RULE OF THE GENERAL ASSEMBLY

OF

JUDGES OF THE SUPREME

ADMINISTRATIVE COURT

ON

ADMINISTRATIVE COURT PROCEDURE,

B.E. 2543 (2000)

(as amended by the Amendment (No.2)
B.E. 2544 (2001)

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Translation

RULE OF THE GENERAL ASSEMBLY OF JUDGES OF THE SUPREME ADMINISTRATIVE COURT ON ADMINISTRATIVE COURT PROCEDURE, B.E. 2543 (2000)[1]

Whereas section 44 and section 66 of the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999) provide that all actions in connection with the filing of a case, the interpleading, the summoning of a person, administrative agency or State official to become a party to a case, the proceedings, the admissibility in evidence, the adjudication of an administrative case, and the prescription of provisional relief measures or means before delivery of a judgment other than those already provided in the said Act shall be in accordance with the rule and procedure prescribed by the general assembly of administrative judges of the Supreme Administrative Court;

The general assembly of judges of the Supreme Administrative Court, by virtue of the provisions of section 44 and section 66 of the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999), hereby issues the Rule, as follows:

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[1] As amended by the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure (No. 2), B.E. 2544 (2001); Government Gazette Vol. 118, Part 17a, dated 22nd March 2001. (page 6-8)

Clause 1. This Rule is called the "Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000)"

Clause 2. This Rule shall come into force as from the day following the date of its publication in the Government Gazette.[2]

Clause 3. In this Rule, unless the context otherwise indicates:

"Court" means an Administrative Court or an administrative judge;

"Administrative Court" means the Administrative Court of First Instance or the Supreme Administrative Court;

"senior judge" means the senior judge of a division of an Administrative Court of First Instance or the senior judge of a division of the Supreme Administrative Court;

"judge in charge of the case" means an administrative judge who is appointed to be the judge in charge of the case;

"judge who makes the conclusion" means an administrative judge who is appointed to make the conclusion of an administrative case;

"statement" means a summary of facts, law and opinion of the judge who makes the conclusion submitted to the division for trial and adjudication.

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[2] Published in the Government Gazette, Vol. 117, Part 108a, dated 17th November 2000. (page 30-59)

Clause 4. The President of the Supreme Administrative Court shall have charge and control of the execution of this Rule and shall have the powers to make the determination of issues in connection with the execution of this Rule and issue notifications or orders for the purpose of the execution thereof.

PART I

General Provisions

Clause 5. The administrative court procedure shall be based upon the inquisitorial system as prescribed in the law on establishment of Administrative Courts and Administrative Court Procedure and this Rule.

In the case where any particular matter has not been specifically provided by the law or the Rule under paragraph one, the general principles of law relating to administrative court procedure shall apply thereto.

Clause 6. A period of time as prescribed in this Rule or by the Court may be, in the interest of justice, diminished or extended at the discretion of the Court as is necessary when the Court thinks fit or upon an application therefor by a party.

Clause 7. In the case of non-compliance with the provisions of law on establishment of Administrative Courts and Administrative Procedure or with this Rule in respect of the proceedings in connection with the submission and

examination of a plaint, the inquiry of facts, the summary of a case, the admissibility in evidence or other proceedings prior to the delivery of a judgment or an order disposing of the case, the Court, when it thinks fit or upon an application by a party injured by such non-compliance, shall have the power to revoke, in whole or in part, the irregular proceeding or order it to be amended or otherwise dealt with as the Court deems appropriate.

A plea of irregularity under paragraph one may be made by the injured party at any time prior to the delivery of a judgment or an order disposing of the case but not later than eight days as from the date of the knowledge of such ground, provided that the party submitting the application has not taken any other fresh step subsequent to the knowledge of the irregularity or has not ratified it.

A Court's order revoking any irregular proceeding other than that regarding the party's failure to take any particular proceeding within the period of time prescribed by the law, this Rule or the Court shall not preclude the party's right to take such proceeding anew in a correct manner.

Clause 8. The Court shall have the power to issue any stipulation for application to the parties or any person present in Court as it deems necessary for the maintenance of order within the precinct of the Court or for the fair and expeditious proceeding of an administrative case. Such power includes the power to prohibit the parties from pursuing frivolous, dilatory or superfluous proceedings.

The violation of the stipulations under paragraph one shall constitute a contempt of court and the Court shall have the power to inflict punishment under section 64.

Clause 9. All proceedings and the delivery of a judgment or the issuance of an order conducted by Court in an administrative case shall be in the Thai language.

All documents or evidence of the parties or any person or prepared by the Court or the competent official of the Court of which the file of the case is made shall be in the Thai language.

In the case where the document or evidence submitted to the Court has been prepared in a foreign language, the Court shall order the party or the person submitting it to prepare its certified translation, in whole or in any essential part, for attaching the same to such document or evidence.

In the case where the party or person who is present in the Court is unable to understand the Thai language, or is deaf or dumb and unable to read and write, the service of an interpreter shall be provided by the party concerned.

Clause 10. An application or a motion submitted to the Court in the proceedings shall be in writing, unless the Court allows it to be made orally, in which case the Court shall write down the statement in the memorandum of proceedings.

Clause 11. The Court shall, on every occasion, write down in the memorandum of proceedings the inquiry, the hearing or any proceedings and gather the same in the file of the case.

Such memorandum of proceedings shall contain particulars as to the case reference number, the name of the Court, the names of the parties, the place, the date and time of the proceedings, a brief statement of the matter dealt with and

the signatures of the judges of the Administrative Court. In the case where any proceedings are conducted in the presence of any of the parties or a witness, such party or witness shall also affix his or her signature in the memorandum of proceedings.

Clause 12. If a party, a witness or any person affixes a finger print, a cross or other mark in lieu of the affixing of a signature in the memorandum of proceedings, a record or any document in order to acknowledge such memorandum or record or in order to attest the reading or service of the document, it shall, if duly attested by the signatures of two witnesses, be deemed as equivalent to the affixing of a signature itself. But, the affixing which is done in the presence of the Court needs no attestation by signatures of two witnesses.

If a party, witness or person who has to affix a signature in the memorandum, record or document is unable or refuse to do so, the Court shall write down the reason for the absence of such signature.

Clause 13. The filing of a document or evidence with the Court may be made by handing it, by the party in person or the party's designated representative, to the Court or the competent official of the Court, or delivering it by registered post. In the case where it is delivered by registered post, the date such document or evidence is handed to a postal officer shall be deemed as the date of its filing with the Court.

The authorisation of another person to file a document or evidence shall be made in writing bearing signatures of the person making the authorisation, the authorised person and the witness.

Clause 14. In the case where the Court or the competent official of the Court has to notify any information to or serve any document on any party or the person concerned, if such person or his or her designated representative has not been notified of such information or has not received such document from the Court or the competent official of the Court, such information shall be notified in writing or such document shall be served by registered post requiring acknowledgement of receipt thereof, unless the Court orders it to be notified or served by other means.

In the case where the party or the person concerned files an application with the Court for its order that information be notified or a document be served by other means, the party or the person filing the application shall bear the costs incurred by the notification of the information or the service of the document by such means.

Clause 15. In the case of the notification of information in writing or the service of a document by registered post requiring acknowledgement of receipt thereof, the date specified in the receipt slip shall be deemed as the date of receipt of the notification. If no such date appears in the receipt slip, the date on which the period of seven days expires as from the date of service shall be deemed as the date of receipt of the notification unless it is proved that the receipt has occurred before or after such date or has not occurred.

The Court shall, in notifying the information or serving a document by other means as ordered by it, also specify the date on which the addressee is deemed to have received the notification.

Clause 16. In the case of the notification of information in writing or the service of a document by hand-delivery by a competent official of the Court or other person, if the addressee refuses to accept it or if the addressee is not met at the time of the service, such writing or document shall be left or posted at a conspicuous place on the spot in the presence of a police officer, other Government official, official of a local government organisation, *Kamnan, Tambon* Medical Official, *Kamnan* Inspector, *Poo Yai Ban* or Assistant *Poo Yai Ban,* and it shall be deemed that the addressee has been duly notified on the date of the leaving or the posting of such writing or document.

In the case where the addressee is not met, the writing or document may be served on other person who has become *sui juris* and resides or works at that place, and it shall be deemed that the addressee has been duly notified on the date of the service of that writing or document on such person.

The service, leaving or posting of the writing or document under paragraph one and paragraph two shall be conducted in the daytime between sunrise and sunset and the competent official of the Court or the person performing the service shall submit to the Court, for inclusion in the file of the case, a receipt slip signed by the addressee or a report on the service of the writing or document signed by the competent official of the Court or the person performing the service, as the case may be.

The receipt slip or report under paragraph three shall specify the method of the service and the time, date, month and year of the service of the writing or document, as well as the name of the competent official of the Court or the person performing the service. Such receipt slip or report may be made by recording a statement on the original of the writing or the document being submitted to the Court.

