

(Translation)

Unofficial Translation\*

## CONSTITUTIONAL REFERENDUM ACT B.E.2559

BHUMIBOL ADULYADEJ, REX.

Given on the 22<sup>nd</sup> Day of April B.E. 2559;

Being the 71<sup>st</sup> Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have a law governing constitutional referendum;

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the National Legislative Assembly, as follows:

**Section 1** This Act shall be called the “Constitutional Referendum Act B.E. 2559”.

**Section 2**<sup>1</sup> This Act shall come into force as from the date following the date of its publication in the Government Gazette.

**Section 3** In this Act:

“Constitution Drafting Commission” means the Constitution Drafting Commission under the Constitution of the Kingdom of Thailand (Interim) B.E.2557, amended by the Constitution of the Kingdom of Thailand (Interim) B.E.2557, Amendment (No.1) B.E.2558;

“Draft Constitution” means the draft constitution as provided by the Constitution Drafting Commission and requiring the conduct of voting;

“Voting” means the conduct of referendums under Section 39/1 of the Constitution of the Kingdom of Thailand (Interim) B.E.2557, amended by the Constitution of the Kingdom of Thailand (Interim) B.E.2557, Amendment (No.2) B.E.2559;

“Eligible Voter” means an eligible voter for a referendum who shall have qualifications and shall not have any prohibited characteristics under the Constitution of the Kingdom of Thailand (Interim) B.E.2557, amended by the Constitution of the Kingdom of Thailand (Interim) B.E.2557, Amendment (No.2) B.E.2559 and under this Act;

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<sup>1</sup> The Government Gazette, Volume 133 Section 34A, Page 1 dated 22<sup>nd</sup> April 2016

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“Voting Date” means the date fixed and announced by the Election Commission of Thailand as the referendum date;

“Electorate for Referendum” means the locality fixed as an electorate for referendum;

“Electoral Unit” means the local area fixed for the conduct of referendum;

“Voting Place” means the place fixed for the conduct of referendum; and it shall include the fixed areas surrounding the voting place;

“Province” means Bangkok Metropolitan Administration;

**Section 4** For the execution of this Act, the Government shall subsidize expenses or allocate budgets to the Election Commission of Thailand and the state agencies that shall be obliged to support the voting.

**Section 5** The Chairman of the Election Commission of Thailand shall take charge under this Act, and shall have powers to issue regulations, announcements or orders, with the approval of the Election Commission of Thailand, thus, to be in accordance with this Act.

**Section 6** When the Election Commission of Thailand has taken the hand-over of the draft constitution from the Cabinet; and in case, the Election Commission of Thailand has received additional issues from the National Legislative Assembly for conduct of referendums, it shall be regarded that operations of the Election Commission of Thailand have been in accordance with powers and duties under Section 10(1) of the Organic Act on the Election Commission of Thailand B.E.2550.

Regarding the operation under Paragraph 1, the Election Commission of Thailand shall have powers and duties as prescribed in the Organic Act on the Election Commission of Thailand B.E.2550 and as prescribed in this Act.

**Section 7** Persons shall have freedom to express opinions and to disseminate their opinions relating to the voting in good faith and not being contrary to the laws.

## CHAPTER 1

### PRINTING AND DISSEMINATION OF THE DRAFT CONSTITUTION AND PROCESSES AND METHOD OF VOTING

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**Section 8** In the event that the National Legislative Assembly has passed a resolution to propose issues to the Election Commission of Thailand to conduct additional voting, the National Legislative Assembly shall provide explanations, principles and reasons of the said issues to be submitted to the Election Commission of Thailand within ten days as from the date following the date when the National Legislative Assembly has proposed additional issues.

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**Section 9** For the purpose of smooth voting, the Election Commission of Thailand shall print and disseminate the draft constitution, summary of the standing provisions of the Draft Constitution of the Kingdom of Thailand and additional issues, together with explanations of principles and reasons of issues under Section 8, and shall disseminate the process and method of voting for acknowledgment of the general public, thus, as per the format, guidelines and methods as the Election Commission of Thailand may deem expedient.

Regarding the operation under Paragraph 1, the Election Commission of Thailand may assign one or several person(s) or body of persons to disseminate and publicize, and may support state agencies or the private sector to disseminate and publicize criteria, methods and time limit for the conduct of voting of the draft constitution, summary of the standing provisions of the Draft Constitution of the Kingdom of Thailand and additional issues, together with explanations of principles and reasons of issues under Section 8; provided that the criteria and method of assignment or support thereof shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 10** The Constitution Drafting Commission and members, sub-members and officers of the Constitution Drafting Commission, shall disseminate and publicize for correct understanding relating to the provisions and essences of the draft constitution to the general public.

All units of state agencies and government officials shall support, cooperate and assist the Constitution Drafting Commission and members, sub-members and officers of the Constitution Drafting Commission in the performance of duties under Paragraph 1 as requested by the Constitution Drafting Commission.

Any action of the Constitution Drafting Commission and members, sub-members and officers of the Constitution Drafting Commission under Paragraph 1 or of state agencies and government officials under Paragraph 2 shall not be regarded as inducement of eligible voters not to exercise the voting rights, or to vote or to refrain from voting.

