Translation

ORGANIC ACT ON THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND SENATORS, B.E. 2541 (1998)[1]

BHUMIBOL ADULYADEJ, REX.
Given on the 6th Day of June B.E. 2541;
Being the 53rd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have an organic law on the election of members of the House of Representatives and senators;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Organic Act is called the "Organic Act on the Election of Members of the House of Representatives and Senators, B.E. 2541".

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

Section 3. The following shall be repealed:

(1) Election of Members of the House of Representatives Act, B.E. 2522;

(2) Election of Members of the House of Representatives Act (No.2), B.E. 2523;

(3) Emergency Decree Amending the Election of Members of the House of Representatives Act B.E.2522, B.E. 2526;

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[1] As last amended by the Organic Act on the Election of Members of the House of Representatives and Senators (No. 3), B.E. 2543 (2000) (published in the Government Gazette Vol. 117, Part 100a, dated 7th November B.E. 2543 (2000)).

[2] Published in the Government Gazette Vol. 115, Part 35a, dated 9th June B.E. 2541 (1998).

(4) Emergency Decree Amending the Election of Members of the House of Representatives Act B.E. 2522 (No. 2), B.E. 2529;

(5) Election of Members of the House of Representatives Act (No.3), B.E. 2535;

(6) Emergency Decree Amending the Election of Members of the House of Representatives Act B.E. 2522 (No. 3), B.E. 2538.

Section 4. In this Organic Act:

"voter" means a person having the right to vote for the election of members of the House of Representatives or senators, as the case may be;

"candidate" means a candidate for the election of members of the House of Representatives or a candidate for the election of senators, as the case may be;

"election day" means the day fixed for voting according to the Royal Decree on election of members of the House of Representatives or senators, as the case may be;

"constituency" means a locality designated as a constituency on a constituency basis, a constituency on a party-list basis or a constituency for the election of senators, as the case may be;

"polling station" means an area designated for voting purpose;

"polling place" means a place designated for voting purpose and shall include a specified area surrounding the polling place;

"Changwat" includes Bangkok Metropolitan Administration;

"Amphoe" includes Khet and Khing-Amphoe;

"Tambon" includes Khwaeng;

"Changwat Central Office" includes Office of Bangkok Metropolitan Administration;

"Amphoe Office" includes Khet Office and Khing-Amphoe Office;

"municipality" includes Pattaya City;

"municipality office" includes Pattaya City Office.

Section 5. The Chairman of the Election Commission shall have charge and control of the execution of this Organic Act.

CHAPTER I
Election of Members of the House of Representatives

Part 1
General Provisions

Section 6. In a general election of members of the House of Representatives, the Election Commission shall hold the following elections:

(1) an election of members of the House of Representatives on a constituency basis whereby the voter shall cast a vote for only one candidate in each designated constituency;

(2) an election of members of the House of Representatives on a party-list basis whereby the voter shall cast a vote from the lists of candidates prepared by political parties, provided that the party list of only one political party may be voted for and the territory of Thailand shall be regarded as the whole constituency.

Section 7. After the promulgation of the Royal Decree on a general election of members of the House of Representatives, the Election Commission shall publish in the Government Gazette the particulars relating to the election as follows:

(1) the date of an application for candidacy in the election on a constituency basis which shall commence not later than twenty days as from the date the Royal Decree coming into force and the period of application shall not be less than five days;

(2) the date of submission of a party list in the election on a party-list basis by each political party which shall be the day before the date of an application for candidacy in the election on a constituency basis under (1);

(3) the number of members of the House of Representatives of each Changwat in the election on a constituency basis; and

(4) the number of constituencies of each Changwat of which the details of Amphoe or Tambon or an area within each constituency must be specified.

In the case where there is a promulgation of a Royal Decree on an election of members of the House of Representatives to fill the vacancy of members of the House of Representatives on a constituency basis, the Election Commission

shall publish the date of an application for candidacy in such election in the Government Gazette.

Section 7/1.[3] In the conduct of a general election of members of the House of Representatives, the Election Commission shall complete the election proceedings within thirty days as from the date of the election day.

Section 7/2.[4] In the case where the Election Commission orders a new election, the Election Commission shall have the power to notify a reduction or extension of time or refrain from the proceedings in relation to the election provided for by this Organic Act, as appropriate for an expedient, fair and honest proceedings in that new election.

Part 2
Constituency, Polling Station and Polling Place

Section 8. Upon a general election of members of the House of Representatives, the Election Commission shall publish in the Government Gazette the designation of constituencies of the election on a constituency basis. In any Changwat where the number of members of the House of Representatives to be elected is one, the area of that Changwat shall be regarded as the constituency, but in a Changwat where the number of members is more than one, the Election Commission shall divide such Changwat into constituencies in the number equal to such number of members to be elected therein according to the constituencies designated by the Election Commission under the organic law on the Election Commission.

Section 9. The election committee of a constituency appointed by the Election Commission under section 12 shall designate polling stations in each constituency by taking into consideration the convenience of the voters according to the following rules:

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[3] As added by section 3 of the Organic Act on the Election of Members of the House of Representatives and Senators (No. 3), B.E. 2543 (2000).
[4] Ibid.

(1) The area of each Moo Ban shall be a polling station except in the case where there are few voters for which two Moo Ban may be combined into a single constituency. For an area of a municipality, Bangkok Metropolitan Administration, or a densely populated area, it may be determined that a road, lane or soi be used as a boundary of a polling station;[5]

(2) A number of approximately eight hundred voters shall be used as a criterion to designate a polling station. If the Election Commission is of the opinion that it would be inconvenient or unsafe for voters to go to poll, it may disregard the number of voters and designate an additional polling station.

A notification specifying polling stations shall be made not less than twenty days before the election day by posting such notification at Changwat Central Office, Amphoe Office, Municipal Office, Tambon Administrative Organization Office, Phuyai-Ban Office, and a place in a densely populated area as appropriate and an outline map showing the boundary of polling stations shall also be provided.

A change of boundary of a polling station may be made by giving notice of not less than ten days before the election day or of a lesser period in case of emergency. In the latter case, the provisions of paragraph two shall apply *mutatis mutandis.*

Section 10. In designating a polling station under section 9, the election committee of a constituency appointed under section 12 by the Election Commission shall also designate polling places of each polling station and the provisions of section 9 paragraph two and paragraph three shall apply *mutatis mutandis* to the notification specifying polling places and changing polling places.

The polling place under paragraph one shall be a place that is easily accessible by the public for polling and shall have signs posted to show its perimeter in accordance with the geographical conditions of the locality.

In any locality, if it is for the convenience or safety of voters, a polling place outside the polling station may be provided but it must be located near the polling station.

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[5] As amended by section 4, ibid.

Section 11. An election on a party-list basis shall be organized at the polling station and polling place designated for an election on a constituency basis.

Part 3
Election Officials

Section 12. In each election of members of the House of Representatives, the Election Commission shall have the power to appoint persons to be the following election officials:

(1) an election director of a constituency having the duties relating to the application for candidacy of the election on a constituency basis and other necessary activities in compliance with this Organic Act;

(2) an election committee of a constituency consisting of not less than nine members having the duties relating to the designating of polling stations, polling places and places for counting of votes in the constituency, the making of a voter roll, the addition and the deletion of names of the voters in the constituency including the duties to supervise the polling, the counting of votes and the announcement of the result of the vote-counting.

The selection and appointment of an election director of a constituency and an election committee of a constituency shall be in accordance with the rules and method prescribed by the Election Commission in the Government Gazette.

For the purpose of election proceedings, the Election Commission shall have the power to appoint, or entrust an election director of a constituency or an election committee of a constituency to appoint, a sub-committee or a group of persons or any person to assist in the election proceedings as may be appropriate.

Section 13. The election committee of a constituency shall appoint persons to be the following election officials:

(1) a committee of a polling station consisting of not less than seven members having the duties relating to the polling in a polling place of each polling station;

(2) a vote-counting committee consisting of members in a number as it deems appropriate having duties relating to the counting of votes in a place for counting of votes of each constituency.

The election committee of a constituency shall appoint State officials to provide security to a committee of a polling station and the vote-counting committee in performing their duties.

Section 14. The committee of a polling station under section 13 (1) shall consist of a Chairman and other two members appointed by the election committee of such constituency and a representative of a political party which nominates its members to stand for election in such constituency or submits a party list.

The political parties nominating their members to stand for election or submitting party lists shall each submit one of their representatives to the election committee of a constituency by not less than fifteen days before an election day, to be appointed as a member of the committee of a polling station. In the performance of duties, if a representative of a political party who has been appointed as a member of the committee of a polling station is not present or is unable to perform any duty at any time, such representative of a political party shall not be counted as member of the committee of a polling station during such time.[6]

In the case where the committee of a polling station under paragraph one consists of less than seven members, the election committee of a constituency shall appoint a voter or voters in such constituency to be a member or members to meet such number under section 13 (1).