Clause 17. A document or evidence submitted to the Court by a party or obtained by the Court shall be open to a party's inspection, knowledge, making a copy or requesting for a certified copy, and the Court may furnish a copy thereof to a party in accordance with this Rule, unless it is protected by law from disclosure or the Court is of the opinion that the compelling necessity warrants its non-disclosure for the purpose of preventing loss to the administration of State affairs.

In the case where a document or evidence is subject to a particular degree of official confidentiality or contains improper information or contains information which may amount to an insult or defamation against any person, the Court may, at its discretion, refuse a party's opportunity to inspect, know, copy or request for a certified copy of it or may refrain from furnishing a copy thereof to a party, without prejudice to the Court's power to order the preparation of a summary and allow a party's opportunity to inspect, know or copy the summary or request for a certified copy thereof or furnish the summary to a party.

Clause 18. The witness, only in respect of his or her testimony in the case, or the third person who is interested in the matter may file an application with the Court for permission to inspect all or certain documents contained in the case file or to copy them or have a certified copy thereof, provided that no such permission shall be granted to:

(1) a third person, in a case tried *in camera;*

(2) a witness or a third person, in a case in which the Court prohibits the inspection or copying of all or certain documents contained in the case file, for the purpose of keeping public order or public interest;

(3) a witness or a third person, in the case where a particular law affords protection from disclosure or in the case where the Court is of the opinion that the compelling necessity warrants its non-disclosure for the purpose of preventing loss to the administration of State affairs.

Clause 19. A party, witness and a third person may not inspect or take copies of a document which the competent official of the Court, the administrative court official, the judge in charge of the case, the judge who makes the conclusion or the Court has prepared for internal use, and may not request for a certified copy thereof.

Clause 20. The inspection or the taking of copies of a document in a case file shall be carried out by the applicant under Clause 17 or Clause 18 or the person duly authorised by the applicant, in accordance with the rules, procedures and conditions prescribed by the Chief Justice of the Administrative Courts of First Instance or the President of the Supreme Administrative Court, as the case may be, for the convenience of the Court or the safety of such document.

No copy of a judgment or order shall be taken before such judgment or order has been pronounced and registered in the judgment-list.

The certification of a copy of a document shall be made by the competent official of the Court as designated by the Chief Justice of the Administrative Courts of First Instance or the President of the Supreme Administrative Court, as the case may be.

Clause 21. If the file of a case, document of the party, evidence, memorandum of the proceedings, judgment, order or any other document kept in the file of a case which is pending trial or pending execution is wholly or partly lost or damaged, with the result that the trial and adjudication, the issuance of an order or the execution of the case is thereby obstructed, the Court shall, when it thinks fit or upon an application by the party concerned, issue an order demanding the party or person holding the document to furnish to the Court a certified copy of such document. If the whole or any part of such copy is not forthcoming, the Court may order a retrial of the case or issue such other order as it thinks fit in the interest of justice.

Clause 22. The Court may, in order to enable expedient, speedy and fair proceedings, order that communications amongst the Courts be carried out by facsimile, an electronic means or other means of information technology in lieu of or in supplement to the communication by post, having regard to the necessity, urgency and suitability to the content of the matter to be communicated as well as the quantity and nature of the documents or other relevant objects.

The Court may, for the convenience of a party, witness or the person concerned, order that the notification of information or the service of a document as between the Court and the party, witness or person concerned be carried out by a means under paragraph one, provided that the Court shall also specify the date on which the notification of the information or the document is deemed to have been received.

Clause 23. The Court, if it thinks fit, may order that the file of a case, documents of the party, evidence, memorandum of the proceedings, judgment, order or any other documents kept in the file of a case, whether the original or the duplication, be retained or presented in the form of electronic information.

Clause 24. The Court shall have the power to collect fees for expenses incurred in the notification of information, the service of a document, the taking of copies or the certification of documents under this Rule, in accordance with the rules and at the rates prescribed by the President of the Supreme Administrative Court.

PART II

Administrative Court Procedure in the Administrative Court of First Instance

CHAPTER I

Submission and Examination of a Plaint

Clause 25. The Plaintiff shall be the person who has the right to file an administrative case with an Administrative Court as provided in the Constitution of the Kingdom of Thailand and in section 42.

Clause 26. An incompetent person may file an administrative case only upon compliance with the provisions of the Civil and Commercial Code governing capacity.

In the case where it is required by the law that permission or consent be first obtained, the plaint shall also be accompanied by a letter of permission or a letter of consent.

Clause 27. In the case where a minor who is not below fifteen years of age wishes to file an administrative case on his or her own motion, the Court may, if it thinks fit, permit the minor to file an administrative case on his or her own motion. In such a case, the competent official of the Court shall notify it to that minor's legal representative and the Court may issue an order instructing such legal

representative or other person concerned to give statements of fact to the Court for supplementing its consideration.

Clause 28. The referral by an Ombudsman of a matter, together with the opinions thereon, to the Court in the case where the Ombudsman is of the opinion that any by-law or act of an administrative agency or State official is unlawful as provided in section 43 shall be in the form of a plaint containing such particulars as provided in section 45.

In proceeding under paragraph one, the Ombudsman may authorise an official of the Office of Ombudsmen to file an administrative case and carry out administrative proceedings on his or her behalf.

Clause 29. An administrative case shall be filed with the Court having jurisdiction as provided in section 47.

A plaint which may be submitted to two or more Courts whether on the ground of the domiciles of the plaintiff, the places where the cause of action has arisen or the plurality of claims, may, if the cause of action is connected, be submitted by the plaintiff to any of such Courts.

An administrative case the cause of action of which has not arisen within the Kingdom shall, if the plaintiff is of Thai nationality and is not domiciled within the Kingdom, be filed with the Central Administrative Court.

Clause 30. A case shall be filed with an Administrative Court within the period of time and in accordance with the rules provided in section 49, section 51 and section 52.

In the case where a plaint is submitted at the expiration of the period of time fixed for the submission thereof, the Court shall issue an order rejecting it and striking the case out of the case-list, except that if the Court is of the opinion that the case is of public benefit or there occurs other necessary cause, the Court may, either at its own initiative or upon an application by the party accept it for trial. The order accepting the plaint for trial shall be final.

Clause 31. In the case where an administrative case is filed with other Court which is not an Administrative Court, if that Court refuses to accept the plaint for trial on the ground that it does not have jurisdiction for trial or the plaintiff withdraws the plaint from that Court in order to file the case anew with an Administrative Court, it shall be deemed that the period of time for filing the case is suspended as from the date of the submission of the plaint to the date on which the case in that other Court becomes final.

Clause 32. A plaint must be in writing with particulars as provided in section 45 and shall also be accompanied by relevant evidence. In the case where it cannot be accompanied by the relevant evidence by reason that the evidence is under the possession of an administrative agency, State official or other person or by any other reason, the reason for inability to have the evidence so accompanied shall also be specified therein.

In the case where the defendant is not an administrative agency or State official, the name and address of the defendant shall also be specified therein.

Clause 33. The plaintiff shall prepare certified copies of the plaint and certified copies of evidence in the number equivalent to that of the defendants and submit them together with the plaint.

In the case where the plaintiff fails to prepare the copies of the plaint and the copies of evidence in a correct manner or in the case where there occurs an increase in the number of the defendants, the Court has the power to notify the defendant to prepare additional copies within the specified time, If the defendant fails to take action within the specified time, the Court may issue an order refusing to accept the case for trial and striking the case out of the case-list.

Clause 34. The plaint requesting the Court for issuing an order demanding the payment of money or the delivery of a property in connection with the circumstance under section 9 paragraph one (3) or (4) shall be subject to the payment by the plaintiff of the Court's fee in accordance with the amount in dispute. Such payment shall be made in cash or by cheque having an aval by a bank, and the competent official of the Court shall issue a receipt slip therefor.

In the case, under paragraph one, where several plaintiffs jointly submit a single plaint, each of the plaintiffs shall, if the exact amount in dispute of an individual plaintiff can be ascertained, be liable to pay the Court's fee in proportion to his or her own amount in dispute.

In the computation of the amount in dispute, the amount of less than one hundred Baht shall be reckoned as one hundred Baht. A fraction of one hundred Baht, if not less than fifty Baht, shall be reckoned as one hundred Baht and, if less than fifty Baht, shall be disregarded.

If, after the Court's fee has been paid, the amount in dispute increases, be it by reason of the submission of a supplementary plaint or otherwise, the Court shall issue an order instructing the plaintiff to pay the additional Court's fee within the specified period of time. If the plaintiff fails to comply with the order of the Court within the specified period of time, the Court shall issue an order refusing to accept the plaint for trial.