In the event that the National Legislative Assembly has proposed issues to the Election Commission of Thailand to conduct the additional voting under Section 8, the National Legislative Assembly shall disseminate and publicize for correct understanding relating to the essence of the issues for acknowledgment of the general public; and the provisions contained in Paragraph 1, Paragraph 2 and Paragraph 3 shall apply *mutatis mutandis*.

**Section 11** The Election Commission of Thailand shall supervise the expression of opinions relating to the voting to be in good faith and shall prevent any action which may be in breach or failing to comply with this Act, thus, as per the criteria and methods prescribed by the Election Commission of Thailand.

**Section 12** Regarding the dissemination and public relations under Section 9, Section 10 and expression of opinions under Section 11, the Government Radio and Broadcasting Station and Radio and Television Station shall allocate the broadcasting time as fixed by the Election Commission of Thailand.

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**CHAPTER 2**  
**THE CRITERIA AND METHOD OF VOTING**

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**PART 1**  
**GENERAL PROVISIONS**

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**Section 13** The Election Commission of Thailand shall conduct and control the voting to be in good faith and in an equitable manner.

The Election Commission of Thailand may appoint one or several person(s) or body of persons to give recommendations, coordination, assistance and support to the Election Commission of Thailand and to follow up the execution of this Act.

For smooth conduct of voting, the Election Commission of Thailand shall have powers to issue orders to civil servants, employees or workers of government agencies, state agencies, state enterprises, local government, or other government officials to take all necessary actions under this Act.

**Section 14** The Election Commission of Thailand shall fix the date of voting by means of publication in the Government Gazette.

**Section 15** The voting shall be subject to the direct voting by ballots; and the eligible voters shall cast their votes by means of making a cross mark in ballots.

**PART 2**  
**THE COMPETENT AUTHORITY CONDUCTING THE VOTING**

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**Section 16** In the voting, the following actions shall be taken:

(1) The Provincial Election Director shall act as the Director supervising the voting in the responsible area and shall facilitate the voting and shall take necessary actions relating to the voting to be in accordance with this Act;

(2) The Provincial Election Commission shall act as the committee supervising the voting in the responsible area and shall have duties relating to the determination of the electoral units, voting places, provision of the list of eligible voters, addition and removal of names of eligible voters in each electorate for referendum, including supervision of casting and counting of votes and announcement of the voting results;

In case, there is no Provincial Election Commission performing duties in any province, the Election Commission of Thailand shall recruit the voting committee of the electorate for referendum; whereas, the recruitment method and the term in office shall be in accordance with the regulations prescribed by the Election Commission of Thailand.

For the purpose of voting, the Election Commission of Thailand shall have powers to appoint or assign the voting director of the electorate for referendum or the voting committee of the

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electorate for referendum to appoint a subcommittee, body of persons or any person as an assistant in the performance of work relating to the voting as may be reasonable.

Any action that the Election Commission of Thailand has assigned a subcommittee, body of persons or a person appointed by the voting director of the electorate for referendum or the voting committee of the electorate for referendum to perform duties as prescribed by this Act to be powers and duties of the voting director of the electorate for referendum or the voting committee of the electorate for referendum, shall be regarded as action that the voting director of the electorate for referendum or the voting committee of the electorate for referendum has assigned to such subcommittee, body of person or person to perform on his behalf, thus, in accordance with the regulations prescribed by the Election Commission of Thailand.

The Election Commission of Thailand, the voting director of the electorate for referendum or the voting committee of the electorate for referendum shall supervise the performance of duties of a subcommittee, body of persons or a person assisting operations relating to the voting; and in the event that the Election Commission of Thailand considers that any operation or command of the voting director of the electorate for referendum, the voting committee of the electorate for referendum, subcommittee, body of persons or the assigned person is not in good faith and not in an equitable manner, then, the Election Commission of Thailand shall have powers to cancel or amend such operation or command.

**Section 17** The voting committee of the electorate for referendum or its assigned person shall appoint persons as the competent authority conducting the voting, as follows:

(1) A director of the electoral unit shall be obliged to provide and inspect documents, to facilitate, to give advice and assistance relating to the performance of duties of the committee of the electoral unit under (2), including security officers;

(2) The Committee of the Electoral Unit shall consist of at least five members, including one chairman and at least four members appointed from eligible voters in such electorate; and shall have duties relating to the voting in the voting place and the counting of votes of each electorate;

The voting committee of the electorate for referendum or its assigned person shall appoint government officials to perform duties of security protection and to give assistance relating to the performance of duties of the director of the electoral unit under (1) and the committee of the electoral unit under (2).

In the event that any person has obstructed the voting, the committee of the electoral unit shall have powers to order such person to leave the voting place in a manner which shall not obstruct the exercise of voting rights of such person.

**Section 18** In the event that the number of members of the Committee of the Electoral Unit is not complete as per Section 17(2), the voting committee of the electorate for referendum or its assigned person shall appoint eligible voters in such electorate as members of the Committee of the Electoral Unit to fulfill the required number thereof.