On election day, at the time when the polling starts, if less than seven members of the committee of a polling station come to perform their duties, the present election committee of such polling station shall appoint a voter or voters in such constituency to be a member or members to meet the number of seven members.

Section 15. The election committee of a constituency shall appoint the members of a vote-counting committee under section 13 (2) by selecting them from the voters in such constituency, and the representatives of the political parties nominating their members to stand for election or submitting party lists shall also be

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[6] As amended by section 5, ibid.

the members of the vote-counting committee in a number sufficient for the counting procedure.

Rules and method for selection of the members of the vote-counting committee shall be prescribed by the Election Commission.

Section 16. Unless specifically provided under this Organic Act, the Election Commission shall have the power to prescribe the procedure on the performance of duties of an election director of a constituency, an election committee of a constituency, a committee of a polling station and a vote-counting committee.

Section 17. A member of the Election Commission, an election director of a constituency, a member of the election committee of a constituency, a member of the committee of a polling station, a member of the vote-counting committee or a person appointed to assist in an election proceedings shall not wilfully fail to perform or be dishonest to his or her duties, or commit any other act to obstruct the compliance with law, notification, rule or the order of the Election Commission or the order of the court relating to an election under this Organic Act.

In the case where the person under paragraph one performs his or her duties in accordance with law, notification, rule or the order of the Election Commission or the order of the court relating to an election in good faith, he or she shall have immunity and shall not be liable for any civil or criminal liabilities.

Section 18. In performing the duties in accordance with this Organic Act, an election director of a constituency, a member of an election committee of a constituency, a member of a committee of a polling station, a member of a vote-counting committee and a person appointed to assist in the election proceedings shall be an official under the Penal Code as from the date of appointment through the date of the termination of duties.

Section 19. The remuneration of an election director of a constituency, a member of an election committee of a constituency, a member of a committee of a polling station or a member of a vote-counting committee and a person appointed to assist in an election proceedings shall be prescribed by the Election Commission.

A member of the committee of a polling station who is representative of the political party shall not received remuneration under paragraph one.[7]

Part 4
Voters and Voter Rolls

1. Voters

Section 20. A voter must have the qualifications and must not be under any prohibition under the Constitution and shall have the duty to vote in an election.

Section 21. In an election, any voter who may fail to exercise the right to vote for a reasonable cause must notify the person appointed by the Election Commission to each constituency of the cause of such failure not less than seven days before the election day. If the person appointed thereby considers that the notified cause is not reasonable, he or she shall notify the voter without delay within a period not less than three days before the election day.

The rule on consideration of the notification under paragraph one shall be prescribed by the Election Commission in the Government Gazette. In this regard, the Election Commission shall specify the details of cause of failure to exercise the right to vote in an election of voters as guidelines for the consideration of the person appointed by the Election Commission.

In notifying the cause of failure to exercise the right to vote in an election under paragraph one, the voter may make it in writing and entrust a person to submit it to the Election Commission or send such a letter by post.

The Election Commission shall post up the list of the persons receiving notification, the places and method of notification at Changwat Central Office, Amphoe Office, Municipal Office, Tambon Administration Organization Office, Phuyai-Ban Office and at a densely populated area which it considers to be appropriate.

[7] As added by section 6, ibid.

Section 22. If the period of thirty days after the election day is elapsed, the Election Commission shall publish the name of any voter who failed to exercise the right to vote and did not notify the cause of failure under section 21 or notified it but it was not reasonable, for the purpose that the voter shall notify the person appointed by the Election Commission the cause of failure within sixty days as from the date of the notification. The person appointed by the Election Commission shall consider within ninety days as from the end of the period of notification of the cause and shall notify the voter of the result thereof without delay, provided that, the provisions of section 21 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis.*

Section 23.[8] In the case where a voter fails to exercise the right to vote in an election without notifying the appropriate cause of such failure under section 21 or section 22 or has notified the cause but it is not reasonable, such person shall be deemed to be a person failing to exercise the right to vote who does not notify the appropriate cause of such failure under section 68 paragraph two of the Constitution and shall lose the rights as follows:

(1) the right to petition an election of members of the House of Representatives, senators, local administrators or members of the local assembly;

(2) the right to petition an election of Khamnan or Phu-Yai Ban under the law on local administration;

(3) the right to be a candidate in an election of members of the House of Representatives, senators, local administrators or members of the local assembly;

(4) the right to be a candidate in an election of Khamnan or Phu-Yai Ban under the law on local administration;

(5) the right to request the National Assembly to consider law under the law on enlistment to request for the introduction of bills;

(6) the right to request the local assembly for the issuance of local ordinances under the law on enlistment to request for the proposal of local ordinances;

(7) the right to enlistment to request the Senate for the resolution to remove a person under the organic law on counter corruption;

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[8] As amended by section 3 of the Organic Act on the Election of Members of the House of Representatives and Senators (No. 2), B.E. 2542 (1999).

(8) the right to enlistment to request for the removal from office of a member of the local assembly or a local administrator under the law on voting for the removal of a member of the local assembly or a local administrator.

The loss of rights under paragraph one shall be for a period as from the election day on which such voter fails to exercise the right to vote to the election day on which such voter attends therefor.

2. Voter Rolls

Section 24. After the promulgation of the Royal Decree on election of members of the House of Representatives, an election committee of a constituency shall prepare a roll of voters for each polling station and post it up at Changwat Central Office, Amphoe Office, Municipal Office, Tambon Administrative Organization Office, Phuyai-Ban Office, an appropriate densely populated area and a polling place or a nearby place not less than twenty days before the election day and shall also notify the names of voters in the house register to a head of household not less than fifteen days before the election day.

Section 25. A voter or a head of household who finds that his or her name or the name of a person who has been listed in the house register has not been included in the roll of voters for the polling station in which he or she or that person is eligible to be a voter, shall have the right to file an application to add the name in the roll with the election committee of a constituency not less than ten days before the election day.

After having received the application under paragraph one, the election committee of a constituency shall examine all evidence and, if it is of the opinion that the applicant or the person whose name appears in the house register is eligible, it shall order that the name of the person under the application be forthwith added to the roll of voters. If the election committee of a constituency is of the opinion that the applicant or the person whose name appears in the house register is ineligible, it shall dismiss the application and notify the applicant of the dismissal together with the reason therefor within three days from the date of receiving the application.

After having received the notice under paragraph two, the applicant shall have the right to file a motion, without any court fee, not less than five days before the election day with the Changwat Court within whose jurisdiction he or she has domicile, or with the Civil Court for the applicant who has domicile in Bangkok Metropolitan Administration, for the court to decide whether the name is to be included in the roll of voters.

After having received the motion under paragraph three, the court shall forthwith proceed with the examination thereof. The order of the court shall be final and the court shall forthwith inform the election committee of a constituency of the order to ensure that it shall be executed accordingly. In the case where the roll of voters has been posted up before the court order is received, the election committee of a constituency shall make the amendment to every copy of the roll of voters accordingly.

Any act done in compliance with the previous order of the election committee of a constituency prior to receiving the order of the court deciding otherwise shall be valid under the law.

Section 26. Any voter who is of the opinion that the roll of voters under section 24 contains the name of a disqualified person shall have the right to file a motion with the election committee of a constituency not less than ten days before the election day for the deletion of the name of such person from the roll of voters.

If, after consideration, the election committee of a constituency deems it expedient either to delete the name of such person or to dismiss the motion, it shall issue an order deleting the name or dismissing the motion, as the case may be. Such order shall be notified to such person and the head of the household, and the provisions of section 25 paragraph three, paragraph four and paragraph five shall apply *mutatis mutandis.*

If any head of the household is of the opinion that the name of a person not being actually listed in his or her house register has appeared in the roll of voters under the said house register and brings the house register to prove that the name of such person is not listed in his or her house register, the election committee of such constituency or the committee of such polling station, as the case may be, shall issue an order deleting the name of such person from the roll of voters.

Section 27. In the case where there is an action against any voter to be disfranchised and the voter has been disfranchised by a final judgement, when the Election Commission is notified of such judgement, it shall record such disfranchisement in the register and the election committee of a constituency shall forthwith post up the notice of disfranchisement by the order of the court at the Municipal Office or Amphoe Office.

In the case where the roll of voters has already been posted up, the election committee of a constituency shall announce the deletion of the name of such person under paragraph one from every copy of the roll of voters, and the provisions of section 25 paragraph five shall apply *mutatis mutandis*.

Section 28. A head of household shall not make or shall not allow other person to make an addition of a name of any person in his or her house register to corrupt an election if such a person does not actually live in the house.

Part 5
Candidate and Candidacy

1. Candidate

Section 29. A person having the right to be a candidate in an election of members of the House of Representatives on a constituency basis or having the right to be nominated on the party list of a political party for an election of members of the House of Representatives on a party-list basis must have qualifications and must not be under the prohibitions for a candidate in an election of members of the House of Representatives in accordance with the provisions of the Constitution.