Clause 35. The competent official of the Court shall register the plaint submitted to the Court in the case-list, issue the plaintiff with a receipt thereof and conduct an examination of the plaint. The plaint which, in the opinion of the competent official of the Court, is complete and contains full particulars shall be submitted to the Chief Justice of the Administrative Courts of the First Instance for further proceeding. If the competent official of the Court is of the opinion that the plaint is, by any reason, incomplete or the plaintiff has failed to make correct payment of the Court's fee, the competent official of the Court shall advise the plaintiff to make correction or make correct payment of the Court's fee within the specified period of time. If the competent official of the Court is of the opinion that the incompleteness is incapable of correction or the case does not fall within the jurisdiction of the Administrative Court or the plaintiff has failed to correct the plaint or to pay the Court's fee correctly within the period of time so specified, it shall be recorded and the plaint shall then be submitted to the Chief Justice of the Administrative Courts of the First Instance for further proceedings.

Clause 36. As from the time the plaint is submitted to the Court, the case is pending trial and, in consequence thereof,

(1) the plaintiff shall not submit the same plaint to the same Court or other Court; and

(2) if there is any change in the circumstances relevant to the filing of the case with the Court having jurisdiction over it, such as a change of jurisdiction of the Court or a change of domicile of the plaintiff, then, such change shall not deprive the Court that has accepted the plaint of its competence to try and adjudicate the case.

Clause 37. Upon receipt of the plaint from the competent official of the Court, the Chief Justice of the Administrative Courts of First Instance shall, without delay, distribute the file of the case to a division for trial and adjudication in accordance with the rules provided in section 56.

The Senior Judge of the division shall appoint a judge in that division as a judge in charge of the case, and the judge in charge of the case shall then examine the plaint. If the judge in charge of the case is of the opinion that the plaint has incompleteness which is capable of correction or the plaintiff has failed to make correct payment of the Court's fee, the judge in charge of the case shall order the plaintiff to make correction or make correct payment of the Court's fee within the specified period of time. If correction or correct payment of the Court's fee is not made within the period of time so specified or the incompleteness is incapable of correction or the case is not within the jurisdiction of the Administrative Court, the judge in charge of the case shall make a

recommendation to the division that the plaint be rejected and the case be struck out of the case-list.

Clause 38. In the case where the Court has issued an order rejecting the whole or any part of the plaint, the Court shall have the power to refund the whole or any part of Court's fee to the plaintiff.

Clause 39. In the case where the division is of the opinion that the case filed with the Administrative Court of First Instance is within the jurisdiction of the Supreme Administrative Court, the case shall be referred to the Chief Justice of the Administrative Courts of First Instance for considering and ordering that the plaint be referred to the President of the Supreme Administrative Court for consideration and further proceedings.

If the President of the Supreme Administrative Court does not agree with the order of the Chief Justice of the Administrative Courts of First Instance, the plaint shall be referred back to the Administrative Court of First Instance, and that Administrative Court of First Instance shall proceed with the trial and adjudication of such case.

If the President of the Supreme Administrative Court agrees with such order and the Supreme Administrative Court has already accepted the plaint for trial, the Chief Justice of the Administrative Courts of First Instance shall issue an order striking the case out of the case-list, and it shall be deemed that the case has been filed with the Supreme Administrative Court as from the date of the submission of the plaint to the Administrative Court of First Instance.

Clause 40. In the case where the division is of the opinion that the case filed with the Administrative Court of First Instance is within the jurisdiction of another Administrative Court of First Instance, the case shall be referred to the Chief Justice of the Administrative Courts of First Instance for issuing an order referring the plaint to that other Administrative Court of First Instance which has jurisdiction for consideration and further proceedings, and when such other Administrative Court of First Instance has accepted such plaint for trial, the Chief Justice of Administrative Courts of First Instance making the referral shall issue an order striking the case out of the case-list and it shall be deemed that the case has been filed with such other Administrative Court of First Instance as from the date of the submission of the plaint to the first Administrative Court of First Instance.

In the case where the Administrative Court of First Instance which accepts the plaint so referred to it is of the opinion that the case is within the jurisdiction of the Administrative Court of First Instance making the referral or of another Administrative Court of First Instance, the Chief Justice of such Administrative Courts of First Instance shall submit the opinion to the President of the Supreme Administrative Court for making the determination on the jurisdiction of the Court.

In the case where the President of the Supreme Administrative Court is of the opinion that such case is not within the jurisdiction of the first Administrative Court of First Instance, the Chief Justice supervising such Administrative Court of First Instance shall issue an order striking the case out of the case-list and the Administrative Court of First Instance which, in the opinion of the President of the Supreme Administrative Court, has jurisdiction over

the case shall register the case in the case-list, and it shall be deemed that the case has been filed with that Administrative Court of First Instance as from the date of the submission of the plaint to the first Administrative Court of First Instance.

Clause 41. In the case where the division is of the opinion that the case filed with the Administrative Court of First Instance has several allegations, if any of the allegations is not within the competence or jurisdiction of that Administrative Court of First Instance, be it by reason that such allegation is within the competence or jurisdiction of another Administrative Court of First Instance, the Supreme Administrative Court or another Court which is not an Administrative Court, then, there shall be issued an order that the allegation which is not within its competence or jurisdiction be rejected and further proceedings be taken only in respect of the allegation which is within its competence or jurisdiction. But, in the case where the division is of the opinion that the allegation so rejected shall affect the trial and adjudication of such Administrative Court of First Instance, the division may issue an order staying the trial and adjudication of the case until a judgment or order has been delivered for the rejected allegation by the Court having the competence or jurisdiction and the case has become final.

In the case where an allegation, in the case filed with the Administrative Court of First Instance, has several connected issues and it appears that a particular issue which needs to be first determined in order that the determination of the main issue of the case can be made is within the competence or jurisdiction of another Administrative Court of First Instance or another Court which is not an Administrative Court, then, the Administrative Court of First Instance accepting the case has the competence to determine such

connected issue which must be first determined in order that the Court may make the determination of the main issue of the case.

In the case where an allegation, in the case filed with the Administrative Court of First Instance, has several connected issues and it appears that a particular issue which needs to be first determined in order that the determination of the main issue of the case can be made is within the competence of the Supreme Administrative Court and the issue which must be first determined is the issue in regard to which the Administrative Court of First Instance is of the opinion that a rule or an administrative order is likely to be unlawful, the Administrative Court of First Instance shall issue an order that such issue be rejected and further proceedings be taken only in respect of the issue which is within its jurisdiction. But, in the case where the division is of the opinion that the issue so rejected shall affect the trial and adjudication of the Administrative Court of First Instance, the division may issue an order staying the trial and adjudication of the case until a judgment or order has been delivered for the rejected issue by the Supreme Administrative Court.

CHAPTER II

Inquiry of Facts

Title 1

Inquiry of Facts from the Plaint, the Answer The Objection to the Answer and the Supplementary Answer

Clause 42. When the judge in charge of the case is of the opinion that a plaint is complete and correct, the judge in charge of the case shall issue an order accepting it and instructing the defendant to prepare an answer. In this instance, a copy of the plaint and copies of evidence shall also be served. In the case where it is considered appropriate, the issues on which the defendant must answer may also be determined or the service may also be made of evidence relevant to or useful for the trial of the Court, except for the case prescribed under Clause 61.

In the case where the evidence supporting the plaint is voluminous or is in the state in which the service of copies thereof on the defendant becomes greatly burdensome to the Court, the plaint shall be served together with a list of evidence which may be inspected or obtained at the Court by the defendant.

Clause 43. The defendant shall submit an answer in a clear manner and with indications of the denial and admittance of the allegations in the plaint, the relief sought in a request attatched to the plaint and the reasons therefor and

shall furnish evidence as determined by the judge in charge of the case. In this connection, there shall be prepared and furnished together with the answer one certified copy, or such number of certified copies as determined by the judge in charge of the case, of the said answer or evidence. This shall be done within thirty days as from the date of receipt of the copy of the plaint or within the period of time specified by the Court.

Clause 44. The defendant may make a counter-claim in the answer. Such counter-claim shall be deemed as a new plaint.

In the case where the counter-claim refers to other matters having no connection with the original plaint, the judge in charge of the case shall issue an order rejecting the counter-claim. Such order shall be final.

Clause 45. In the case where the judge in charge of the case is of the opinion that the answer filed by the defendant is not sufficiently complete or clear, the judge in charge of the case may order the defendant to amend it or prepare and submit a new answer.

Clause 46. In the case where the defendant fails to prepare and submit to the Court an answer as well as evidence within the specified period of time, it shall be deemed that the defendant has admitted the facts as stated in the allegation by the plaintiff, and the Court shall proceed with the trial and adjudication of the case as it deems just.

Clause 47. Upon submission by the defendant of an answer, the Court shall furnish a copy of the answer together with a copy of evidence to the plaintiff for the purpose of the plaintiff's objection to, or admittance of, the answer and the evidence submitted to the Court by the defendant. In this connection, the judge in charge of the case may designate a particular issue on which the plaintiff must give any explanation or furnish any evidence.