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On the voting date, in case, the voting time has started but the number of members of the Committee of the Electoral Unit who are stationed to perform their duties is less than half of the required number thereof, they are still allowed to perform their duties; and the members of the Committee of the Electoral Unit who are stationed at that time shall appoint additional members fulfill the required number thereof before the counting of votes; in case, the number of members of the Committee of the Electoral Unit is less than half of the required number thereof, members of the Committee of the Electoral Unit who are stationed at that time shall appoint eligible voters in such electorate as members of the Committee of the Electoral Unit until the number of members thereof is not less than half of the total number of members thereof and shall additionally appoint members to fulfill the required number thereof before the counting of votes.

In the event that no member of the Committee of the Electoral Unit is present to perform duties, the voting committee of the electorate for referendum shall assign and appoint persons as members of the Committee of the Electoral Unit to perform their duties at the electoral units.

**Section 19** In addition to those prescribed in this Act, the Election Commission of Thailand shall have powers to prescribe procedures for performance of duties of the voting committee of the electorate for referendum, the voting director of the electorate for referendum, the director of the electoral unit, the Committee of the Electoral Unit, the security officers or persons who are appointed to give assistance for operations relating to the voting; and shall have powers to designate the provincial governor, district chief officers and administrative officials or police officers as per the Criminal Procedure Code to take charge of peace and safety keeping in the voting.

**Section 20** For performance of duties under this Act, the following persons shall act as competent authorities under the Criminal Code:

(1) Members of the Election Commission of Thailand, the Secretary-General of the Election Commission of Thailand;

(2) The voting director of the electorate for referendum, members of the voting committee of the electorate for referendum, director of the electoral unit, members of the Committee of the Electoral Unit, security officers and persons who are appointed to give assistance for operations relating to the voting;

Persons under (2) shall act as the competent authority under the Criminal Code as from the date of appointment until the last date of the assigned duties.

**Section 21** Compensations of persons under Section 20(2) shall be in accordance with those fixed by the Election Commission of Thailand.

### PART 3

#### ELECTORATES FOR REFERENDUM AND ELECTORAL UNITS

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**Section 22** Provincial areas shall be used as electorates for referendum, thus, for the purpose of voting.

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**Section 23** When the voting date has been fixed and announced under Section 14, the voting committee of the electorate for referendum or its assigned person shall fix the required number of electoral units in each electorate for referendum by taking account of convenience for travelling to exercise the voting rights of eligible voters.

The determination of electorate units under Paragraph 1 shall be in accordance with the criteria, as follows:

(1) Village areas shall be used as areas of electorates for referendum, except in the event that the number of eligible voters is limited, at least two connected villages may be merged as one electoral unit; and in municipal areas, Pattaya City areas, BMA areas or densely populated community areas, such community areas, boundaries of roads, alleys, canals or rivers may be used as areas of electoral units; and

(2) The number of approximately eight percent of eligible voters shall be used as the criteria; however, in case, it is deemed inconvenient or unsafe for eligible voters to cast their votes, the number of eligible voters may be fixed for more than the said number, or the increasing number of electoral units may be fixed with the number of eligible voters less than the said number.

Electoral units shall be announced for not less than twenty days prior to the voting date and such announcement thereof shall be posted at the voting places or within areas nearby the voting places.

Changes of areas of electoral units may be made and announced for not less than ten days prior to the voting date, except in case of occurrence of riots, flood, fire, force majeure or other necessities, such changes thereof may be announced for less than ten days prior to the voting date; and the provisions contained in Paragraph 3 shall apply *mutatis mutandis*.

**Section 24** Regarding the determination of electoral units under Section 23, the voting committee of the electorate for referendum or its assigned person shall also fix the voting place of each electoral unit; and the provisions contained in Section 23 Paragraph 3 shall apply *mutatis mutandis*.

The voting place under Paragraph 1 shall be the place conveniently accessible for the casting of votes by the general public, and shall be of reasonable size and should be located in the central areas of electoral units and shall be installed with signs or any other marks showing the boundary of the voting place as per the nature of localities and topographic condition for the casting of votes of eligible voters.

In any locality, in case, it is deemed expedient to facilitate eligible voters or for the safety of eligible voters, the voting places may be fixed and announced outside the areas of electoral units but they shall be located within the areas nearby such electoral units; or in case of occurrence of riots, flood, fire, force majeure or other necessities prior to the voting date, changes of the voting place may be announced.

## PART 4

### ELIGIBLE VOTERS AND LIST OF ELIGIBLE VOTERS

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**Section 25** A person who has the following qualifications shall be an eligible voter:

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(1) Having the Thai nationality; but in case of having obtained the Thai nationality by means of naturalization, such person shall have obtained the Thai nationality for not less than five years;

(2) Being not lower than completely eighteen years of age on the voting date; and

(3) Having the name included in the house registration in the electorate for referendum for not less than ninety days until the voting date; an eligible voter who has been outside the electorate where he or she has the name included in the house registration or having the name included in the house registration in the electorate for a period of less than ninety days until the voting date, shall be entitled to cast a vote under Section 42.