Section 30. Any person who wishes to stand for an election shall have the right to stand for only one political party and simply stand for either an election on a constituency basis or a party-list basis.

2. Candidacy on a Constituency Basis

Section 31. In the case of candidacy on a constituency basis, a candidate of each political party who has the right to stand for an election in any constituency shall submit an application to the election director of such constituency at the place provided by the election director of such constituency within the period of the application.

In submitting the application under paragraph one, the candidate shall submit the certification of candidacy issued by the leader of the political party, pay the fee of ten thousand Baht each and file all evidence of candidacy as prescribed by the Election Commission.

In the case where the candidate has never been a member of the House of Representatives or a senator he or she shall submit evidence of having graduated not lower than bachelor degree or its equivalent as prescribed by law or certified by the Ministry of University Affairs or the competent State agency.

The Election Commission shall publish in the Government Gazette the details relating to evidence of candidacy and method of application.

Section 32. After the election director of a constituency has received the application, he or she shall record the acceptance thereof as evidence and issue a receipt to the applicant on the same day. The election director shall examine the evidence of application and qualifications of the candidate and make inquiry as to the eligibility of the candidate, which shall be completed within seven days from the closing date for the application. If the applicant is eligible, the notice of acceptance of his or her candidacy shall be posted up at Changwat Central Office, Amphoe Office, Municipal Office, Tambon Administrative Organization Office, Phuyai-Ban Office, and the polling place or nearby place for which the candidate stands.

The notice under paragraph one shall contain the name of the candidate, photograph of the candidate, his or her political party and the candidate's allocated number to be used at the poll in the form as prescribed by the Election Commission.

Section 33. After the election director of a constituency has issued a receipt to a candidate under section 32, the candidate is not permitted to withdraw his candidacy and the fee is vested to a fund for development of political parties in accordance with the organic law on political parties.

Section 34.[9] Any applicant whose name does not appear as a candidate in the notice of the election director of a constituency under section 32 shall have the right to file a motion with the Supreme Court within seven days as from the date of the notice of list of eligible candidates, exempt from any fee for the court proceedings. When the Supreme Court passes a decision, it shall promptly inform the election director of the constituency and the election director of the constituency shall promptly comply with the court order. If the court orders the acceptance of the application, the name of that person shall be notified under section 32, but it shall not affect any act done prior to the receipt of the court order.

In the trial and adjudication under paragraph one, the President of the Supreme Court, with the approval of a general meeting of the Supreme Court, shall have the power to issue rules by a notification in the Government Gazette, for an expedient and fair trial, and such trial shall be completed by not less than one day before the election day. It may be determined that a Court of First Instance having jurisdiction within a constituency be the recipient of a motion to be thereafter forwarded to the Supreme Court for trial or that the Court of First Instance takes evidence or conducts other necessary proceedings in lieu of the Supreme Court.

Section 34/1.[10] Prior to the election day, if there is evidence that a candidate who lacks the qualifications to exercise, or is under the prohibitions in exercising his or her right to be a candidate, the election director of the constituency shall promptly conduct an investigation and inquiry. If the election director considers that the candidate lacks the qualifications to exercise, or is under the prohibitions in exercising his or her right to be a candidate, the election director shall file a motion with the Supreme Court for a trial and adjudication to revoke such person's candidacy.

In a trial and adjudication under paragraph one, the President of the Supreme Court, with the approval of a general meeting of the Supreme Court, shall have power to issue rules by a notification in the Government Gazette, for an expedient and fair trial. It may be determined that a Court of First Instance having jurisdiction within a constituency be a recipient of a motion to be thereafter forwarded to the Supreme Court for trial or that the Court of First Instance takes evidence or conducts other necessary proceedings in lieu of the Supreme Court.

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[9] As amended by section 7 of the Organic Act on the Election of Members of the House of Representatives and Senators (No. 3), B.E. 2543 (2000).

[10] As added by section 8,ibid.

On the election day, if it appears that no motion has been filed with the Supreme Court under paragraph one or a motion has been filed but the Supreme Court has not yet passed a decision, the trial shall be terminated and the election shall proceed in accordance with the notice of applications for candidacy in force on the election day.

3. Candidacy on a Party-List Basis

Section 35. In the case where any political party wishes to submit a party list for candidacy on a party-list basis, that political party shall prepare a party list in accordance with the following rules:

(1) the party list shall consist of the names of candidates equitably from various regions;

(2) the political party which nominates any person shall receive evidence of consent from that person who shall be the member of that political party only;

(3) the party list shall be prepared in the form as prescribed by the Election Commission by numerical order of the candidates which shall not exceed one hundred persons.

Section 36. In the case of the candidacy on a party-list basis, the leader of the political party or any person who is entrusted by him or her shall submit the party list prepared by the political party under section 35 to the Election Commission on the determined date and time together with the written consent of the candidates, pay the fee of ten thousand Baht for each candidate and file all evidence of candidacy according to those prescribed by the Election Commission. Provided that, the provisions of section 31 paragraph three shall apply *mutatis mutandis.*

The Election Commission shall publish in the Government Gazette the details of evidence of candidacy and method of submitting the party list.

Section 37. When the Election Commission has received the party list under section 36, the Election Commission shall examine such evidence of candidacy, qualifications and the prohibitions of the candidates. If the Election Commission is of the opinion that they are correct, the list of the political parties and

the party lists shall be posted up disclosely at the place under section 32 and the provisions of section 33 shall apply *mutatis mutandis.*

4. The Candidates' Allocated Numbers to Poll at an Election on a Party-List Basis and a Constituency Basis.

Section 38. In a general election, the political parties submitting the party lists shall be allocated the identity number to poll at an election by respective order of submitting the party lists. In the case where political parties submit party lists at the same time and they cannot agree, the drawing of lots shall be made between or among those political parties. In this regard, one political party shall receive one allocated number. If any political party also nominates its candidates in an election on a constituency basis, the same allocated number for the election on a party-list basis of such political party shall be used as the allocated number for the election on a constituency basis of that political party in every constituency.

In the case where any political party does not submit a party list but nominates its candidates on a constituency basis, after submitting an application in any constituency, a candidate of such political party shall be given the candidate identity number next to the last number of the candidate's allocated number on a party list under paragraph one. If the candidate of other political party which nominates candidates only on a constituency basis also submits an application, such candidate shall be given the candidate identity number in respective order of the applications. If several candidates submit the applications at the same time and the candidate identity numbers can not be agreed, the candidate identity numbers of such candidates shall be cast by drawing lots.

Section 39. In the case of an election to fill the vacancy of the member of the House of Representatives elected in an election on a constituency basis, the candidates shall be given the candidate identity numbers in respective order of the applications. If more than one candidates submit the applications at the same time and the candidate identity numbers can not be agreed, the candidate identity numbers of such candidates shall be cast by drawing lots.

Part 6
Electoral Expenditure and Means of Election Campaigns

Section 40.[11] From the date of the promulgation of the Royal Decree calling for an election of members of the House of Representatives in any constituency to the date of announcement of the result of an election, the election expenditure and means of election campaign shall be in accordance with the provisions of this Part.

Section 41. In each election of members of the House of Representatives, the Election Commission shall issue the notification determining the electoral expenditure as follows:

(1) the amount of the expenditure of each candidate in an election on a constituency basis;

(2) the amount of the expenditure of a political party in an election on a party-list basis. In the case where a candidate on a party list of any political party has paid in the election for any amount of expenses, such amount shall be included in the expenditure of the political party.

In determining the amount of expenditure in an election under paragraph one, the Election Commission shall consult the leaders of every political party nominating the candidates for an election.

A candidate or a political party shall not spend in an election exceeding the amount of expenditure determined under paragraph one; provided that, such expenditure shall include all money or any other property paid or promised to pay by any person on behalf of the candidate or the political party or offered to be used for the purpose of the election campaigns without remuneration with the consent of such candidate or political party. In the case of offering for use of property, the calculation shall be carried out in accordance with the rate of normal rent or remuneration in such locality.

[11] As amended by section 9, ibid.

Section 42. The candidate or the political party, as the case may be, shall appoint any person as appropriate to be a treasurer having responsibility of preparing and certifying income and expenditure accounts of the candidate or the political party in such election.

The preparation of income and expenditure accounts of the treasurer shall be in accordance with the rules and procedure prescribed by the Election Commission and published in the Government Gazette.

Section 43. Within ninety days as from the date of the announcement of the result of an election, each candidate or the political party nominating candidates on a party-list basis shall submit income and expenditure accounts prepared by the treasurer and certified by the candidate or the leader of the political party, as the case may be, to the Election Commission. The income and expenditure accounts shall at least contain all the paid expenses and the outstanding payment including the relevant accurate and complete evidence.

After examining the particulars of expenses under paragraph one, the Election Commission shall announce the result of the examination of such expenses in accordance with the rules and procedure prescribed by the Election Commission.