If the plaintiff wishes to raise an objection to the answer, an objection to the answer shall be prepared and submitted to the Court together with one copy, or such number of copies as determined by the Court, of the objection, within thirty days as from the date of receipt of the copy of the answer or within the period of time specified by the Court.

If the plaintiff does not wish to prepare an objection to the answer but wishes the Court to proceed with the trial and adjudication of the case, the plaintiff shall notify it in writing to the Court within the period of time under paragraph two.

If the plaintiff fails to take action under paragraph two or paragraph three, the Court may issue an order striking the case out of the case-list.

Clause 48. The objection to the answer submitted by the plaintiff may be made only in respect of the issues as invoked in the plaint or the answer or as determined by the Court.

If the objection to the answer prepared by the plaintiff has new issues or requests for relief other than those set out in the plaint or the answer or as determined by the Court, the Court shall issue an order refusing to accept such new issues or requests.

Clause 49. The Court shall serve on the defendant a copy of the plaintiff's objection to the answer, for the purpose of submitting to the Court a supplementary answer together with one copy, or such number of copies as determined by the Court, of the supplementary answer, within fifteen days as from the date of receipt of the copy of the objection or within the period of time specified by the Court. Upon receipt by the Court of the supplementary answer from the defendant, a copy of such supplementary answer shall be served on the plaintiff.

Upon the lapse of the period of time under paragraph one or upon the submission of the supplementary answer by the defendant, if the judge in charge of the case is of the opinion that the facts of the case are sufficient for the Court's trial and adjudication or issuance of an order disposing of the case, the judge in charge of the case shall have the power to prepare a memorandum under Clause 60 and submit it to the division for considering and carrying out further proceedings.

Clause 49/1[3]**.** The interested person has the right to submit a motion lodging an appeal against an order of the Administrative Court of First Instance refusing to accept a plaint for trial, striking the case from the case-list without any adjudication of the case or imposing punishment on a contempt of Court under Section 65 or any other order against which the appeal is not prohibited to be lodged during the trial under Clause 100 paragraph two to the Supreme Administrative Court within the period of thirty days as from

[3] As added by section 3 of the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure (No.2), B.E. 2544 (2001).

the date such person has been notified of such Administrative Court of First Instance's order.

The motion under paragraph one shall be submitted to the Administrative Court of First Instance having issued such order and the competent official of the Office of the Administrative Court shall, without delay, forward it to the Supreme Administrative Court together with the order of the Administrative Court of First Instance and documents or copies of documents concerned.

The President of the Supreme Administrative Court shall forward the motion to the Supreme Administration Court's division for consideration and issuance of order conforming the order of the Administrative Court of First Instance or any other order and forward such order to the Administrative Court of First Instance for announcement.

Upon the announcement of the order of the Supreme Administrative Court, the Administrative Court of First Instance shall give the parties a reasonable period advance notice of the announcement date. If, on the announcement date, none of the parties is present before the Court, the announcement shall be cancelled, such circumstance shall be reported and the Administrative Court of First Instance shall notify all, or any of, the parties who have been absent on the announcement date of such order via an answering registered mail.

In the case the Supreme Administrative Court has issued any other order which is different from the order of the Administrative Court of First Instance, the Administrative Court of First Instance shall further proceed in accordance with the procedure prescribed in the law or this Rule.

Title 2

Inquiry of Facts by the Court

Clause 50. In the trial and adjudication, the Court has the power to inquire into facts as is appropriate. For this purpose, the Court may inquire into facts by hearing oral evidence, documentary evidence or experts or evidence other than that adduced by the parties as apparent from the plaint, the answer, the objection to the answer or the supplementary answer. In conducting such inquiry of facts, the Court may pursue the proceedings as prescribed in this Part or as it thinks fit.

In conducting the inquiry of facts by the Court, if a statement must be given by the party, witness or any person, an examination shall be conducted by the Court.

Clause 51. The Court has the power to issue an order summoning the party or the person concerned to give statements as it thinks fit.

The order of the Court under paragraph one may specify issues of fact in regard to which an inquiry shall be conducted.

The Court shall give the parties concerned an advance notice of the schedule of an inquiry in order to afford them an opportunity to present an objection or give explanations of facts. But, if the fact to be inquired into is that which has no effect on the trial and adjudication of the case or has been to the knowledge of the parties concerned, the Court may omit

the giving of a notice of the schedule of the inquiry to such parties.

The witness summoned by the Court to give a statement may present any evidence in support of the witness's statements provided that such evidence relates to the issue in respect of which the Court orders the inquiry.

Clause 52. In the case where the Court deems it appropriate to hear a statement of any person and such case requires the service of an interpreter, the Court shall provide an interpreter and, in this instance, the interpreter shall be entitled to the same allowance as that payable for an expert's presence for giving statements.

Clause 53. Prior to giving a statement to the Court, the party or the witness must swear an oath according to his or her religious belief or national custom or make a solemn affirmation that true statements will be given.

The party or the witness shall indicate his or her name, surname, address, age and occupation, and in the case where the witness is related to any of the parties, an indication shall also be made as to how they are related.

At the time when a witness is giving a statement, a party may be present or absent but other witnesses shall not be present at that place, unless the Court orders otherwise or it is the case under paragraph four.

The witness who has already given statements may be summoned to give statements again on the same day or on a different day and may be summoned to give statements at the same time as other witnesses on the same matter.

When the party or the witness has completed the statements, the Court shall read out a memorandum of such

statements to the party or witness and shall have it signed by such person. In the case where the party or the witness is unable or refuse to enter a signature, the Court shall note down the reason for such absence of a signature.

Clause 54. The Court, if it thinks fit or upon an application by a party, has the power to issue an order summoning a party, an administrative agency, a State official or the person concerned to furnish any document or evidence to the Court.

Clause 55. The Court, if it thinks fit or upon an application by a party, may issue an order appointing an expert for studying, examining or analysing any matter in connection with the case, provided that it is not the determination of a question of law, and then preparing a report or giving statements to the Court.

A copy of a report or a memorandum of statements given by an expert shall be furnished to the party concerned for the purpose of preparing comments for submission to the Court within the period of time specified by the Court.

The Court may issue an order instructing the expert to give oral statements supplementing the expert's report.

The Court shall give the parties concerned an advance notice of the time scheduled for the giving of statements by experts in order to afford the parties an opportunity to present an objection or give explanations of facts.

Clause 56. The Court or the person entrusted by the Court has the power to inspect the place, person or any other object for supplementing the consideration.

The Court shall give the parties an advance notice of the date, time and place of the inspection in order to afford the parties an opportunity to present an objection or give factual explanations. In this instance, the parties shall be at liberty to attend such inspection.

The Court or the person entrusted by the Court shall note down the inspection and the giving of statements by persons or witnesses in the inspection and include the note in the file of the case.

Clause 57. If any person apprehends that evidence on which he or she may have to rely in the future will be lost or become difficult to be produced, or if any party to the case apprehends that evidence on which he or she intends to rely may be lost before an inquiry takes place or become difficult to be adduced in an inquiry at a later stage, such person or such party may apply to the Court for an order directing that an inquiry of such evidence be conducted at once.

Upon receipt of such application, the Court shall issue an order summoning the applicant and the other party or the third person concerned to appear before the Court, and shall, after having heard such persons, make the determination of the application as it thinks fit. If the Court issues an order approving it, an inquiry shall be conducted of the evidence in accordance with this Rule, and the memorandum and other documents connected therewith shall be kept by the Court.

In the case where the other party or the third person concerned does not have a domicile in the Kingdom or has not entered an appearance in the case, the Court shall, upon

receipt of the application under paragraph one, make the determination of the application as it thinks fit. If the Court issues an order approving it, an inquiry of evidence shall be conducted *ex parte.*

Clause 58. The Court may, if it thinks fit in the interest of the trial of the case, appoint another Administrative Court of First Instance to render assistance in the inquiry of facts in any particular issue and request the Administrative Court so appointed to furnish the report on the result of the inquiry of facts, the memorandum of the giving of statements by witnesses and documents or evidence to the Court making the appointment.

Clause 59. In conducting an inquiry of facts in accordance with this Part, the Court may issue an order that the audio, visual or audio-visual recording be made throughout the currency of, or in any part of, the proceedings in order that it can be used as evidence supplementing the file of the case.

CHAPTER III

Summary of the Case File

Clause 60. When the judge in charge of the case has considered the facts from the plaint, the explanations of the parties and other facts obtained by the Court under Chapter 2 and is of the opinion that the facts are sufficient for the Court

to deliver a judgment or an order disposing of the case, the judge in charge of the case shall prepare the judge's memorandum and submit it, together with the file of the case, to the division for further consideration and proceedings.

The memorandum of the judge in charge of the case consists of:

(1) the summary of facts obtained from the plaint and other documents of the parties as well as evidence appearing in the file of the case and the summary of the relief sought by the plaintiff;

(2) the issues on which decisions must be given, consisting of the issue concerning the jurisdiction of the Court, the issue concerning conditions for filing an administrative case and the issues establishing the essence of the case, respectively;

(3) the opinions of the judge in charge of the case with respect to the issues on which decisions must be given and the relief sought by the plaintiff.