An eligible voter under Paragraph 1 and Paragraph 2 who is disabled, infirm or elderly, shall be entitled to cast a vote under Section 39 Paragraph 2.

**Section 26** Any person who has the following characteristics on the voting date shall be prohibited to exercise the voting rights:

- (1) Being a monk, novice, holyman or clergyman;
- (2) Being under the revocation of the voting rights;
- (3) To be under the custody by the Court's warrant or lawful order;
- (4) Being a person of unsound mind or mental infirmity;

**Section 27** When the voting date is fixed and announced under Section 14, the voting committee of the electorate for referendum or its assigned person shall provide the list of eligible voters of each electoral unit and shall post up the list at the voting place for not less than twenty days prior to the voting date, and shall notify the list of eligible voters in the house registration to the householder for not less than fifteen days prior to the voting date.

After the announcement of the list of eligible voters, in case, it appears that the list of eligible voters is incorrect or erroneous, the voting director of the electorate for referendum shall report the same to the voting committee of the electorate for referendum promptly. In case, the voting committee of the electorate for referendum considers that such case is true, the voting committee of the electorate for referendum shall issue an order to make corrections completely for not less than ten days prior to the voting date.

**Section 28** In the event that any eligible voter or householder considers that he/she or the person whose name is included in the house registration is not enlisted in the list of eligible voters in the electoral unit where he/she or such person deserves to be enlisted, then, he/she shall be entitled to file a petition for addition of name to the voting committee of the electorate for referendum or its assigned person for not less than ten days prior to the voting date.

Upon receiving the petition under Paragraph 1, the voting committee of the electorate for referendum or its assigned person shall verify evidences; and in case, it is considered that the petitioner or the person whose name is included in the house registration is an eligible voter, then, an order shall be issued to add the name in the list of eligible voters promptly. In case, the voting committee of the electorate for referendum or its assigned person considers that the petitioner or the person whose name is included in the house registration is not an eligible voter, then, an order shall be

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issued to dismiss the petition and to notify the same to the petitioner with the reason thereof within three days as from the date of receiving the petition.

**Section 29** For not less than ten days prior to the voting date, an eligible voter shall be entitled to file a petition to the voting committee of the electorate for referendum or its assigned person, when he or she has considered that a name of ineligible voter is included in the list of eligible voters as announced under Section 27, for removal of the name of such ineligible voter from the list of eligible voters.

When the voting committee of the electorate for referendum or its assigned person has considered and agreed that it is deemed expedient to order and remove the name of ineligible voter from the list of eligible voters or it is deemed expedient to dismiss the petition; therefore, an order shall be issued that the name of such person shall be removed or the petition shall be dismissed.

In case, any householder considers that the list of eligible voters is specified with names of others in his/her house registration; whereas, the names of those persons are not actually included in the said house registration; when the householder has produced evidence of house registration that the names of those persons are not included in the said house registration, then, the voting committee of the electorate for referendum or its assigned person shall issue an order to remove the names of those persons from the list of eligible voters.

**Section 30** In the event that there is litigation requesting for revocation of voting rights of any person, and the Court has adjudged to revoke the voting rights of such person though the judgment is not yet final; when the list of eligible voters is announced, then, the voting committee of the electorate for referendum shall remove the name of the person who is subject to the Court's order of revocation of voting rights by striking the name of such person off the list of eligible voters.

## PART 5 CASTING OF VOTES

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**Section 31** The casting of votes shall be made by ballots.

The criteria and methods of casting of votes shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 32** The content of ballot boxes shall be easily seen.

The characteristics and sizes of ballot boxes shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 33** Ballots shall have characteristics as per the regulations as prescribed by the Election Commission of Thailand.

In case of voting for more than one issue, it shall be fixed in the same ballot.

**Section 34** In the voting day, the casting of votes shall start as from 08.00 hrs until 16.00 hrs.

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**Section 35** Before the start of the casting of votes, the Committee of the Electoral Unit shall count the total number of ballots of such electoral unit and shall post up the number of ballots at an open place; provided that the casting of votes, process and method of casting of votes shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 36** During the period of casting of votes, an eligible voter who intends to cast his or her vote shall identify himself or herself to members of the Committee of the Electoral Unit by showing identification card, expired identification card, card or any other evidence issued by the authorities or state agencies, with an identification photograph and the identification number of the card holder.

The criteria and method of identification for casting of votes and exercise of the voting rights shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 37** An eligible voter whose name is included in the list of eligible voters of any electoral unit shall cast the vote at the voting place of such electoral unit and shall be entitled to cast the vote at only one place.

**Section 38** The eligible voter who has been appointed to perform duties in other electoral unit outside the electoral unit that he or she is entitled to cast a vote may cast a vote at the electoral unit that he or she shall perform duties.

**Section 39** In order to facilitate the disabled or infirm people or the elderly for the casting of votes, the Election Commission of Thailand or its assigned person shall particularly facilitate the casting of votes of the disabled or infirm people or the elderly or shall give assistance in the casting of votes under the supervision of the Committee of the Electoral Unit; provided that the disabled or infirm people or the elderly shall be able to cast their votes in person, except the physical condition of the disabled or infirm people or the elderly has prevented them from marking the ballots, then, other people or members of the Committee of the Electoral Unit shall act on their behalf, with the consent and in accordance with the intention of such disabled or infirm people or the elderly; and it shall be regarded as direct voting by ballots.