In the case where there is a petition that any candidate or any political party has paid in an election exceeding the amount of expenditure prescribed by the Election Commission, such particulars of expenses and the relevant evidence shall be kept until the Election Commission has completed the procedure.

Section 44. No candidate nor any person shall commit any act to induce a voter to cast a vote for him or her or other candidate or any political party or to abstain from voting for any candidate or political party by the following means:

(1) providing, giving, offering, promising to give or preparing to give properties or any other benefits which can be calculated in money value to any person;

(2) giving, offering or promising to give money, properties or any other benefits whether directly or indirectly to a community, association, foundation, temple, education institution, asylum or any other institution;

(3) campaigning for an election by organizing an entertainment or other fair;

(4) treating or promising to treat any person;

(5) cheating, compelling, threatening, using influence to slandering or inducing the misunderstanding in the popular vote of any candidate or political party.

Section 45. No person shall provide the vehicle to bring a voter to a polling place for an election or to take a voter back from a polling place or to arrange for taking a voter to or from a polling place without paying normal fares or wages, to induce or control the voter to cast a vote for any candidate or political party.

The provisions in paragraph one shall not apply in the case where the vehicle is provided by a State agency to facilitate a voter or voters.

Section 46. No person not being of Thai nationality shall support an election campaign or commit any act for the benefit of an election in such a manner of being favorable or disfavorable to any candidate or political party except such act is committed to assist the government or committed in good faith in an ordinary course of business of such person.

Section 47. No State official shall, by exercising the function unlawfully, commit any act to be favorable or disfavorable to a candidate or a political party.

The unlawful exercise of function under paragraph one shall not include the performance of duty in an ordinary course of position of such State official or the advice or the assistance in an election of a candidate or a political party which is not relevant to the performance of duties, regardless of whether such act may be favorable or disfavorable to any candidate or political party.

In the case where there appears the convincing evidence of any violation of the provisions of paragraph one, the Election Commission shall, if being of the opinion that any act may be favorable or disfavorable to any candidate or political party, have the power to order such State official to cease or suspend the act thereof. For this purpose, the Election Commission shall notify the superior of such official to order that such official shall vacate the office temporarily or shall attach to any Ministry, Sub-Ministry, Department, Changwat central office or Amphoe office inside or outside the constituency or to prohibit such person to enter into any constituency.

Section 48. No person shall make an election campaign by any means, whether it may be favorable or disfavorable to any candidate or political party, from 6:00 p.m. of the day before the election day to the end of the election day.

Section 49. The Election Commission shall convene a meeting among the leaders of political parties nominating candidates to stand for an election to consider and provide a procedure for the State to support an election in the following matters:

(1) preparing a place for posting up a notice and a poster relating to the election in the area of a public place owned by the State sufficiently and equally to make an election campaign to every candidate and political party;

(2) publishing and circulating documents relating to an election to the voters;

(3) providing a place for a candidate and a political party to run an election campaign equally. In this connection, the State may provide any entertainment or other activity to pursuate the voters to attend such election campaign but such provisions shall not be engaged in supporting a particular candidate or political party;

(4) prescribing rules and time for a political party to run an election campaign through the radio and television broadcasting or to be on air through the radio and television broadcasting which shall afford equal opportunities to every political party;

(5) other State supportive activities as prescribed by the Election Commission.

Section 50. Any candidate, political party or person other than the State shall be prohibited from preparing a place for posting up any notice and poster relating to the election at a public place owned by the State, allocating radio and television broadcasting time to any political party or performing other activities which the Election Commission prescribes that it shall be supported by the State.

Part 7
Polling

Section 51. The ballot box shall be perceptibly seen its inside, and shall be sealed to prevent an unlawful opening of the ballot box or insertion of ballot paper into the ballot box after the polling is completed and shall be of specific quality or specification to prevent a changing of the ballot box.

The ballot paper for casting vote for a member of the House of Representatives on a constituency basis shall specify candidate identity numbers of all candidates in such constituency and shall have a space for an entry of a mark indicating the intention to cast a vote for non-voting.

The ballot paper for casting vote for a member of the House of Representatives on a party-list basis shall specify the allocated numbers and the names of every political party submitting a party list and shall have a space for an entry of a mark indicating the intention to cast a vote for no candidate.

The ballot paper for casting vote for a member of the House of Representatives on a constituency basis and the one for casting vote for the said member on a party-list basis shall be of distinctively difference.

The ballot box and the ballot paper shall be of such description and size as prescribed by the Election Commission.

Section 52. On the election day, the polling shall commence from 8.00 a.m. to 3.00 p.m.

Section 53. Before casting of vote is commenced, the committee of a polling station shall count the total number of the ballot papers of such station and shall post up a notice of the total number of the ballot papers at the conspicuous place. When the polling is commenced, the committee of a polling station shall publicly open the ballot box for the voters present at the polling place to see that the ballot box is empty and shall then close the ballot box in accordance with the procedure prescribed by the Election Commission and shall record such proceedings by having not less than two voters present at the polling place at that time to affix their signatures thereto except no voter present at that time.

Section 54. During polling hours, a voter who intends to poll shall identify himself or herself to the committee of a polling station by producing the identity card, the expired identity card or any other official card or evidence having a photograph which can identify himself or herself in accordance with the procedure prescribed by the Election Commission and published in the Government Gazette.

When the committee of a polling station has examined the name in the voter roll, the committee shall read the name and address of such person loudly. If no voter, candidate or person raises an objection, the committee shall remark it in the voter roll by noting the card number and the issuing place thereof and shall order the voter to sign or take fingerprint in the voter roll as evidence in accordance with the procedure prescribed by the Election Commission. Then the committee of a polling station shall give the ballot paper to such person for voting.

In the case where there is an objector or a member of the committee of a polling station suspects that the voter present is not a person named in the voter roll, the committee shall have power to investigate and make a decision whether the person being objected or suspected is a person named in the voter roll. And in the case where the committee of a polling station passes a decision that the person being objected or suspected is not a person named in the voter roll, the committee shall record such decision and sign their names thereon.

Section 55. The casting of vote shall be made by marking a cross on the ballot paper. And for facilitating the disabled in casting a vote, the Election Commission shall provide a facilitation for casting a vote of the disabled specifically or provide assistance in casting a vote under the supervision of the committee of a polling station.

Section 56. In the case where a voter intends to cast a vote for no candidate nor party list of any political party, the voter shall mark a cross in the space for indicating the intention to cast a vote for non-voting.

Section 57. The insertion of ballot papers in the ballot box shall be in accordance with the rules and procedure prescribed by the Election Commission.

Section 58. Any person who knows that he or she has no right to vote or to cast a vote in such constituency shall not try to cast a vote or cast a vote by producing the identity card or other evidence not issued for him or her or which is counterfeited to the committee of a polling station.

Section 59. No voter shall use other paper which is not a ballot paper in accordance with section 51 to cast a vote.

No voter shall take a ballot paper out of the polling place.

Section 60. No person shall mark a sign as a remark by any means on the ballot paper.

Section 61. No person shall insert a ballot paper into a ballot box without an authorization or do any thing in the voter roll to deviate the number of persons actually present to cast votes or commit any act to increase the actual number of ballot papers.

Section 62. No person shall commit any act without an authorization to prevent a vote from casting a vote or to obstruct or delay a voter from going to the polling place, entering the place for casting a vote or reaching such place within the polling time.

Section 63. No voter shall require any property or other benefit for his or her own or for other persons to vote or to abstain from voting for any candidate or political party.

Section 64. In the case where the polling at any polling station could not be made because of the riot, flood, fire or other *force majeure*, if such event has occurred prior to the election day, the committee of a polling station shall fix a new polling place where the voters shall be able to cast votes conveniently. If the new polling place can not be fixed, the committee of a polling station shall announce the cancellation of polling in such station and shall report such incident to the Election Commission urgently.

In the case where the *force majeure* under paragraph one occurs on the election day, the committee of a polling station shall announce the cancellation of the polling in such station and report such incident to the Election Commission urgently.

The Election Commission shall fix a new polling day of such polling station within thirty days as from the date the ceasing of the incident barring the poll is known and shall announce such polling date at least seven days prior to the polling day.

Section 65. When the closing time of the polling is reached, the committee of a polling station shall announce the closing of the polling and stop to distribute any ballot paper and shall mark the remaining ballot papers as useless in accordance with the procedure prescribed by the Election Commission. When the remaining person or persons present and receiving the ballot papers within the time of polling in the polling station has or have already cast votes, the committee of a polling station shall seal the slot to insert the ballot papers of the ballot box.

The committee of a polling station shall prepare a statement concerning the total number of ballot papers, the number of persons present and receiving ballot papers, and the number of the remaining ballot papers and the statement shall be signed by every member of the committee performs the duties at that time and then announce it to the voters present at such place.

Section 66. As from the time the ballot box is opened and closed or after the slot to insert the ballot papers of the ballot box is sealed, no person without an authorization shall open to destroy, damage, transform or nullify or take the ballot box, the ballot papers or the relevant documents and evidence which the committee of a polling station delivers to the place for counting of votes.