The summary of facts prepared by the judge in charge of the case under (1) shall be furnished to the parties, as provided in section 59 paragraph two.

Clause 61. If, when the Court has issued an order accepting the plaint under Clause 42, the judge in charge of the case is of the opinion that such case can be adjudicated on the basis of the facts in the plaint without the need for any subsequent fact inquiry, or is of the opinion that the facts subsequently obtained from the explanations of the parties and/or from the inquiry of facts by the Court at any time are sufficient for delivering a judgment or issuing an order disposing of the case without the need to complete every

process of the fact inquiry as prescribed in Clause 47 to Clause 49, then, the judge in charge of the case shall have the power to prepare a memorandum of the judge in charge of the case for submission to the division for consideration and further proceeding.

Clause 62. If, upon receipt of the file of the case from the judge in charge of the case, the division is of the opinion that there exists no circumstance under which an inquiry of additional facts is necessary, the senior judge of the division shall issue and order designating a particular day as the ending date of the fact inquiry in such case.

The Court shall, not less than ten days in advance, give the parties a notice of the date of fact inquiry termination.

All supplementary plaints, answers, objections to answers, supplementary answers as well as other evidence submitted to the Court subsequent to the date of fact inquiry termination shall not be accepted by the Court as an integral part of the file of the case and copies thereof need not be furnished to the party concerned.

Clause 63. When the date of fact inquiry termination has been designated, the senior judge of the division shall refer the file of the case to the Chief Justice of Administrative Courts of First Instance for consideration. If the Chief Justice of Administrative Courts of First Instance dose not otherwise direct, the file of such case shall be referred to the judge who makes the conclusion for the purpose of preparing a statement without delay.

The statement shall be in writing except that where the case is one of urgency or one without complicated questions of fact or questions of law or where the statement involves provisional remedial measures before delivery of judgment under Clause 72 or Clause 76, the judge who makes the conclusion may, after consultation with the Chief Justice of Administrative Courts of First Instance and the senior judge of the division, present an oral statement in lieu of a statement in writing. In making the oral statement, the judge who makes the conclusion shall, whether before or after the presentation of the oral statement, prepare, for inclusion in the file of the case, a written memorandum of such statement wherein there shall also be stated its main points.

When the judge who makes the conclusion has prepared the statement in writing or is able to present the oral statement, the division shall, after consultation with the Chief Justice of the Administrative Courts of First Instance, fix the date of the first hearing.

CHAPTER IV

Hearing of Evidence

Clause 64. A party who alleges any fact in support of his or her allegation has the duty to present evidence to the Court for preliminary proof of such fact unless it is the fact which is generally known or incontestable or, in the opinion of the Court, is already admitted by the opposing party or such evidence is under the possession of an administrative agency, State official or other persons.

If there is a presumption in law favourable to any party, such party shall be required to prove only that he or she has already completely fulfilled the conditions predetermined for the benefits to be derived from such presumption.

Clause 65. The Court has a discretion to hear evidence obtained in pursuit of the proceedings, without limitation to that presented by the parties, provided that the interested party must be afforded an opportunity for inspection or knowledge thereof or to produce evidence in affirmation or rebuttal thereof.

Clause 66. Original documents only shall be admissible into evidence. If an original cannot be obtained, a certified copy or an oral evidence possessing knowledge of the information thereof may also be admissible in evidence.

A copy, certified by an official, of an official document may be produced as evidence unless the Court orders otherwise.

Clause 67. The Court may admit as evidence in the case computer-recorded or computer-processed data, provided that the recording and processing must properly be carried out and accompanied by a certification by the person concerned or the person carrying it out.

The provisions of paragraph one shall apply *mutatis mutandis* to the admissibility into evidence of data recorded or obtained by any other type of electronic means or information technology.

Clause 68. The Court may take hearsay admissible in evidence in collaboration with other evidence when the Court is of the opinion that:

(1) such hearsay is reliable, in the light of its nature, description, origin and surrounding facts; or

(2) there arises a necessity on account of inability to have the presence, for the purpose of testimony, of the person who saw, heard or knew the information of the matter for which testimony is to be given and it is reasonable, in the interest of justice, to take such hearsay as admissible in evidence.

CHAPTER V

Provisional Remedial Measures before Delivery of Judgment

Part 1

Suspension of Execution of By-Laws or Administrative Orders

Clause 69. The filing of a case to an Administrative Court for the purpose of the revocation of a by-law or an administrative order does not constitute a ground for suspending the execution of such by-law or administrative order, unless the Court orders otherwise.

The plaintiff may make a request, in the plaint or by submitting an application at any time before the Court delivers a judgment or issues an order disposing of the case,

that the Court issue an order suspending the execution of a by-law or an administrative order, with the consequence that the execution thereof shall be provisionally deferred or terminated.

The application by the plaintiff under paragraph two shall clearly indicate which by-law or administrative order the execution of which is intended to be suspended and how the continued applicability of such by-law or administrative order will subsequently result in injury which is difficult to be remedied.

Clause 70. In the case where the Court is of the opinion that an application for the suspension of the execution of any by-law or administrative order is submitted without sufficient allegations or facts or without reasons or essence justifying its consideration, or that it is apparently unreasonable to issue an order suspending the execution of the by-law or administrative order, or that it is the circumstance under which the Court shall nonetheless have refused to accept the plaint for trial and shall have issued an order striking the case out of the case-list, then, Court shall have the power to order a rejection of the application for the suspension of the execution of such by-law or administrative order. Such order shall be final.

Clause 71. Upon receipt of the application under Clause 69 and provided that it is the case in which the Court has not issued an order under Clause 70, the Court shall furnish a copy of the application to the party for preparing explanations and presenting evidence without delay and shall arrange for an inquiry in order that an order can be issued with respect to such application without delay accordingly.

In the case where there is no application under Clause 69 but the Court is of the opinion that it is reasonable to suspend the execution of a by-law or an administrative order which gives rise to the filing of the case, the Court shall, with or without a prior inquiry, have the power to order the suspension of the execution of such by-law or administrative order.

Clause 72. An order in connection with an application for the suspension of the execution of a by-law or an administrative order shall be issued by the division after the judge in charge of the case has presented his or her statement.

The statement under this Clause may be made orally.

In the case where the Court is of the opinion that a by-law or an administrative order which gives rise to the filing of the case is possibly unlawful, and the continued applicability of such by-law or administrative order will subsequently result in grave injury which is difficult to be remedied and the suspension of the execution thereof does not constitute any barrier to the administration of the State affairs or to public services, the Court has the power to order the suspension of the execution of the by-law or administrative order as it thinks fit.

The Court shall forthwith notify the order suspending the execution of the by-law or administrative order to the parties and the person who issued such by-law or order, and the order of the Court shall come into effect when the person who issued such by-law or order has already been notified thereof.

Clause 73.[4] The interested person has the right to appeal against an order of the suspension of the execution of a by-law or an administrative order to the Supreme Administrative Court within thirty days as from the date such person has been notified or known of the Court's order. In this instance, the appellant may, before a decision on the appeal is made, submit an application to the Supreme Administrative Court for an order provisionally withholding the Administrative Court of First Instance's order suspending the execution of the by-law or administrative order.

An order dismissing the application for the suspension of the execution of a by-law or an administrative order shall be final.

The appeal against the order under paragraph one shall be made by the submission of motion lodging an appeal to the Administrative Court of First Instance having issued such order and the competent official of the Office of the Administrative Court shall, without delay, forward it to the Supreme Administrative Court together with the order of the Administrative Court of First Instance, the application for the suspension of the execution of the by-law or an administrative order, the file of inquiry of the application, statement or report on the statement of the judge who makes the conclusion, and documents or copies of documents concerned.

The President of the Supreme Administrative Court shall forward the motion to the Supreme Administration Court's division for consideration and the provisions of Clause 71 paragraph one and Clause 72 shall apply *mutatis*

[4] As amended by section 4 of the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure (No.2), B.E. 2544 (2001).

mutandis. The division may not provide for an inquiry and issue an order confirming the order of the Administrative Court of First Instance or any other order and forward it to be announced by the Administrative Court of First Instance.

Upon the announcement of the order of the Supreme Administrative Court, the Administrative Court of First Instance shall give the parties a reasonable period advance notice of the announcement date. If, on the announcement date, none of the parties is present before the Court, the announcement shall be cancelled, such circumstance shall be reported and the Administrative Court of First Instance shall notify all, or any of, the parties who have been absent on the announcement date of such order via an answering registered mail.

Clause 74. In the case where the Court's judgment or order disposing of the case makes no mention of the order issued by the Court during the trial for suspending the execution of a by-law or an administrative order, the order so issued shall remain in force until, in the case where no appeal is made, the time-limit for an appeal has elapsed or, in the case where an appeal is made, until the Court has given a final order rejecting the appeal. If the Court has given an order accepting the appeal, such order suspending the execution shall remain in force until the Supreme Administrative Court shall order otherwise.