In the event that the Election Commission of Thailand deems it expedient, a voting place may be specially provided for the disabled or infirm people or the elderly to register and exercise their voting rights at such place; and upon registration, the voting rights at electoral units where their names are included in the house registration shall be revoked.

The facilitation and casting of votes by proxies under Paragraph 1, including the facilitation by means of special provision of the voting place and the registration for exercise of the voting rights under Paragraph 2, shall be in accordance with the criteria and methods as per the regulations as prescribed by the Election Commission of Thailand.

**Section 40** Upon the closing time for the casting of votes, the Committee of the Electoral Unit shall announce the closure of the voting time and shall cancel the distribution of ballots and shall mark the remaining ballots as invalid ballots. In the event that an eligible voter who intends to cast a vote is present in the area of the voting place prior to the closing time for the casting of votes but has not yet received a ballot, the Committee of the Electoral Unit shall give a ballot to

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the eligible voter who has identified himself or herself; and when the eligible voter has cast the vote completely, the Committee of the Electoral Unit shall close the ballot box slot and shall provide details relating to the total number of ballots, the number of eligible voters who have identified themselves and received the ballots and the number of remaining ballots.

The criteria and method of operation under Paragraph 1 shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 41** In the event that the voting at any electoral unit may not be conducted resulting from the occurrence of riots, flood, fire, force majeure or other necessities, the Committee of the Electoral Unit shall announce the cancellation of voting in such electoral unit and shall report the same to the voting committee of the electorate for referendum for immediate reporting thereof to the Election Commission of Thailand.

The Election Commission of Thailand shall promptly fix a new voting date for such electoral unit, except the Election Commission of Thailand considers that the number of eligible voters of the electoral unit as per cases under Paragraph 1 may not change the voting results, then, the Election Commission of Thailand may not conduct a new voting for such electoral unit.

## PART 6

### CASTING OF VOTES BY ELIGIBLE VOTERS OUTSIDE THE PROVINCIAL AREA

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**Section 42** Subject to Section 39 Paragraph 2, in case, an eligible voter who is outside the electorate for referendum where he/she has his/her name has been included in the house registration or having the name included in the house registration of the electorate for referendum for not less than ninety days until the voting date and intends to exercise the voting rights in the province where he/she resides, shall submit an application for registration for not less than thirty days prior to the voting date, and the voting rights of such eligible voter in the electorate for referendum where he/she has his/her name has been included in the house registration shall be cancelled, unless having notified the change thereof for not less than thirty days prior to the voting date.

The criteria and method of registration, voting and counting of votes under Paragraph 1 shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

## PART 7

### COUNTING OF VOTES

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**Section 43** When the voting under Section 34 is complete, the Committee of the Electoral Unit shall openly count votes from ballots of each electoral unit at the voting place of each electoral unit; and it shall be prohibited to postpone or delay the counting of votes.

The criteria and method of counting of votes from ballots shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 44** In case, the counting of votes at any voting place may not be conducted or the votes may not be counted until completion resulting from the occurrence of riots, flood, fire,

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force majeure or other necessities or due to condition-based necessities which may have impact on the safety, then, the Committee of the Electoral Unit shall announce the cancellation of counting of votes for such electoral unit and shall report the same to the voting committee of the electorate for referendum for immediate reporting thereof to the Election Commission of Thailand; and the Election Commission of Thailand shall fix the date, time and venue for counting of votes promptly; provided that the keeping of ballots, ballot boxes and documents relating to the voting, including method of recounting of votes shall be in accordance with the criteria and method as per the regulations as prescribed by the Election Commission of Thailand.

When the voting committee of the electorate for referendum has received the report under Paragraph 1 and found that the voted ballots have been damaged or lost, it shall report the same to the Election Commission of Thailand for consideration and making an order for re-voting in such electoral unit.

In the event that the Election Commission of Thailand considers that the number of ballots or the number of eligible voters who have identified themselves for exercising of the voting rights, of which votes cannot be counted, may not change the voting results, then, the Election Commission of Thailand may not order to recount votes for such electoral unit.

**Section 45** Ballots which have the following characteristics shall be regarded as voided ballots:

- (1) Fake ballots;
- (2) Ballots not given by members of the Committee of the Electoral Unit;
- (3) Unmarked ballots;
- (4) Ballots written with statements or other words;
- (5) Ballots marked other than a cross mark;
- (6) Ballots marked outside the "Marking" box;
- (7) Ballots noticeably marked, except for actions as per powers and duties;
- (8) Ballots marked in the "Marking" box, exceeding one mark;
- (9) Ballots which have the characteristics as prescribed and announced by the

Election Commission of Thailand as the voided marks;

Voided ballots under Paragraph 1 shall not be counted as votes.