Section 67. The committee of a polling station of not less than five members shall forthwith take the ballot box and the relevant documents and evidence to the place for counting of votes of such constituency. In the case where any member of the committee of a polling station is unable to participate in the proceedings, the reason therefor shall be recorded in the committee's report of delivery of the ballot box.

The ballot box which is delivered from the polling station shall be marked a sign to prevent the opening or the changing of the ballot box by affixing signatures of every member of the committee of that polling station thereto in such a manner which is perceptible in case of change or destroy; provided that, it is in accordance with the procedure prescribed by the Election Commission.

Part 8
The Counting of Votes and the Announcement of the Result of an Election

Section 68. The counting of votes for an election in any constituency shall commence when all the ballot boxes from all polling stations in such constituency have completely been delivered to the place for counting of votes.

In the case of geographical necessity in any constituency, the Election Commission shall provide an additional place for counting of votes to finish the counting of votes forthwith.

If there is unreasonable delay in the delivery of a ballot box from any polling station to the place for counting of votes, or a ballot box arrives at the place for counting of votes after the expiration of twelve hours as from the closing time of the polling without reasonable ground, or there is convincing evidence that the election in a polling station did not proceed in an honest and fair manner, the Election Commission shall order that the ballot boxes shall not be opened or that the votes of that polling station shall not be counted, then order a new election for such polling station.[12]

Section 69. For the purpose that the counting of votes shall be carried out openly and fairly in accordance with the provisions of the Constitution, the Election Commission shall prescribe in the Government Gazette the vote-counting procedure which must contain the followings:

(1) procedure with respect to the receipt, the examination and the opening of a ballot box and the examination of documents and evidence relating to an election for ascertaining the accuracy of the number of ballot papers at the time of receiving the ballot box to be corresponding to the number of the ballot papers delivered to each polling station prior to the casting of vote, and rules of judging a new vote-counting or a new polling in such a station in the case where the number of ballot papers is inconsistent;

(2) procedure to keep ballot boxes or ballot papers for the counting of votes;

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[12] As added by section 10, ibid.

(3) procedure of the vote-counting committee to gather all ballot papers and count them altogether at the place for counting of votes which shall provide measures to make unknown from which polling station the ballot papers are at the time of vote-counting and that the counting of votes shall be accomplished without postponement or impediment.

(4) procedure to arrange the place for counting of votes and to read the casting of votes in the ballot papers which must be done publicly so as to allow the persons presenting in the place for counting of votes to see the proceedings conveniently

(5) procedure to examine the casting of votes in any polling station when there is an petition that such casting of votes is befallen unlawfully;

(6) procedure on vote-counting and delivering the result of the vote-counting for an election on a party-list basis which shall arrange the vote-counting in the place for counting of votes in each constituency and shall notify the result of the vote-counting which is gathered from each constituency to the Election Commission to calculate the total result thereof throughout the country.

Section 70. The ballot paper on which a voter marks a cross indicating the intention to cast for non-voting shall be counted and the number of persons intending to cast votes for non-voting shall be announced.

If an invalid ballot paper appears in the counting of votes, such invalid ballot paper shall be separated and in any case it shall not be counted as a vote.

The following ballot papers shall be deemed as the invalid ballots:

(1) the counterfeit ballot;

(2) the ballot without any mark;

(3) the ballot which is unable to be identified which candidate or political party is voted for;

(4) the ballot which has the description as prescribed by the Election Commission.

The election committee of a constituency shall endorse the ballot paper under this section as "invalid" and specify the ground of the invalidity whether the ballot paper is invalid in accordance with any sub-section above, and shall affix not less than three signatures thereto.

The provisions of paragraph four shall not apply to an invalid ballot paper under section 84, section 85 paragraph two and paragraph three and section 85/8 paragraph one.[13]

Section 71. No member of the vote-counting committee shall intentionally count ballot papers or votes in an election or sum up the votes incorrectly, commit an act in any manner whatsoever without an authorization to damage the ballot papers, make the ballot papers dilapidated or invalid, commit an act in any manner whatsoever to an invalid ballot paper to be valid, read the ballot papers incorrectly, or make a false election report.

Section 72. When the counting of votes is completed, the election committee of a constituency shall announce the result of the vote-counting in such constituency, the total number of the ballot papers, the number of the used ballot papers, the number of the remaining ballot papers from the cast and shall make a report of the counting of votes to the Election Commission forthwith.

The report of the result of the vote-counting, the record of the number of the voters which appear in the voter roll, the number of the voters presenting to accept the ballot papers to cast, the number of the voters casting the votes, the number of the voters indicating the intention to cast votes for non-voting, the number of invalid ballots and the number of votes which each candidate receives, shall be written in figures and words.

The announcement of the result of the vote-counting, the report of the result of the vote-counting and the method to keep the ballot papers, documents and evidence shall be in accordance with the rules prescribed by the Election Commission.

Section 73. In the case where the result of the vote-counting is inconsistent with the report on the exercise of right to vote of the committee of a polling station, the election committee of a constituency shall arrange the re-counting of votes. If such inconsistency persists, it shall be reported to the Election Commission to hold a new election except when such inconsistency has no effect to

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[13] As added by section 11, ibid.

the result of an election in such constituency or the counting of votes on the party-list basis, the Election Commission shall not hold a new election.

Section 74. In any constituency, if, on the election day, there is one candidate standing for an election on a constituency basis and such candidate receives votes at least twenty percent of the total number of voters in that constituency, the Election Commission shall announce such candidate to be the person elected.

In the case where the only candidate standing for an election under paragraph one receives votes of less than twenty percent of the total number of voters in that constituency, the Election Commission shall hold a new election in such constituency.

Section 75. In an election of members of the House of Representatives on a constituency basis, the candidate receiving the highest votes in that constituency shall be the person elected. In the case where there are persons receiving equal highest votes, it shall cast by drawing lots which shall be made before the election committee of such constituency in accordance with the procedure prescribed by the Election Commission.

Section 76. The calculation of the elected persons in case of the election of members of the House of Representatives on a party-list basis shall be made by the proportion of the candidates to be elected of each political party as follows:

(1) adding altogether the result of the vote-counting received from the party-lists of all political parties;

(2) deducting votes for the party list of a political party which receives less than five percent of the total votes under (1) from the calculating of number of votes for the proportion of the candidates;

(3) dividing the total votes remaining after the deduction under (2) by one hundred and the result shall be deemed as the number of the average votes per one member of the House of Representatives;

(4) to calculate the number of members of the House of Representatives of each political party, dividing the total votes for the party list of each political party receiving more than five percent by the average number under (3), and then the result

in round number shall be deemed as the number of the elected members of such party which shall consist the persons in respective order of names in the list;

(5) in the case where the total number of the elected members of all political parties is less than one hundred, adding one more member to the political party receiving the highest number under (4) and to the next party receiving number of votes in respective order until the total number is one hundred.

The number of the elected members of each political party calculated by the procedure under paragraph one shall not be more than the number of persons on the party list prepared by such political party.

Section 77. Subject to the provisions of Part 10, Proceedings for an election not conducted in an honest and fair manner, after receiving the result of the vote-counting in an election on a constituency basis under section 72 and the calculation of the number of the elected members of the House of Representatives on a party-list basis of each political party under section 76, the Election Commission shall announce the result of the election on the constituency basis and on the party-list basis.[14]

Section 78. When the Election Commission has announced the result of the election, it shall forthwith notify the result of the election to the National Assembly for acknowledgement and publish it in the Government Gazette. The Election Commission shall also submit the party list of every political party to the President of the House of Representatives.

Part 9
Polling of a Voter having a Residence outside the Constituency

Section 79. An election by a voter having a residence outside the constituency other than that specifically provided in this Part shall be in accordance with this Organic Act.

[14] As amended by section 12, ibid.

Section 80. A person having his or her name appears on the house register in the constituency for less than ninety days up to the election day shall have the right to vote in the election on the constituency basis and on a party-list basis in the constituency in which his or her name last appeared on the house register for not less than ninety days.

The Election Commission shall have the power to prescribe rules, procedure and conditions to facilitate and ensure the exercising of the right to vote of a voter having a residence outside the constituency of which his or her name appears on a voter roll, or having his or her name appears on the house register in the constituency for less than ninety days up to the election day.

Section 81. In the case where a voter has received the official order to perform duties outside the constituency where he or she has a right to vote or has a plan to travel outward the constituency where he or she has to exercise the right to vote, the intent to exercise the right to vote before the election day shall be notified to the election committee of a constituency where he or she has a right to vote.

After having examined the right to vote of the person notifying his or her intent under paragraph one and being of the opinion that he or she is eligible, the election committee of a constituency shall designate a central polling place where such person can exercise the right to vote and notify a committee of a polling station where the name of such person appears on the voter roll and note on the document concerned the place for exercising his or her right to vote.