Part 2

Provisional Remedy

Clause 75. In any case other than that specified in Clause 69, the plaintiff may, at any time before the delivery of a judgment or an order disposing of the case, submit an application to the Court for an order prescribing any provisional remedial measure or means before the delivery of judgment, or the party may submit an application to the Court for an order prescribing a means for the protection of the applicant's benefits during the trial or for the execution of a judgment.

Clause 76.[5] An order of the Court prescribing any provisional remedial measure or means before the delivery of judgment or a means for the protection of the applicant's benefits during the trial or for the execution of a judgment shall be made by the division but need not be made upon a statement of the judge who makes the conclusion of the case unless the division deems it appropriate to require the statement, in which case such statement may be made orally.

An order refusing to accept or dismissing the application of the plaintiff or the party shall be final.

The interested person has the right to appeal to the Supreme Administrative Court against an order prescribing

[5] As amended by section 5 of the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure (No.2), B.E. 2544 (2001).

any provisional remedial measure or means before the delivery of judgment or a means for the protection of the applicant's benefits during the trial or for the execution of a judgment, within thirty days as from the date such person has been notified or known of the Court's order.

The appeal against the order under paragraph one shall be made by the submission of a motion lodging an appeal to the Administrative Court of First Instance having issued such order and the competent official of the Office of the Administrative Court shall, without delay, forward it to the Supreme Administrative Court together with the order of the Administrative Court of First Instance, the application for the provisional remedial measure or means before the delivery of judgment or means for the protection of the applicant's benefits during the trial or for the execution of a judgment, the file of inquiry of the application, the report on the statement of the judge who makes the conclusion, and documents or copies of documents concerned.

The President of the Supreme Administrative Court shall forward the motion to the Supreme Administration Court's division for consideration. The provisions of Clause 71 paragraph one and paragraph one of this Clause shall apply *mutatis mutandis.* The division may not provide for an inquiry and issue an order confirming the order of the Administrative Court of First Instance or any other order and forward it to be announced by the Administrative Court of First Instance.

Upon the announcement of the order of the Supreme Administrative Court, the Administrative Court of First Instance shall give the parties a reasonable period advance notice of the announcement date. If, on the announcement date, none of the parties is present before the Court, the announcement shall be cancelled, such circumstance shall be

reported and the Administrative Court of First Instance shall notify all, or any of, the parties who have been absent on the announcement date of such order via an answering registered mail.

Clause 77. The provisions of Title 1 of Division 4 of the Civil Procedure Code shall apply *mutatis mutandis* to the rules with regard to the consideration of an application for an order, conditions to be observed by the Court in issuing the order, and the consequences of the order prescribing any provisional remedial measure or means before the delivery of judgment or a means for the protection of the applicant's benefits during the trial or for the execution of a judgment, in so far as the nature of the matter so allows and provided that it is not inconsistent with this Rule and general principles of law on administrative court procedure.

CHAPTER VI

Interpleading, Merger of Cases, Separation of Cases, Transfer of Cases and Withdrawal of Plaints

Clause 78. A third person who is not a party to the case may become a party by way of interpleading and, in this instance, the provisions of section 57 and section 58 of the Civil Procedure Code shall apply *mutatis mutandis.*

Clause 79. If two or more cases have the same or closely connected allegations or has the same or joint parties, if the judge in charge of the case deems it advantageous to the

trial of the case, the judge in charge of the case may submit an opinion to the division for further submission to the Chief Justice of the Administrative Courts of First Instance for an order that the cases be merged for trial and adjudication in combination.

In the case where such cases are within the jurisdiction of different Administrative Courts of First Instance, the cases shall be transferred to the Court designated by agreement of Chiefs Justice of the Administrative Courts of First Instance. Failing such agreement, the determination shall be made by the President of the Supreme Administrative Court. Upon such transfer of cases, the Chief Justice of the Administrative Courts of First Instance supervising the Court from which the case has been transferred shall issue an order striking the case out of the case-list.

Clause 80. In the case where a case has several allegations and a particular allegation has no connection with other allegations, if the judge in charge of the case deems it advantageous to the trial of the case, the judge in charge of the case may submit an opinion to the division for further submission to the Chief Justice of the Administrative Courts of First Instance for an order that a separation be made of such case into several cases and each of these cases be tried and adjudicated separately.

In the case where a case has several plaintiffs or defendants, if the judge in charge of the case deems it advantageous to the trial of the case, the judge in charge of the case may submit an opinion to the division for further submission to the Chief Justice of the Administrative Courts of First Instance for an order that a separation shall be made of such case into several cases and each of these cases be tried and adjudicated separately.

Clause 81. If, before the delivery by the Court of a judgment or an order disposing of the case, the defendant considers that a further trial in that Court will cause inconvenience or injustice to the defendant, the defendant may submit to the Court to which a plaint has been submitted by the plaintiff an application, with reasons therefor being indicated therein, for a transfer of the case to another Administrative Court having jurisdiction. When the Chief Justice of the Administrative Courts of First Instance thinks fit, the Chief Justice may issue an order approving the application.

The Chief Justice of the Administrative Courts of First Instance shall not issue an order granting an approval under paragraph one except upon consent of the Chief Justice of the Administrative Courts of First Instance supervising the Court to which the case is intended to be transferred. If the Chief Justice of the Administrative Courts of First Instance supervising the Court to which the case is intended to be transferred does not give consent thereto, the Chief Justice of the Administrative Courts of First Instance supervising the Court from which the case is intended to be transferred shall refer the matter to the President of the Supreme Administrative Court for making the determination.

Upon the transfer of the case under paragraph one or paragraph two, the Chief Justice of the Administrative Courts of First Instance supervising the Court from which the case has been transferred shall issue an order striking the case out of the case-list.

Clause 82. The plaintiff may, at any time before the delivery of judgment or an order disposing of the case, withdraw the plaint. The withdrawal of a plaint only in

respect of certain allegations or certain part of an allegation is also permissible.

The withdrawal of a plaint must be in writing bearing a signature of the plaintiff. But, if the withdrawal of a plaint is orally made by the plaintiff in the presence of the Court during the inquiry or the trial of the case, the Court shall record such withdrawal and, in witness whereof, have it signed by the plaintiff.

In the case where there are several plaintiffs, each plaintiff may withdraw his or her plaint. The withdrawal of the plaint by such plaintiff shall have effect only with respect to the plaintiff who makes the withdrawal, except that in the case where the person withdrawing the plaint is the representative of all plaintiffs, the withdrawal of the plaint shall have the effect of withdrawing the entire case *in toto*. In this instance, the Court may, prior to its issuance of an order granting permission to a withdrawal of the plaint, conduct an inquiry in order to be satisfied that the withdrawal by such representative is in accordance with the intention of every plaintiff.

When a withdrawal of a case is made, the Court shall grant permission thereto and issue an order striking the case out of the case-list as well as return to the plaintiff the whole or any part of the Court's fee. But, in the case which is concerned with the protection of public interest or the case in which further trial shall be of value to the public or in which the withdrawal of the plaint results from an inappropriate collusion, the Court may issue an order rejecting the withdrawal. The order rejecting the withdrawal shall be final.

CHAPTER VII

Hearing and Adjudication

Title 1

Hearing

Clause 83. In a trial of a case, the Court shall, with the exception of the case which is struck from the cast-list, cause to take place at least one hearing in order to afford the parties the opportunity to make oral statements before the Court.

The Court shall give the parties not less than seven days' advance notice of the date of the first hearing.

Clause 84. On the date of first hearing, the party who wishes to submit a written statement under section 59 paragraph two shall submit it to the Court before the date of hearing or, at the latest, during the hearing.

The statement under paragraph one shall not refer to the fact which has never been invoked unless it is the fact which constitutes an issue of central importance in the case in respect of which the party submitting it can prove the necessity or special circumstance preventing earlier its submission, provided that the Court shall admit such fact only upon affording the opposing party an opportunity to present evidence in affirmation or rebuttal thereof.

The party has the right to adduce evidence for supplementing the statement submitted under paragraph one and, in this connection, the Court shall grant permission only

insofar as it is concerned with the statement and necessary for the case. Such order shall be final.

On the date of hearing, the party may be absent therefrom, provided that this provision does not preclude the Court's power to issue an order summoning the party, an administrative agency, a state official or a person concerned to give a statement or an opinion in writing or furnish any document or evidence to the Court.

Clause 85. The judge in charge of the case shall, upon the commencement of the first hearing, present a summary of facts and issues of the case and instruct the party to present an oral statement in supplement of the written statement submitted under section 84. For this purpose, the plaintiff shall first present such statement.

An oral statement of the party shall be concise and limited to the issue in question. Facts or issues of law other than those in the written statement shall not be invoked.