**Section 46** In case of voting for more than one issue in the same ballot, then, ballots which have the following characteristics shall be regarded as totally voided ballots:

- (1) Ballots which have the characteristics under Section 45(1) (2) (4) or (7);
- (2) Ballots which have the characteristics under Section 45(3) (5) (6) (8) or (9) in all

issues;

In case, it is not a totally voided ballot under Paragraph 1, such ballot shall be scrutinized in each issue; provided that the characteristics of the issue of voided ballot shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 47** When the counting of votes at the voting place is complete, the Committee of the Electoral Unit shall report the results of counting of votes, the number of all existing ballots, the number of ballots used and the number of ballots unused in such electoral unit;

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provided that the results thereof shall be openly reported; and the results of counting of votes shall be reported to the voting committee of the electorate for referendum promptly.

For the purpose of quick monitoring of the results of voting to the general public, the Election Commission of Thailand may unofficially report the results of voting; but when the results of voting have been displayed equal to ninety-five percent of the number of electoral units, the display of results of voting to the general public shall be stopped.

The criteria and method under Paragraph 1 and Paragraph 2 shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

**Section 48** In the event that, according to the results of counting of votes, it appears that the number of eligible voters who have exercised their voting rights does not agree with the number of ballots used, the Committee of the Electoral Unit shall conduct the audit thereof; in case, the results of counting of votes still do not agree, the issue shall be reported to the voting committee of the electorate for referendum, with the reason thereof; and ballot boxes including materials and equipment for voting shall be sent to the voting committee of the electorate for referendum or its assigned person.

Upon receiving the report under Paragraph 1, the voting committee of the electorate for referendum shall report the same to the Election Commission of Thailand for consideration and issuing of an order for recounting of votes or for conducting a new voting in such electoral unit; however, in case, the Election Commission of Thailand considers that the number of eligible voters of such electoral unit who have identified themselves may not change the voting results, then, the Election Commission of Thailand may not issue an order for recounting of votes or for conducting a new voting in such electoral unit.

## PART 8

### OBJECTION TO THE VOTING

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**Section 49** At the end of the voting time under Section 34, in case, at least fifty eligible voters who have exercised their voting rights at any electoral unit agreed that the voting in such electoral unit was conducted in an unfaithful and inequitable manner, they shall be entitled to file a petition for objection and to produce evidences thereof to the Election Commission of Thailand or its assigned person within twenty-four hours as from the end of the voting.

**Section 50** When the Election Commission of Thailand has received the petition for objection, it shall conduct investigation and seek all evidences to obtain matters of fact promptly; in case, it is considered that the voting in such electoral unit is unfaithful and inequitable manner, the Election Commission of Thailand shall issue an order for a new voting in such electoral unit, thus, no later than thirty days as from the voting date, except that a new voting may not change the results of voting, then, the Election Commission of Thailand shall issue an order to dismiss such petition for objection.

Regarding the investigation of a petition for objection under Paragraph 1, the Election Commission of Thailand shall have powers to order government agencies, state agencies, state

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enterprises or local government and personnel of such agencies, other government officials, inquiry officials, public prosecutors or any person to issue a letter for clarification of matters of facts or to make statements or to send documents, evidences or other related evidences in the investigation; whereas, for performance of such duties, the Election Commission of Thailand may assign any person to act on its behalf.

The criteria and method of consideration of a petition for objection and investigation and seeking of evidences under Paragraph 1 shall be in accordance with the regulations as prescribed by the Election Commission of Thailand.

## PART 9 ANNOUNCEMENT OF THE VOTING RESULTS

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**Section 51** The voting committee of the electorate for referendum shall collect the votes from all electoral units within the electorates for referendum and the voting places outside the provincial areas and shall report the results of counting of all votes to the Election Commission of Thailand promptly.

**Section 52** When the time limit for objection under Section 49 has been elapsed; and the Election Commission of Thailand has received a report of the results of counting of votes from all electoral units nationwide; and in case, no objection has been filed, the Election Commission of Thailand shall announce the results of voting and the number of eligible voters who have exercised their voting rights and shall report the same to the Prime Minister promptly.

**Section 53** In the event that the voting or the counting of votes in any electoral unit may not be conducted due to causes under Section 41 or Section 44; or it appears that the number of eligible voters who have exercised their voting rights does not agree with the number of ballots used under Section 48, or there is an objection of voting under Section 49; and the Election Commission of Thailand agreed that such case may not change the results of voting, then, the Election Commission of Thailand shall announce the results of voting and the number of eligible voters who have exercised their voting rights and shall report the same to the Prime Minister promptly.

**Section 54** In the event that the voting or the counting of votes in any electoral unit may not be conducted due to causes under Section 41 or Section 44; or it appears that the number of eligible voters who have exercised their voting rights does not agree with the number of ballots used under Section 48, or there is an objection of voting under Section 49, and the Election Commission of Thailand has fixed the new voting date under Section 41, or has issued an order for the conduct of new voting under Section 44, Section 48 or Section 50, then, no person shall be allowed to disseminate the results of voting of the Election Commission of Thailand prior to the time of announcement of the results of voting under Section 52.

