

The Senate under the Transitory Provisions of the Constitution of the Kingdom of Thailand



Introduction

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun graciously granted the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) for all Thai people on Thursday the 6th April B.E. 2560 (2017) at the Ananta Samakhom Throne Hall and published in the Government Gazette on the same day. The Constitution of the Kingdom of Thailand, B.E. 2560 (2017) is the 20th Constitution of the Kingdom of Thailand.

According to the importance of the legislative branch as one of the organization exercising sovereign power under the Constitution, the Secretariat of the Senate as an organization supporting the operations of the National Legislative Assembly is aware of the importance in disseminating information and essential element of the provisions of the Constitution, B.E. 2560 (2017) with the purpose to disseminate knowledge on system of the National Assembly and the Senate of Thailand. Therefore, this book, **“The Senate under the Transitory Provisions of the Constitution of the Kingdom of Thailand”** was published in four languages: English, French, Chinese and Thai, to introduce Thai Senate. The content consists of three parts: Part One is on the composition, source, qualifications and prohibitions, and term of the Senate under the Transitory Provisions; Part Two explains the duties and powers of the Senate under the Transitory Provisions; and Part Three provides particular information of Parliamentary work. The Secretariat of the Senate sincerely hopes that this book will provide knowledge and understanding on the Senate under the transitory provisions of the Constitution of the Kingdom of Thailand B.E. 2560 (2017).

The Secretariat of the Senate
June 2018



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Preface



Thailand has been governed by democratic regime under parliamentary system with the King as Head of State for the past 86 years (B.E. 2475 - 2561). The country has promulgated, amended and repealed many constitutions in order to organize the administration to be in accordance with each day and age that passes including the Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014), Amendment (No.1), B.E. 2558 (2015). The Constitution Drafting Committee was established, under the aforementioned Constitution, to draft a new constitution as a guidance for governance, development and reform of the country by which the public has access to and participate in the hearing. Upon the completion of the draft Constitution, it was disseminated to the public to gain the understanding and the referendum was held for the public to vote whether or not to approve the draft constitution in its entirety.

The result of the referendum was that the majority of the eligible voters casted their votes to approve the draft Constitution. The Prime Minister, thereby, respectfully presented the draft Constitution of the Kingdom of Thailand B.E. 2560 (2017) to the King for signature and promulgated as the Constitution of the Kingdom of Thailand, the 20th Constitution of the country.

The Constitution provides that Thailand shall be under a democratic regime of government with the King as Head of State. Sovereign power belongs to the Thai people. In order to prevent one particular organization from having an absolute sovereign power, the Constitution divides the organization exercising sovereign power into 3 parts: the organization exercising the legislative power is the National Assembly; the organization exercising the executive power is the Council of Ministers; and the organization exercising the judicial power is the Courts. Moreover, for effective scrutiny of the exercise of State power, the Constitution provides that there shall be an independent organization having duties and powers in scrutinizing the exercise of State power in accordance with the provisions of the Constitution. This is to establish checks and balances and to prevent any organization from exercising State power arbitrarily which is the principal of liberal democratic State governed under democratic regime and legal State or rule of law.



Throughout those time period, Thailand has maintained a democratic regime of government under parliamentary system since the change of government regime from absolute monarchy to democracy on 24th June B.E. 2475 (1932). Thailand first used the unicameral system which subsequently was changed to bicameral system under the Constitution of the Kingdom of Thailand, B.E. 2489 (1946) which provided that the National Assembly shall consist of the House of Representatives and the Senate.

The current Constitution still maintains the democratic regime of government under parliamentary system. According to Chapter VII, the National Assembly consists of the House of Representatives and the Senate as follows:

- “the House of Representatives” consists of 500 members; 350 members elected on a constituency basis and 150 members from party lists of political parties. The term of the House of Representatives is four years as from the election day.