In the case where either party has failed to submit a written statement and subsequently enters an appearance before the Court on the date of first hearing, such party may present an oral statement only upon permission by the Court or being ordered by the Court.

Clause 86. In a trial of a case, if any of the parties violates stipulations prescribed by the Court for maintaining order in the Court's precinct and the Court orders such party to leave the Court's precinct, the Court may proceed with the trial in the absence of such party.

Clause 87. In a trial of a case, the Court shall inquire the parties and witnesses and the provisions of clause 52, clause 53 and clause 59 shall apply *mutatis mutandis*.

Title 2

Statement of the Judge Who Makes the Conclusion

Clause 88. On the date of hearing, the judge who makes the conclusion shall, upon completion of the parties' statements and adducing of evidence supplementing the statements, present an oral statement to the division in supplement of the written statement previously presented or present an oral statement as provided under clause 63 paragraph two. In this instance, the person who is not granted permission by the Court may not be present in the courtroom at the time the judge who makes the conclusion is making the statement or presenting an oral statement.

In the case where the judge who makes the conclusion is of the opinion that the parties' statements and adducing of evidence supplementing the statements have led to a change in the facts in the trial of the case and have effects on the written statements previously presented or on the oral statement to be presented, the judge who makes the conclusion may prepare a fresh written statement or present an oral statement to the division for consideration on a later date.

Title 3

Preparation of a Judgment and an Order

Clause 89. The senior judge shall, upon completion of the statement by the judge who makes the conclusion, summon a meeting for delivering a judgment or an order on the same or different day.

Clause 90. A judgment or an order disposing of the case shall, apart from the particulars provided under section 69 paragraph one and an amount of the Court's fees to be returned to the parties, also specify the names of the judge in charge of the case and the judge who makes conclusion.

Clause 91. In the Court's delivery of a judgment or an order disposing of the case in which the Court has issued an order suspending the execution of a rule or an administrative order or an order in connection with provisional relief, the Court shall also specify whether, and to what extent, such order shall continue to be in effect.

Clause 92. In delivering a judgment or an order disposing of the case, the Court may invoke an issue of law concerning public good order and deliver a judgment or an order.

Clause 93. In the case where two or more cases have been jointly tried in the interest of convenience on the trial,

the Court may, in those cases, deliver a judgment or an order for any matter the trial of which is complete and deliver a judgment or an order for other matters subsequently.

Clause 94. In a case of any of the following descriptions, the Chief Justice of the Administrative Courts of First Instance may order the determination of any issue or case by the general assembly of judges of the Administrative Court of First Instance:

(1) a case involving a large number of people or an important public interest;

(2) a case having issues needing the determination with regard to a significant principle of administrative law;

(3) a case likely to have the effect of reversing or varying precedents of the Administrative Courts of First Instance or of the Supreme Administrative Court;

(4) a case the amount of dispute of which is high.

The general assembly of judges of an Administrative Court of First Instance shall consist of every judge of that Administrative Court of First Instance who is present to perform duties and who has not been challenged or has to withdraw by reason of the circumstance providing a ground for a challenge under section 63, provided that the number of the judges shall not be less than one half of that of judges of such Administrative Court of First Instance, and the Chief justice of the Administrative Courts of First Instance shall preside over the general assembly.

The decision of the general assembly shall be by the majority of votes. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as casting vote.

Clause 95. If a judgment or an order disposing of the case contains an insignificant error or mistake, the Court may, either when it appears to the Court itself or upon an application by the party and provided that no appeal is made against such judgment or order, issue an order amending such insignificant error or mistake. But, if an appeal has been lodged, the power to make amendment shall be vested in the Supreme Administrative Court.

The issuance of an order making the amendment under this clause shall not have an effect of reversing or amending the original judgment or order.

When such order has been delivered, no original judgment or order shall be taken copies except the amendment order shall be taken copies and attached thereto.

Clause 96. When the Court has delivered a judgment or an order disposing of a case or any issue of the case, no proceedings shall be carried out in such Court in connection with the case or issue so disposed of, except:

(1) the amendment of an insignificant error or mistake under clause 95;

(2) a re-trial and re-adjudication or an issuance of a new order disposing of the case under section 75;

(3) a re-trial of the case in which the file of the case or document has been lost or damaged under clause 21;

(4) the submission, the acceptance or refusal to accept an appeal under section 73;

(5) the proceedings in connection with provisional relief during the submission of an appeal, where the appeal is

pending the consideration of an Administrative Court of First Instance under clause 104 or clause 106;

(6) the referral by the Supreme Administrative Court of a case back to the Administrative Court of First Instance which has delivered the judgment or an order in that case for the purpose of re-adjudication or delivering a new order, or a re-trial and re-adjudication, or an issuance of a new order under clause 112; or

(7) the execution of a judgment or an order.

Clause 97. In the case of which a judgment or order has become final, no further proceedings may, as between the same parties, be taken in the same issue as that already decided upon.

PART III

Administrative Procedure in the Supreme Administrative Court

Clause 98. The filing of a case under section 11 (1), (2) and (3) shall be made by submitting a plaint to the Supreme Administrative Court, and the administrative court procedure in the Administrative Court of First Instance as provided in Part II shall apply to the cases filed under this clause *mutatis mutandis.*

Clause 99. In the case where the Supreme Administrative Court's division for trial and adjudication is of the opinion that the case filed with the Supreme Administrative Court is within the jurisdiction of an Administrative Court of First Instance, a referral shall be made to the President of the Supreme Administrative Court for considering and ordering that the plaint be referred to the Administrative Court of First Instance within the jurisdiction of which such case falls, and the division in the Supreme Administrative Court shall then issue an order striking the case out of the case-list. In this instance, it shall be deemed that the case has been filed with the Administrative Court of First Instance as from the day the plaint has been submitted to the Supreme Administrative Court.

Clause 100. An appeal against a judgment or an order of an Administrative Court of First Instance which is

not prescribed to be final under the law or this Rule shall be lodged to the Supreme Administrative Court.

An order issued during the trial which is not prescribed by this Rule to be capable of an appeal during the trial shall be appealed against together with an appeal of a judgment or an order disposing of the case.

Clause 101. An appeal shall be in writing and shall, at the minimum, contain of the following:

(1) the names of the appellant and the parties to the appeal;

(2) objections to the judgment or the order of the Administrative Court of First Instance;

(3) the relief sought by the appellant;

(4) a signature of the appellant.

The questions of fact and law intended to be invoked, in lodging an appeal, shall be clearly stated by the appellant in the appeal and shall be those already duly invoked in the Administrative Court of First Instance. But, if any question is that concerned with public good order or that related to public interest, the appellant may invoke such question in an appeal itself or at any time during the currency of the appeal.

Clause 102. An appeal shall be submitted to an Administrative Court of First Instance. The competent official of the Court shall issue the appellant with the document acknowledging receipt thereof and conduct a preliminary examination of the appeal. If the competent official of the Court is of the opinion that the appeal is complete, the appeal shall be submitted to the Chief Justice of the Administrative

Courts of First Instance for further proceedings under clause 104. If the competent official of the Court is of the opinion that such appeal is incomplete by any reason whatsoever or by reason that the appellant has failed to make correct payment of the Court's fee, the competent official of the Court shall advise the appellant to make correction or make correct payment of the Court's fee within the prescribed period of time. If the competent official of the Court is of the opinion that the incompleteness is incapable of correction, or that such appeal is prohibited by law or is submitted in contravention of this Rule, or that the appellant has failed to make correction of the appeal or to make correct payment of the Court's fee within the prescribed period of time, such circumstance shall be recorded and the appeal shall be submitted to the Chief Justice of the Administrative Courts of First Instance for further proceedings.

Clause 103. If the amount in dispute at the appellate stage is identical to that paid to the Administrative Court of First Instance, the appellant shall pay the Court's fee at the appellate stage in the same amount as that paid to the Administrative Court of First Instance. But, if the appellant is partly satisfied with the judgment or order of the Administrative Court of First Instance and, as a consequence, the amount in dispute at the appellate stage becomes lower than that paid to the Administrative Court of First Instance, the appellant shall be liable to pay the Court's fee in accordance with such lower amount in dispute.

Clause 104. Upon receipt of an appeal from the competent official of the Court, the Chief Justice of the

Administrative Courts of First Instance shall refer such appeal to the division for further proceedings.

The senior judge of the division shall appoint a judge in such division as a judge in charge of the case, and the judge in charge of the case shall then examine the appeal. If the judge in charge of the case is of the opinion that the appeal is complete, the appeal shall be proceeded with in accordance with clause 106. If the judge in charge of the case is of the opinion that such appeal has some incompleteness that is capable of correction by the appellant or the appellant has failed to make correct payment of the Court's fee, the judge in charge of the case shall order the appellant to make correction or make correct payment of the Court's fee within the prescribed period of time. If there is failure to make correction or make correct payment of the Court's fee within the prescribed period of time, or the incompleteness is incapable of correction, or the appeal is prohibited by law or is submitted in contravention of this Rule, the judge in charge of the case shall make a recommendation to the division that such appeal be rejected.