Whoever has breached the provisions under Paragraph 1 shall be regarded as obstructing the operations of the Election Commission of Thailand under Section 57.

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### CHAPTER 3

#### SUPERVISION OF VOTING AND THE STIPULATED PENALTIES

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**Section 55** Members and the Secretary-General of the Election Commission of Thailand, the Provincial Election Director, members of the Provincial Election Committee, subcommittees, the voting director of the electorate for referendum, members of the voting committee of the electorate for referendum, director of the electoral unit, members of the Committee of the Electoral Unit, security officers or persons appointed to give assistance on operations relating to the voting shall be prohibited to willfully breach the duties or to conduct malfeasance or to take any other actions for obstructing the compliance with the laws, regulations, announcements or orders of the Election Commission of Thailand.

In the event that a person under Paragraph 1 has performed duties under the laws, announcements, regulations or orders of the Election Commission of Thailand and has taken such action in good faith, such person shall definitely receive protection and shall not assume any civil, criminal or administrative liabilities.

Whoever has breached the provisions under Paragraph 1 shall be imprisoned for a period of one to ten years and shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht; and the Court shall issue an order to revoke the voting rights for a period of ten years.

**Section 56** Government officials shall be prohibited to use their positions and duties or to perform the assigned duties under this Act in an unlawful manner, and to take any action which may cause the voting to be in an unfaithful and inequitable manner.

Such use of positions and duties or performance of duties in an unlawful manner under Paragraph 1 shall not include the performance of normal duties in the positions and duties or performance of the assigned duties of such government officials or giving of advice or assistance in operations relating to the voting, which is not related to the performance of duties, though such action may be in favor of or against any party.

In case, there is a reasonable cause to believe that there is a breach of provisions under Paragraph 1, the Election Commission of Thailand shall have powers to order such government officials to stop or suspend any action which may cause the voting to be in an unfaithful and inequitable manner.

Whoever has breached the provisions under Paragraph 1 or Paragraph 3 shall be imprisoned for a period of one to ten years and shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht; and the Court shall issue an order to revoke the voting rights for a period of ten years.

**Section 57** Whoever has obstructed the performance of works of the Election Commission of Thailand, members of the Election Commission of Thailand, the Provincial Election Committee, members of the Provincial Election Committee, the Provincial Election Director, the voting committee of the electorate for referendum, members of the voting committee of the electorate for referendum, the voting director of the electorate for referendum, the Committee of the Electoral Unit, members of the Committee of the Electoral Unit, subcommittees or members of the subcommittees as appointed by the Election Commission of Thailand or the voting committee of the electorate for

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referendum or the voting director of the electorate for referendum or the Committee of the Electoral Unit for the execution under this Act, shall be imprisoned for not exceeding one year or shall be fined for not exceeding twenty thousand Baht, or both.

In case the obstruction of performance of works under Paragraph 1 has been taken by doing or threatening to do an act of violence, the offender shall be imprisoned for not exceeding two years or shall be fined for not exceeding forty thousand Baht, or both.

**Section 58** Any superior or employer who has obstructed or detained or failed to give reasonable convenience to the exercise of voting rights of subordinates or workers, as the case may be, shall be imprisoned for not exceeding two years or shall be fined for not exceeding forty thousand Baht, or both.

**Section 59** Whoever has destroyed the ballots without lawful powers or has willfully taken any action causing damage to the ballots or has taken any action to cause the voided ballots to be usable, shall be imprisoned for not exceeding one year and shall be fined for not exceeding twenty thousand Baht.

In case, the offender under Paragraph 1 is the competent authority or the person who has duties relating to the voting, the offender shall be imprisoned for a period of one to ten years and shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht.

**Section 60** Whoever has taken any of the following actions during the opening time for voting:

- (1) Voted or attempted to vote with the knowledge that he/she is not an eligible voter or having no voting rights in such electoral unit;
- (2) Used any cards other than the ballots for the voting;
- (3) Took the ballots outside the voting place;
- (4) Produced the marked ballots to others so that others shall be informed that he/she has voted or refrained from voting without any lawful powers;
- (5) Marked noticeably by any method on the ballot so that others shall know that such ballot belonged to him/her, or used any tools or equipment to record image of the ballot on which he/she had cast the vote;
- (6) Disobeyed orders of members of the Committee of the Electoral Unit to get out of the voting place because such person had obstructed the voting under Section 17 Paragraph 3;
- (7) Put a ballot into the ballot box without lawful powers or took any action to the list of eligible voters to show that there were eligible voters identifying themselves wrongfully or taking any action which caused the increase of ballots from the actual number thereof;
- (8) Took an action without lawful powers to prevent eligible voters from exercising the voting rights or to obstruct or restrain eligible voters from travelling to or getting into the voting place or from reaching such voting place within the time limit for voting;
- (9) Caused troubles at the voting place or taking any action which interrupted or was an obstacle to the voting;

Whoever has taken any of the actions under (1) (2) (3) (4) (5) or (6) shall be imprisoned for not exceeding five years or shall be fined for an amount of twenty thousand Baht to one hundred

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thousand Baht, or both; and whoever has taken any of the actions under (7) (8) or (9) shall be imprisoned for not exceeding ten years and shall be fined for not exceeding two hundred thousand Baht.