- “the Senate” consists of 200 members installed by and among persons having the knowledge, expertise, experience, profession, or characteristics or common interests or working or having worked in varied areas of the society. The division of groups shall be made in a way which enables every person having the right to apply for selection to belong to any group. The undertakings of the selection shall be carried out from the level of an *Amphoe*, and the level of a *Changwat*, and national level, so that a senator is a representative of the Thai people at the national level. The term of the Senate is five years from the date the result of the selection is announced.

According to the Transitory Provisions, Section 269 of the Constitution of the Kingdom of Thailand provides that during the initial period, “the Senate” shall consist of 250 members appointed by the King upon the advice of the National Council for Peace and Order. The term of the Senate under this section shall be 5 years from the date of appointment by the Royal Command. Upon expiration of the term of the Senate, the proceedings for selection of new



senators shall be taken and the senators under the Transitory Provisions shall remain in office to perform duties until there are new senators.

During the period of first 5 years from the date of installation of the first National Assembly under this Constitution¹, apart from the duties and powers of the Senate provided in the main provisions of the Constitution, the Senate under the transitory provisions also have a crucial role to drive the national reform especially during the transitional period of the government in accordance with the provisions of the Constitution. Such provisions provide that the Senate under the transitory provisions shall participate with the House of Representatives in an approval of a person suitable to be appointed as Prime Minister; have the duties and powers to monitor, recommend and accelerate national reform in order to achieve the objectives under Chapter XVI National Reform; and prepare and implement the National Strategy. The roles of the Senate under the Transitory Provisions shall support stable growth of the Nation governed by the democratic regime under parliamentary system with the King as Head of State.

¹ The first National Assembly under the Constitution of the Kingdom of Thailand consists of:

- The House of Representatives consists of 500 members from election.
- The Senate under the Transitory Provisions of the Constitution of the Kingdom of Thailand consists of 250 members appointed by the King upon the advice of the National Council for Peace and Order.



Part 1

Composition, Source,
Qualifications and Prohibitions
and Term of the Senate
under the Transitory Provisions



Composition

The Senate under the Transitory Provisions of the Constitution of the Kingdom of Thailand consists of 250 members appointed by the King upon the advice of the National Council for Peace and Order.

Source

The installation of senators under the Transitory Provisions contains selection and appointment procedures under the following rules and procedures:

(1) there shall be one “Senator Selection Committee” consisting of not fewer than 9 but not exceeding 12 persons, appointed by the National Council for Peace and Order from persons with knowledge and experience in various areas who are politically impartial, having the duties of nominating suitable persons for appointment as senators. The nomination shall be in accordance with the following rules and procedures:

(a) the Election Commission shall select 200 senators in accordance with the Organic Act on Installation of Senators. This shall be completed not less than 15 days prior to the date of election of members of the House of Representatives. The Election Commission shall thereafter present the list of names to the National Council for Peace and Order;

² The National Council for Peace and Order is a group of persons under the Announcement of the National Council for Peace and Order No. 6/2557 dated 22nd May B.E. 2557 having General Prayut Chan-o-cha as the Head of the National Council for Peace and Order.

³ The Election Commission consists of 7 commissioners appointed by the King upon the advice of the Senate from persons who have knowledge and expertise in various academic fields that will be useful for administration and management of election in honest and just manner, and are of evident integrity or who have knowledge, expertise and experience in the field of law and had held a position not lower than Chief Justice or a position not lower than Director-General of a State Attorney Department for a period of not less than five years.



(b) the Senator Selection Committee shall select no more than 400 persons who have appropriate knowledge and competence deemed beneficial to the performance of duties of the Senate and national reform in accordance with the procedure prescribed by the Senator Selection Committee. This shall be completed no later than 15 days prior to the date of election of members of the House of Representatives and shall thereafter present the list of names to the National Council for Peace and Order;

(c) the National Council for Peace and Order shall select:

- 50 persons from the list of names received from the Election Commission and select 50 alternates therefrom, with due and thorough consideration given to persons from different groups;

- 194 persons from the list of names received from the Senator Selection Committee and select 50 alternates therefrom.

