how much such expenses have been made according to the objectives, how economical, and how much of the objectives have been achieved, and shall then prepare an auditing report and submit it to the House of Representatives, the Senate, and the Council of Ministers without delay.

CHAPTER III PENALTIES

Section 43

Any person who obstructs the performance of duties, in accordance with this Organic Act, of the Election Commission, the Provincial Election Committee, a member of the Provincial Election Committee, the Director of the Provincial Election, a sub-committee or a member of a sub-committee shall be liable to the penalty of imprisonment of not exceeding one year or to a fine of not exceeding twenty thousand Baht, or both.

If the obstruction under Paragraph One is committed by doing an act of violence or by threatening to do an act of violence, the offender shall be liable to imprisonment of not exceeding two years or to a fine of not exceeding forty thousand Baht, or both.

Section 44

Any person who violates or fails to comply with Section 26 (2) or (3) shall be liable to imprisonment of not exceeding six months or to a fine of not exceeding ten thousand Baht, or both.

Section 45

Any Election Commissioner, member of a Provincial Election Committee, a Director of Provincial Election, or a member of a sub-committee who violates Section 29 shall be liable to imprisonment of one to ten years and to a fine of twenty thousand to two hundred thousand Baht, and the court shall order that he or she shall be disenfranchised for a period of ten years.

TRANSITORY PROVISIONS

Section 46

The Secretary-General, members of the Provincial Election Committee, and members of a sub-committee who are holding office on the date on which this Organic Act takes effect shall be the Secretary-General, members of the Provincial Election Committee or members of a subcommittee, as the case may be, in accordance with this Organic Act, and they shall remain in office until their terms of office terminate.

The non-governmental organization which had been certified to provide assistance in the scrutiny of elections in accordance with the Organic Act on the Election Commission B.E. 2541 [1998] shall be a non-governmental organization certified under Section 25 of this Organic Act until the term of its certification expires.

Section 47

All regulations, stipulations, notifications, orders or resolutions of the Election Commission issued under the Organic Act on the Election Commission B.E. 2541 [1998] which are in force on the date on which this Organic Act takes effect shall continue to be in force until there are regulations, notifications, orders or resolutions issued under this Organic Act.

Regulations, notifications, orders or resolutions of the Election Commission, issued under the Organic Act on the Election Commission, B.E. 2541 (1998 A.D.), as in force on the date

of the promulgation of this Organic Act, shall remain in force until rules, regulations, notifications, orders or resolutions are issued under this Organic Act.

Section 48

All investigations and inquiries, prosecutions or any other actions carried out in accordance with the powers and duties of the Election Commission or the Office of the Election Commission under the Organic Act on the Election Commission B.E. 2541 [1998], which have continued up to the date on which this Organic Act comes into force shall be held as actions carried out under this Organic Act. However, further actions shall be carried out under this Organic Act.

In case of problems relating to such actions, the Election Commission shall have the power to make a final decision thereon.

Section 49

All affairs, properties, rights, liabilities, election officers, employees and the budget of the Office of the Election Commission under the Organic Act on the Election Commission B.E. 2541[1998] shall be transferred to the Office of the Election Commission under this Organic Act.

It shall be held that all government officials, election officers or employees of government agencies, of local government agencies, State enterprises or other State agencies, who have been granted approval to work as election officers or employees under the Office of the Election Commission on a temporary basis in accordance with the Organic Act B.E. 2541 [1998], have been approved to continue to work on a temporary basis as election officers or employees under the Office of the Election Commission in accordance with this Organic Act.

Counter-signed by

General Surayut Julanonda

Prime Minister

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