**Section 61** Whoever has taken any of the following actions:

- (1) Caused troubles so that the voting shall not be in good order;
- (2) Gave, offered or promised to give or prepared to give property or any other benefits which may be calculated in cash to any person to induce eligible voters to refrain from exercising their voting rights or to cast any specific votes or to abstain the votes;
- (3) Deceived, forced, threatened or used influence to threaten eligible voters not to exercise their voting rights or to cast any specific votes or to abstain the votes, or to mistake the date, time and place of voting or the voting method;
- (4) Opened, destroyed, caused damage or transformation, caused loss or uselessness, took or obstructed the delivery of ballot boxes or ballots, except for operations under the lawful powers and duties;
- (5) Gambled or organized any gambling activities which induced eligible voters not to exercise their voting rights or to cast any specific votes or to abstain the votes;
- (6) Demanded, accepted or agreed to accept property or any other benefits for himself or for others not to exercise the voting rights or to cast any specific votes or to abstain the votes;
- (7) Sold, distributed or catered all types of liquor in the electorate for referendum between 18.00 hrs of the date prior to the voting date until the end of the voting date;

Whoever has disseminated statements, images, sounds in newspapers, radio, television, electronic media or any other communication channels differently from the matters of facts or in a violent, aggressive, rude, inciting or threatening manner, with an aim that those eligible voters shall agree not exercise the voting rights or to cast any specific votes or to abstain the votes, shall be regarded as causing troubles so that the voting shall not be in good order.

Whoever has taken any of the actions under (1) (2) (3) (4) (5) or (6) shall be imprisoned for not exceeding ten years and shall be fined for not exceeding two hundred thousand Baht; provided that the Court may issue an order to revoke the voting rights for a period of not exceeding five years.

In case, offences under (1) (2) (3) (4) (5) or (6) were committed by a body of persons of at least five people, such body of persons shall be imprisoned for a period of one to ten years and shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht; and the Court shall issue an order to revoke the voting rights for a period of ten years.

Whoever has taken action under (7) shall be imprisoned for not exceeding six months or shall be fined for not exceeding ten thousand Baht, or both.

In the event that the person, who had taken action under (6), accepted or agreed to accept property or any other benefits for himself or for others, and notified such action to the Election Commission of Thailand or its assigned person prior to or on the voting date; therefore, such person shall not be punished and shall not be revoked his voting rights.

**Section 62** Whoever has provided vehicles to transport eligible voters to or from the voting place for the purpose of voting without any payment of normal fares or wages, or has managed to transport eligible voters to or from the voting place in order to induce or control the eligible voters for voting or to cast any specific votes or to abstain the votes, shall be imprisoned for a period of one

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to five years or shall be fined for an amount of twenty thousand Baht to one hundred thousand Baht, or both; and the Court shall issue an order to revoke the voting rights for a period of five years.

The provisions in this Section shall not apply to the event that the government agency has provided a vehicle for convenience to the eligible voters.

**Section 63** Whoever has disseminated the results of public polls relating to the voting during a period of seven days prior to the voting date until the end of the voting time of such voting date, shall be imprisoned for not exceeding three months or shall be fined for not exceeding six thousand Baht, or both.

**Section 64** Any member of the Committee of the Electoral Unit who willfully counted the ballots or the votes differently from the matters of facts or summed up the votes wrongfully or took any action unlawfully and caused the ballots defective or damaged or becoming voided ballots or took any action to cause the voided ballots to be usable or read out the ballots wrongfully or reported the voting wrongfully, shall be imprisoned for a period of one to ten years and shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht.

**Section 65** In case, the Court has issued an order to revoke the voting rights under this Act, such order shall be counted as from the date of final judgment of the Court.

**Section 66** In case, any person has been adjudged for commission of offence under this Act; and such person has caused the unfaithful or inequitable voting and resulted in the conduct of new voting in any electoral unit, such person shall be adjudged to assume responsibilities for expenses of the voting in the electoral unit that caused the Election Commission of Thailand to issue an order for the conduct of such new voting.

Counter-Signature:

General Prayut Chan-o-cha

Prime Minister

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**Note:-** Reason for promulgation of this Act: Since the Constitution of the Kingdom of Thailand (Interim) B.E.2557, amended by the Constitution of the Kingdom of Thailand (Interim) B.E.2557, Amendment (No.2) B.E.2559 Section 39/1 has provided that the Election Commission of Thailand shall be obliged to conduct the referendum; whereas, the criteria, method and the time limit for the conduct of referendum, qualifications and the prohibited characteristics of eligible voters for referendum, the dissemination of the draft constitution, summary of the standing provisions of the Draft Constitution of the Kingdom of Thailand, the voting of referendum, the counting of votes, the voided ballots and announcement of the results of voting of referendum shall be in accordance with those provided by laws; therefore, it is necessary to enact this Act.

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Prepared by: Visanee/Preeyanuch  
25<sup>th</sup> April 2016

Checked by: Panya  
27<sup>th</sup> April 2016

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