Rules and procedure for notifying of intent to vote outside the constituency, central polling places and the number thereof, and the date fixed for voting shall be prescribed by the Election Commission.

The Election Commission shall have the power to appoint a committee of the central polling place as well as to determine the preparation of the voter roll and the description of the central polling place, ballot boxes or any substitute, ballot papers, method of polling, custody of the ballot boxes and other activities necessary for voting therein as appropriate.

Ballot boxes of the central polling place shall be attributed in the different form of that under section 51 or other method may be used instead of using a ballot box to fit the characteristic of the vote.

Section 81/1.[15] In a general election of members of the House of Representatives which is not a new election, if any voter, residing in a Changwat other than the Changwat in which such person's name appears in the house register or being a voter under section 80, intends to exercise the right to vote in the Changwat in which he resides, such person shall register for the exercise of voting right outside a constituency in accordance with the rules and procedure prescribed by the Election Commission as published in the Government Gazette.

The person registered under paragraph one shall have the right to vote outside a constituency after the expiration of twenty days as from the date of application for registration. Such voting right shall be exercised in the Changwat in which such person was registered and such person shall lose his right to vote in the original constituency in which he previously had the right to vote, subject to any change to the registration. In this regard, the Election Commission shall record the registration of applications for the exercise of right thereof in the voter roll, and a note of the place in which the vote was exercised shall be made in the voter roll.

The person registered under paragraph one may make an application to register a change in the Changwat where the right to vote is to be exercised, which shall take effect upon the expiration of twenty days as from the application date for change of the registration, and the provisions of paragraph two shall apply *mutatis mutandis*. An application to register a change shall not be made more than once in each election.

A voter having right to vote outside a constituency under paragraph one, shall exercise his right to vote for a candidate in the constituency where his name appears in the house register or where his name last appeared on the house register at least ninety days under section 80, as the case may be.

In a general election of members of the House of Representatives which is a new election or a by-election, if the person registered under paragraph one does not exercise his right to vote in the constituency where he has the right to vote, such registration shall be deemed to be a notification of reasonable grounds and such rights under section 23 shall not be lost.

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[15] As added by section 13, ibid.

Section 81/2.[16] In the conduct of an election under section 81/1, the Election Commission shall designate a central polling place for each Changwat, except where necessary, more than one central polling place may be designated.

The procedures for polling, counting of votes, delivery of ballot papers and other necessary proceedings shall be in accordance with the rules and procedure prescribed by the Election Commission as published in the Government Gazette.

Section 82. In the case where a voter is a member of the armed forces or is on active military service, a police, a member of the national defence volunteer force or a government official and has received the official order to perform duties in connection with the maintaining of public order or security and safety of the country outside the normal place of domicile, if the superior official of such person who is of the rank of colonel or the rank equivalent thereto is of the opinion that such person is unable to vote at the polling station where he or she has the right to vote, request for exercising of the right to vote before the election day shall be made to the Election Commission and the provisions of section 81 shall be apply *mutatis mutandis.*

Section 83.[17] In a general election of members of the House of Representatives which is not a new election, a voter whose residence is outside the Kingdom may request to exercise the right to vote in the country where he or she resides.

When a request to exercise the right to vote under paragraph one has been notified, such voter shall have the right to vote as prescribed under section 84.

Rules and procedure for the notification of an intent to request for the exercise of the right to vote outside the Kingdom shall be in accordance with that prescribed by the Election Commission as published in the Government Gazette.

In a general election or a by-election of members of the House of Representatives which is a new election, if a voter whose residence is outside the Kingdom and who requested for the right to vote under paragraph one fails to exercise his or her right to vote in the constituency where he or she has the right to vote, such request to exercise the right to vote shall be deemed as a notification of reasonable grounds and such right shall not be lost pursuant to section 23.

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[16] Ibid.
[17] As amended by section 14, ibid.

Section 84.[18] Where more than five hundred voters notify their intent to exercise the right to vote in any country and where in such area it is convenient to travel to exercise the right to vote, the Election Commission shall designate a polling place in such country, but if the total number of voters is less than five hundred or there are necessary grounds, the Election Commission may arrange for voting by post or other procedures without the designating a polling place in accordance with the rules and procedures prescribed by the Election Commission.

Section 84/1.[19] A voter who requests the exercise of the right to vote under section 83 shall lose the right to vote in a polling station that his or her name appears on the house register, except where prior notice of the change was given within the time prescribed by the Election Commission.

Section 85.[20] In the case of voting under Part 9, the Election Commission shall proceed in advance to bring the ballot papers for counting altogether on the election day, except that in the case where necessity arises in a particular locality, the Election Commission may arrange otherwise.

In the case where the ballot papers are delivered to the place for counting of votes of any constituency after the commencement of vote-counting, such ballot papers shall be deemed invalid.

In the case where the ballot papers from any place are lost or there is convincing evidence that the election conducted in any place was not in an honest and fair manner, the Election Commission shall first pass a decision ordering that the votes from such place shall not be counted and thereafter order such ballot papers be invalid.

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[18] Ibid.
[19] As added by section 15, ibid.
[20] As amended by section 16, ibid.

Part 10[21]
Proceedings for an election not conducted in an honest and fair manner

Section 85/1. Prior to an announcement of the result of an election, if the Election Commission considers, after an investigation and inquiry, that there is evidence that any candidate acted in violation of this Organic Act or the circumstances suggest that any candidate caused another person to commit such act, supported or connived at such act of another person, or knew of and did not abate such act, and if the Election Commission considers that such act is likely to cause the election to be dishonest and unfair, the Election Commission shall order the derogation of the rights of candidacy for every candidate who committed such an act for a period of one year effective as from the date of the Election Commission order.

In the case where it appears to the Election Commission that there is a violation under paragraph one, regardless of the act being committed by any person, if the Election Commission considers that a candidate benefited from such act, the Election Commission shall have the power to order the candidate to abate or proceed in any manner in order to remedy such dishonesty and unfairness within the prescribed time limit. In the case where the candidate, without reasonable grounds, fails to proceed in accordance with the order of the Election Commission, it shall be presumed that the candidate was a supporter of such act.

An Election Commission resolution to derogate the right of candidacy under this section shall be by a unanimous vote.

When there is an order to derogate the right of candidacy for any candidate, the institution of criminal proceedings against such candidate shall also be considered.

In the case where an order to derogate the right of candidacy under this section is made after the election day and the candidate whose right of candidacy is derogated is a candidate on a constituency basis who received the highest number of votes in such constituency, the Election Commission shall order a new election.

Section 85/2. In the case where the Election Commission thinks fit, for the purpose of expediently completing the investigation and inquiry in an honest and

[21] As added by section 17, ibid.

fair manner, the Election Commission may appoint, in the appropriate numbers, public prosecutors, other Government officials or persons who once held an office thereof or who was once a judicial officer to constitute a committee or as many committees as necessary in order to assist the Election Commission in the examination of reports of investigations and inquiries, including the hearing of statements or evidence in lieu of the Election Commission.

In the case where the Election Commission appoints a public prosecutor or other Government official, the appointed official shall perform duties without having to obtain the approval of the personnel administration committee or the supervisor of such official, as the case may be.

The performance of duties of a committee under paragraph one shall be in accordance with the rules prescribed by the Election Commission.

An appointment under this section shall only be effective between the date of a Royal Decree calling for an election of members of the House of Representatives to the date on which the result of election in every constituency has been announced unless the personnel administration committee or the supervisors of such official, as the case may be, approves an extension of time.

The committee under paragraph one shall receive remuneration as prescribed by the Election Commission.

Section 85/3. There shall be an Inspection Committee consisting of persons, who are not Government officials holding a permanent position or drawing salary, who have been appointed as the Chairmen of each committee of the Law Councillors under the law on the Council of State, and who are not members of, or holders of other positions in political parties, to perform duties under this section. In the case where a Chairman of any committee of the Law Councillors is unable to hold the position of Inspection Committee member, the members of such committee of the Law Councillors shall select a member of their committee who is not under the prohibitions to become a substitute member of the Inspection Committee. In the case where a substitute member cannot be found, this Inspection Committee shall consist of the existing members.

In the case where the Election Commission is about to pass a decision to derogate the right of candidacy from any candidate, the Election Commission shall deliver its opinion together with the reports of the investigation and inquiry to the Committee under paragraph one for the latter to consider and give an opinion on the

lawfulness of such opinion of the Election Commission, or on whether the Election Commission acted in fair manner. If such Committee reaches an opinion different from the opinion of the Election Commission, the Election Commission may pass a decision based on its original opinion provided that it gives reasons and publishes decision together with the reasons and the opinion of the Committee under paragraph one in the Government Gazette.

The giving of an opinion of the Committee under paragraph two shall be done by a meeting of the Committee in which not less than two-third of the members are present, and shall be completed within five days as from the date on which the matter was received from the Election Commission. If the Committee does not give an opinion after the expiration of five days, the Election Commission shall continue to proceed.