Clause 105. The appellant has the right to submit to the Supreme Administrative Court a motion lodging an appeal against the order of the Administrative Court of First Instance refusing to accept an appeal under clause 104 within the period of thirty days as from the date of receipt of the notification of the order of the Administrative Court of First Instance.

The motion under paragraph one shall be submitted to the Administrative Court of First Instance having issued such order and the competent official of the Court shall, without delay, forward it to the Supreme Administrative Court together with the judgment or the order of the Administrative

Court of First Instance, the appeal and the order rejecting the appeal.

The President of the Supreme Administrative Court shall refer the motion to a division for considering it and either issuing an order affirming the Administrative Court of First Instance's order rejecting the appeal or issuing an order accepting the appeal and then forwarding it to be read by the Administrative Court of First Instance. The Administrative Court of First Instance shall, after having read such order, notify it to the Supreme Administrative Court. In the case where the Supreme Administrative Court issues an order accepting the appeal, the date of receipt of the notification thereof shall be deemed as the date the Supreme Administrative Court has received the appeal from the Administrative Court of First Instance for further proceedings under clause 107.

In considering the motion of the division under paragraph three, if the division considers it necessary to examine the file of the case, the division may issue an order instructing the Administrative Court of First Instance to forward the file of the case to the Supreme Administrative Court.

Clause 106. In the case where the judge in charge of the case is of the opinion that an appeal is complete, the judge in charge of the case shall make a recommendation to the division that an order accepting the appeal be issued and shall make a recommendation to the Chief Justice of the Administrative Courts of First Instance that the appeal be referred to the Supreme Administrative Court for further consideration.

Clause 107. The competent official of the Court shall, after having received an appeal from the Administrative Court of First Instance, register the case in the case-list and submit an appeal to the President of the Supreme Administrative Court in order that it shall be distributed to the division.

Clause 108. The senior judge of the division of the Supreme Administrative Court shall appoint a judge in such division as a judge in charge of the case, and the judge in charge of the case shall then examine the appeal. If the judge in charge of the case is of the opinion that the appeal as accepted by the Administrative Court of First Instance has some incompleteness that is capable of correction by the appellant or the appellant has failed to make correct payment of the Court's fee, the judge in charge of the case shall order the appellant to make correction or make correct payment of the Court's fee within the prescribed period of time. If there is failure to make correction or make correct payment of the Court's fee within the prescribed period of time, or the incompleteness is incapable of correction, or the appeal is prohibited by law or is submitted in contravention of this Rule, the judge in charge of the case shall make a recommendation to the division that such appeal be rejected.

In the case where the judge in charge of the case is of the opinion that such appeal refers to the question of fact or question of law which is too immaterial to make the determination thereon, the judge in charge of the case shall make a recommendation to the division that an order be issued for rejecting the appeal and striking the case out of the cast-list.

Clause 109. When the judge in charge of the case is of the opinion that such appeal is complete, the judge in charge of the case shall furnish a copy of the appeal to the opposing party to the appeal for preparing an answer to the appeal within thirty days as from the date of receipt of the appeal or within such time as prescribed by the Court.

The questions of fact or questions of law intended to be invoked in the answer to the appeal shall be those already duly invoked in the Administrative Court of First Instance. But, if any question is that concerned with public good order or that related to public interest, the party to the appeal may invoke such question in the answer to the appeal itself or at any time during the currency of the appeal.

Clause 110. If, upon the lapse of the period of time under clause 109 paragraph one or upon the submission of the answer to the appeal by the opposing party to the appeal, the judge in charge of the case is of the opinion that the facts of the case are sufficient for the Court's trial and adjudication or issuance of an order disposing of the appeal, the judge in charge of the case shall prepare a memorandum of the judge in charge of the case to be submitted to the division for considering and carrying out further proceedings. In the case where the judge in charge of the case is of the opinion that the facts from the file of the case, the appeal and the answer to the appeal remain insufficient for the trial and adjudication or issuance of an order disposing of the appeal, the judge in charge of the case shall have the power to carry out further proceedings within the powers and duties.

Clause 111. In considering an appeal against a judgment or an order of the Administrative Court of First Instance, the Supreme Administrative Court shall have the power to deliver a judgment or issue an order, as follows:

(1) if it is of the opinion that the appeal is incomplete and it is incapable of correction or the appeal is prohibited by law or has been submitted in contravention of this Rule, it shall deliver a judgment dismissing such appeal without making the determination of issues in the appeal;

(2) if it is of the opinion that a judgment or an order of the Administrative Court of First Instance is correct, whether on the some ground or on other grounds, it shall deliver a judgment or an order affirming the judgment or the order of the Administrative Court of First Instance and deliver a new judgment or order;

(3) if it is of the opinion that a judgment or an order of the Administrative Court of First Instance is incorrect, it shall deliver a judgment or an order reversing the judgment or the order of the Administrative Court of First Instance and deliver
a new judgment or order; or

(4) if it is of the opinion that a judgment or an order of the Administrative Court of First Instance is partly correct and partly incorrect, it shall deliver a judgment or an order amending the judgment or the order of the Administrative Court of First Instance by way of partial affirmation and partial reversal and delivery of a new judgment or order in respect of the reversed part.

Clause 112. The Supreme Administrative Court's competence to consider an appeal against a judgment or an

order of the Administrative Court of First Instance shall include the following:

(1) in the case where there appears non-compliance with the provisions of law or this Rule insofar as they are concerned with the delivery of a judgment and an order, the Supreme Administrative Court shall, if it deems it appropriate, have the power to dismiss the judgment or the order of the Administrative Court of First Instance and return the file of the case to the Administrative Court of First Instance for delivering a new judgment or order. In this case, the Administrative Court of the First Instance may consist of administrative judges other than those who have delivered the judgment or order, and the new judgment or order may be concluded otherwise than the conclusions arrived at in the judgment or order so dismissed;

(2) in the case where there appears non-compliance with the provisions of law or this Rule insofar as they are concerned with the inquiry of facts or there occurs the Court's refusal to conduct an inquiry of facts as requested by the appellant, the Supreme Administrative Court shall, if it deems it appropriate, have the power to dismiss the judgment or order of the Administrative Court of First Instance and direct the Administrative Court of First Instance, which may consist of the administrative judges of the same division or other administrative judges, or any other Administrative Court of First Instance as it thinks fit to retry the case in whole or in part and deliver a new judgment or an order;

(3) in the case where it appears that the facts heard by the Administrative Court of First Instance are insufficient for adjudication, the Supreme Administrative Court shall, if it deems it appropriate, have the power to dismiss the judgment or order of the Administrative Court of First Instance and direct the Administrative Court of First Instance, which may

consist of the administrative judges of the same division or other administrative judges, to retry the case in whole or in part in accordance with the determination by the Supreme Administrative Court and deliver a judgment or an order in accordance with the nature of the case;

In all the cases in which the Administrative Court of First Instance has issued a new judgment or order under this clause, such new judgment or order may be appealed against.

Clause 113. If the Supreme Administrative Court has issued an order referring the file of the case back to the Administrative Court of First Instance for new proceedings or delivery of a new judgment or order in whole or in part as prescribed in clause 112, the Supreme Administrative Court has the power to exempt the payment of the Court's fee for lodging an appeal against the new judgment or order of the Administrative Court of First Instance, as it thinks fit

Clause 114. The Supreme Administrative Court may, after having delivered a judgment or an order disposing of an appeal, pronounce the judgment or order by itself or forward such judgment or order to be pronounced by the Administrative Court of First Instance.

Clause 115. In the case where an appeal is made against the Administrative Court of First Instance's order suspending the execution of a by-law or an administrative order under clause 73 and the appellant has requested the Supreme Administrative Court for an order terminating such Administrative Court of First Instance's order suspending the execution of that by-law or administrative order

provisionally, if the Supreme Administrative Court is of the opinion that the order suspending the execution of that by-law or administrative order results in or will result in serious injury to public interest or the rights of the appellant, the Supreme Administrative Court shall have the power to issue an order terminating the Administrative Court of First Instance's order suspending the execution of the by-law or administrative order provisionally until the Supreme Administrative Court has issued an order making the determination on such appeal.

Clause 116. Apart from the administrative court procedure for the Supreme Administrative Court specifically provided in this Part, the administrative court procedure for Administrative Courts of First Instance shall apply *mutatis mutandis*.

Given on the 17th Day of November B.E. 2543 (2000)

Ackaratorn Chularat

(Professor Dr. Ackaratorn Chularat)

President of the Supreme Administrative Court

Remarks :

1. Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000) published in the Government Gazette, Vol 117, Part 108a, dated 17th November 2000 (page 30-59)

2. Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure (No.2), B.E. 2544 (2001) published in the Government Gazette Vol 118, Part 17a dated 22nd March 2001 (page 6-8)