The Committee under paragraph one shall receive remuneration as prescribed by the Election Commission.

Section 85/4. In the case where it appears before the Election Commission that any person committed any act for the benefit of any candidate or political party which may cause the election to be dishonest and unfair, the Election Commission shall have the power to order such person to abate such act or order that such act be remedied under the conditions and within the prescribed time period.

If a police officer is notified of or discovers an act under paragraph one, and that act is an offence under this Organic Act, the police officer shall make an arrest and promptly institute legal proceedings, as well as notify the Election Commission of the Changwat in order to report to the Election Commission for its consideration thereof.

Section 85/5. In the case where during a period of time under section 40 there is a convincing evidence that any person gave, offered to give or promised to give money or properties for the benefit of inducing a voter to vote for any candidate or political party or to abstain from voting for any candidate or political party or prepared money or properties for such conduct, the Election Commission shall have the power to provisionally seize and attach the money or properties of such person until the court issues an order.

The Election Commission shall file a motion with the Changwat Court or the Civil Court in whose jurisdiction the seizure or attachment took place within three days as from the date of seizure or attachment under paragraph one. When the Court receives the motion, it shall conduct an *ex parte* investigation to be completed within five days as from the date on which the motion was received. If the Court considers it likely that the relevant money or properties in the motion was or will be unlawfully used for an election, the court shall order the seizure or attachment of money or properties until the announcement of the result of the election.

Section 85/6. Prior to the election day, if there is convincing evidence that an election in any polling station or in any constituency will not be conducted in an honest and fair manner due to an act of an election official or other State officials, the Election Commission shall have the power to announce the cancellation of voting in such polling station or constituency and prescribe a new election day.

Section 85/7. When the counting of votes is completed, if there appears to be convincing evidence that an election on a constituency basis in any constituency was not conducted in an honest and fair manner, the Election Commission may refrain from announcing the result of the election and arrange for a new election in such constituency.

Section 85/8. Prior to the announcement of the result of an election, if there appears to be convincing evidence that a political party, any official or member of a political party acted in violation of this Organic Act or caused another person to commit such act, supported or connived at such act by another person for the benefit of a political party, and if the Election Commission considers that such act is likely to cause the election to be dishonest and unfair, the Election Commission shall have the power to announce that the ballot papers with votes in favour of such political party are invalid and not be counted as votes only for the area where such act occurred.

In the determination of boundaries under paragraph one, the Election Commission may determine from the boundaries of a polling station or a constituency on the constituency basis taking into account the effects of such action.

The provisions of section 85/3 shall apply *mutatis mutandis* to a proceedings under paragraph one.

Section 85/9. If there appears to be convincing evidence that prior to his or her being elected, any member of the House of Representatives committed any unlawful act for the benefit of his or her being elected or was elected dishonestly as a result of an act of any person or political party which violates this Organic Act or the organic law on Political Parties, the Election Commission may order the derogation of the right of candidacy of such member for a prescribed period of one year, but the order shall be made within one year as from the announcement date of the result of an election and thereafter the President of National Assembly and the Prime Minister shall be notified.

The provisions of section 85/3 shall apply *mutatis mutandis* to a proceedings under paragraph one.

Section 85/10. For the purpose of the conduct of a factual investigation and inquiry in connection with an election and the prevention of the election from being conducted in a dishonest and unfair manner, the Election Commission or a member entrusted by the Election Commission shall have the powers as follows:

(1) to enter a dwelling place, a place or other vehicles when there is convincing evidence of an act which violated this Organic Act, in order to examine, search, seize or attach documents, properties or other evidence, and in the case where there is reasonable cause to believe that, if delayed, the documents, properties or such evidence will be removed, hidden, destroyed or transformed from its original condition, the search may be made without a search warrant and the circumstance of the cases shall be recorded.

The powers in paragraph one shall be exercisable as from the date of the Royal Decree calling for an election to the date of announcement of the result of the election and the State officials may be requested, as necessary, to assist in any proceedings.

The Election Commission may delegate powers to an Election Commission of a Changwat or other officials to act as a searcher, but the delegated person shall also obtain a search warrant from the court;

(2) to require the Office of Money Laundering Control to deliver a report of transactions of the persons likely to be connected with an election to the Election Commission or require the Bank of Thailand or a commercial bank under the law on commercial banking or other financial institutions to notify of money transfers as requested by the Election Commission.

CHAPTER II
Election of Senators

Section 86. After the promulgation of the Royal Decree on election of senators, the Election Commission shall notify in the Government Gazette the date of application which shall not exceed five days as from the date the Royal Decree on the election of senators coming into force and the period of the application shall not less than five days.

Section 87. A person qualified to be a candidate for senator shall have the qualifications and shall not be under the prohibitions to be a candidate for senator under the provisions of the Constitution.

Section 88. In an election of senators, the area of Changwat shall be regarded as a constituency.

After the promulgation of the Royal Decree on election of senators, the Election Commission shall notify in the Government Gazette the number of senators in each Changwat by applying rules on calculation in accordance with the provisions of the Constitution.

A person having the right to vote may cast a vote for one candidate for senator in the Changwat in which he or she has the right to vote.

Section 89. The provisions of section 31, section 32 and section 34 except those concerning political parties shall apply *mutatis mutandis* to the candidacy of senator.

A candidate at an election of senator shall pay the application fee of ten thousand Baht each. When the receipt thereof has been issued, the candidate shall not withdraw his or her candidacy and the application fee shall be devolved on the State.

Section 90. The provisions of Part 2, Constituency, Polling Station and Polling Place, Part 3, Election Officials, Part 4, Voter and Voter Rolls, Part 6, Electoral Expenditure and Means of Election Campaigns specifically section 44, section 45 and section 47, Part 7, Polling, Part 9, Polling of a voter having a Residence outside the Constituency, and Part 10, Proceedings for an election not

conducted in an honest and fair manner, under Chapter I, Election of Members of the House of Representatives only where related to an election of members of the House of Representatives on a constituency basis, excluding the provisions concerning political parties, shall apply *mutatis mutandis* to an election of senators to the extent that they are not contrary to or inconsistent with the provisions on election of senators as provided for in the Constitution or this Chapter.[22]

In appointing a committee of a polling station, the Election Commission shall appoint the voters in such constituency to be a chairman of the committee and six members thereof and the provisions of section 15 concerning the right to nominate the representatives of a political party shall not apply and the committee shall also be regarded as the vote-counting committee.

The counting of votes shall be carried out at the polling place and the provisions of Part 8, The Counting of Votes and the Announcement of the Result of an Election, only those governing the counting of votes in an election on a constituency basis except those regarding political parties, shall apply to the counting of votes and the announcement of the result of an election of senators, provided that they are not contrary to or inconsistent with those regarding an election of senators under the Constitution or this Chapter.

For the purpose of the implementation of this section, the Election Commission shall prescribe the rules on an election of senators to be in accordance with this section by publishing in the Government Gazette.

All other provisions regarding an election of members of the House of Representatives which apply to an election of senators, insofar as they constitute an offense and criminal penalty to any act in an election of members of the House of Representatives, shall apply to any act in the election of senators, with the same penalties.

Section 91. Subject to section 92, any candidate for senator or any other person shall not run an election campaign except an introduction of a candidate or candidates.

The introduction of candidates shall be made only by publishing introductory documents under the rule and method prescribed by the Election

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[22] As added by section 18, ibid.

Commission. If the Election Commission deems it necessary for the fairness to every candidate, it may determine the amount of the expenses of such publication.

The introduction under paragraph one means the publication of personal information including personal background, education, occupation and working experience.

Section 92. For the purpose of fairness of the introduction of candidates, the Election Commission shall coordinate with the government agencies concerned to proceed as follows:

(1) to provide for the posting up of any announcement and the fixing of a signboard of an election and the candidates at Changwat Office, Amphoe Office or Local Administrative Organization Office, or an appropriate condensely populated area;

(2) to publish and send documents with respect to an election and the candidates to a voter;

(3) to provide a place for the introduction of the candidates;

(4) to allocate time for radio and television broadcasting of the introduction of the candidates;

(5) to perform other activities announced by the Election Commission.

Section 93. In a Changwat where only one senator is to be elected, the candidate who receives the highest number of votes shall be elected.

In a Changwat where more than one senator are to be elected, the candidate who receives the highest number of votes and the next candidate who receives the number of votes in respective order to meet the total number of the senators to be elected in that Changwat shall be elected.

In the case where the number of candidates receiving equal votes is in excess of the number of senators to be elected in that Changwat, the candidates who receive equal votes shall draw lots to decide which candidate shall be elected according to the rules prescribed by the Election Commission.

In the case where the number of candidates in any Changwat is equal or less than the number of senators to be elected, the candidate who receives votes not less than five percent of the total number of voters who come to poll shall be elected. If none of candidate has been elected or there are some but less than the number of

senators to be elected in that Changwat, the Election Commission shall hold a new election in such Changwat to achieve in such number of senators.

CHAPTER III
Election Petition

Section 94. If, after the Election Commission has announced the result of the election in any constituency, a voter, a candidate of that constituency, or a political party which has a member standing as a candidate for the election in such constituency or which submit a party list is of the opinion that the election in any polling station in such constituency or in that constituency has not been carried out honestly or fairly, such voter, candidate or political party has the right to petition the Election Commission for a new election within thirty days from the date of the announcement of the result except that the petition under section 41 or section 43 shall be made within one hundred and eighty days from the date of the announcement of the result thereof.

Section 95. After having received the petition, the Election Commission shall conduct the hearing without delay and shall have the following powers:

(1) if it is of the opinion that the election in any polling station or in any constituency has not been carried out honestly and fairly and that a new counting of votes or a new election should be held, the Election Commission shall order for a new vote-counting or a new election in that polling station or that constituency. In the case of the election of senators, the Election Commission may order for only the new counting of votes or the new election of the senator against whom the petition was made;

(2) if it is of the opinion that the election of any person has been carried out honestly and fairly or, even if it has not been carried out honestly and fairly but there is no reasonable ground to hold a new counting of votes or a new election in that polling station or that constituency or of the senator against whom the petition was made in the polling station or constituency, the Election Commission shall dismiss the petition.

Section 96. In the case where the Election Commission orders that a new election be held, the membership of the House of Representatives or the Senate of the person against whom the petition was made shall terminate from the date the Election Commission issues the order. Provided that, such order shall not affect the acts performed by such person in the course of his or her duty before the President of the House of Representatives or the President of the Senate has been informed of the order.

In the case where there is a new vote-counting and it causes the termination of membership of the House of Representatives or the Senate of the person against whom the petition was made, such termination shall be effective from the date the Election Commission announces the new result of vote-counting. Provided that, it shall not affect the acts performed by such person in the course of his or her duty before the announcement thereby.

Section 97. The hearing of petition shall be in accordance with the rules prescribed by the Election Commission.

CHAPTER IV
Penalties

Section 98. Any superior official or employer who obstructs or restrains or does not properly facilitate an official or employee, as the case may be, to exercise the right to vote, shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht or to both.

Section 99. Any head of household who violates section 28 shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht or to both.

Section 100. Any person, knowing that he or she has no right to be a candidate for a member of the House of Representatives or a senator, allows any political party to nominate him or her for election on a party-list basis, or applies for candidacy in violation to section 30, shall be liable to imprisonment for a term of one

to ten years and to a fine of twenty thousand to two hundred thousand Baht, and the court shall order the disfranchisement for a period of ten years.

Section 101. Any person who violates section 17, section 44, section 47 paragraph one, section 58, section 71 or section 91 shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand Baht, and the court shall order the disfranchisement for a period of ten years.

Section 101/1.[23] Any person who falsely acts in order to induce another person to mistakenly believe that any candidate acted in violation of or did not act in accordance with this Organic Act shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht, and the court shall order the disfranchisement for a period of five years.

If an act under paragraph one was done with a malicious intent to cause such candidate to be disfranchised or to prevent the announcement of the result of an election, he or she shall be liable to imprisonment for a term of five to ten years and to a fine of one hundred thousand to two hundred thousand Baht, and the court shall order disfranchisement for a period of ten years.

If an act under paragraph one is a notification or a statement to the Election Commission, he or she shall be liable to imprisonment for a term of seven to ten years and to a fine of one hundred and forty thousand to two hundred thousand Baht, and the court shall order the disfranchisement for a period of twenty years.

If an act under paragraph two and paragraph three is an act of or caused another person to act, supported or connived at by the leader of a political party, it shall be deemed that such political party was acting in a manner perilous to national security under the organic law on Political Parties.

Section 102. Any candidate or leader of a political party who violates section 41 paragraph three shall be liable to imprisonment for a term of one to five years or to a fine of twenty thousand to one hundred thousand Baht or the triple amount of those announced by the Election Commission, whichever is higher, or to both, and the court shall order the disfranchisement for a period of five years.

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[23] As amended by section 19, ibid.

Section 103. Any treasurer for election who prepared the expenditure accounts in a manner inconsistent with the rules and procedure prescribed by the Election Commission under section 42 paragraph two, shall be liable to imprisonment for a term of not exceeding one year and to a fine of not exceeding twenty thousand Baht, and the court shall order the disfranchisement for a period of five years and such person shall be prohibited to be a treasurer for election for a period of five years.

Section 104. Any candidate or leader of a political party who has not submitted the particulars of expenses to the Election Commission within the specified period or has submitted but the evidence under section 43 was not completed shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht, or to both, and the court shall order the disfranchisement for a period of five years.

If the particulars of expenses submitted under section 43 was fault, the candidate or the leader of a political party shall be liable to imprisonment for a term of one to five years or to a fine of twenty thousand to one hundred thousand Baht, and the court shall order the disfranchisement for a period of five years.

Section 105. Any person who violates section 45 paragraph one shall be liable to imprisonment for a term of one to five years or to a fine of twenty thousand to one hundred thousand Baht, or to both, and the court shall order the disfranchisement for a period of five years.

Section 106. Any person who, not being of Thai nationality, violates section 46 shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand Baht.

Section 107.[24] Any person who violates section 48, section 50 or violates orders of the Election Commission under section 85/4 paragraph one shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding ten thousand Baht, or to both.

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[24] As amended by section 20, ibid.

Section 108. Any person who, wilfully causes damage or destroys the ballot paper or causes the ballot paper to be invalid, or does whatever means to make an invalid ballot paper to be a good ballot paper shall be liable to imprisonment for a term of not exceeding one year and to a fine of not exceeding twenty thousand Baht, and the court shall order the disfranchisement for a period of five years.

If the offender under paragraph one is an election official, he or she shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand Baht, and the court shall order the disfranchisement for a period of ten years.

Section 109. During the opening time to vote to the closing time thereof, any member of a committee of a polling station who discloses the fact to anyone whether any voter has come to poll which is favorable or disfavorable to any candidate or political party shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht, or to both.

Section 110. Any person who violates section 59 paragraph one or section 66 or wilfully obstructs the sending of a ballot box or the substitute to the place for counting of votes, or commits any act to cause the delay of the sending thereof, shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand Baht, and the court shall order the disfranchisement for a period of ten years.

Section 111. Any person who violates section 59 paragraph two, section 60, section 61, section 62 or section 63, shall be liable to imprisonment for a term of one to five years or to a fine of twenty thousand to two hundred thousand Baht, or to both, and the court shall order the disfranchisement for a period of five years.

Section 111/1.[25] Any person who violates or does not act in accordance with section 85/10 shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht, or to both.

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[25] As amended by section 21, ibid.

Any person who acts in such a manner as to reveal to another person the information obtained by the Election Commission under section 85/10 (2) and such act is not an exercise of powers and duties under the law shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht, or to both.

Section 112. Any person who sells, distributes or provides any alcoholic drink in a constituency during 18.00 o'clock of the day before the election day until the end of the election day shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding ten thousand Baht, or to both.

Section 113. Any person who bets or organizes the betting for the result of an election shall be liable to imprisonment for a term of one to five years or to a fine of twenty thousand to one hundred thousand Baht, or to both, and the court shall order the disfranchisement for a period of five years.

Section 113/1.[26] In the case where the court passes a judgment sentencing any person for an offence under this Organic Act and such person acted in such manner as to prevent the election from proceeding honestly and fairly, or such person acted with a malicious intent to cause a candidate to be disfranchised or prevent the announcement of the result of an election under section 101/1 paragraph two, which was the cause of the calling of a new election in any polling station or constituency, the court shall pass a judgment for such person to reimburse the expenditure of the new election. The Election Commission shall be exempt from court fees under the Civil Procedure Code.

In the case where there are several persons liable for the reimbursement of expenditure for the new election, every such person shall be liable as joint debtors.

In the case where a member of the House of Representatives elected on a constituency basis is appointed as the Prime Minister or a minister, such member and the political party in which such member is a member shall be jointly liable for the re-election expenditures in the vacant constituency in accordance with the rules and procedures as prescribed by the Election Commission.

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[26] As added by section 22, ibid.

The income under this section shall be remitted to the Treasury as public revenue.

Section 114. In the case where there appears the commission of the offense under this Organic Act in any constituency, it shall be deemed that the candidate or the political party which has nominated its candidates in that constituency is the injured person under the Criminal Procedure Code.

Section 115. Whoever commits an offence under this Organic Act outside the Kingdom shall be punished in the Kingdom and the act of a co-principal, a supporter or an instigator in the offence which is done outside the Kingdom shall be deemed to be committed within the Kingdom.

Countersigned by:
Chuan Leekpai
Prime Minister

Certified correct translation

(Miss Pornthip Jala)
Deputy Secretary-General
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