The National Council for Peace and Order shall complete these undertakings within 3 days from the date on which the result of the election for members of the House of Representatives is announced.

244 persons are selected by the National Council for Peace and Order combining with 6 *ex officio* senators (consisting of the Permanent Secretary of Defence, the Chief of Defence Forces, the Commander-in-Chief of the Royal Thai Army, the Commander-in-Chief of the Royal Thai Navy, the Commander-in-Chief of the Royal Thai Air Force and the Commissioner-General of the Royal Thai Police), total of 250 persons.

(2) the National Council for Peace and Order shall respectfully present the list of names of such 250 persons to the King for appointment, and the Head of the National Council for Peace and Order shall countersign the Royal Command.



Qualifications and Prohibitions

According to the Constitution of the Kingdom of Thailand, a person to be appointed as a senator shall have the qualifications and not to be under any of the prohibitions as follows:

Qualifications

- being of Thai nationality by birth;
- being not less than 40 years of age on the date of application for selection;
- having knowledge, expertise and experience, or having worked for not less than 10 years in the field for which he or she applies, or having the qualifications under the rules and conditions prescribed in the Organic Act on Installation of Senators;

- being born, having his or her name listed in the household register, having worked or having a connection to the area in which he or she applies for selection in accordance with the rules and conditions prescribed in the Organic Act on Installation of Senators.

Prohibitions

(1) being a person prohibited from exercising the right to stand for election as a result of following prohibitions:

- being addicted to narcotics;
- being bankrupt or having been dishonestly bankrupt;
- being the owner of, or a shareholder in any newspaper or mass media business;

- being a person under the prohibitions from exercising his or her right to vote due to the reasons that he or she is a Buddhist monk, Buddhist novice, ascetic or priest; is under revocation of the right to vote, whether or not such case is final; is of unsound mind or of mental infirmity;



- being under temporary suspension of the right to stand for election, or being a person whose right to stand for election has been revoked;
- being sentenced by a judgement to imprisonment and imprisoned by a warrant of the Court;
- having been discharged for a period of less than 10 years up to the date of election after being imprisoned except for an offence committed through negligence or a petty offence;
- having been dismissed from official service, a State agency or a State enterprise on the grounds of dishonest performance of duties or being deemed as having committed dishonest acts or wrongful conducts in the official service;
- having been ordered by a final judgement or order of the Court that his or her assets shall vest in the State on the grounds of unusual wealth, or having been sentenced by a final judgement to imprisonment on the grounds of committing an offence under the law on prevention and suppression of corruption;
- having been convicted by a final judgement for committing:
a malfeasance in public office or in judicial office; an offence under the law on wrongdoings of officials in a State organization or agency; an offence against property committed in bad faith under the Penal Code; an offence under the law on the borrowing of money amounting to public fraud; an offence of being a producer, importer, exporter or seller under the law on narcotics; an offence of being a banker or a proprietor under the law on gambling; an offence under the law on the prevention and suppression of human trafficking; or an offence of money laundering under the law on the prevention and suppression of money laundering;
- having been sentenced by a final judgement for committing a dishonest act in an election;
- being an official or an employee of a government agency,



State agency, or State enterprise or other State official;

- being a judge of the Constitutional Court, or holding a position in an Independent Organ;

- being currently under the prohibition from holding a political position;

- having been removed from office on the ground that he or she used to be a member of the House of Representatives, a senator or a member of a committee of any House who submitted a motion or altered any item of a motion or commit any act which resulted in direct or indirect involvement of a member of the House of Representatives, a senator or a member of a committee of any House in the use of the appropriations where the Constitutional Court had decided that such violation had really occurred or on the ground that he or she is a convicted person by the judgement rendered by the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions deciding that he or she is involved in circumstances of unusual wealth, commits an act of corruption, or deliberately performs duties or exercises powers in contrary to the provisions of the Constitution or the law, or seriously contravenes or fails to comply with the ethical standards;

(2) being a government official;

(3) being or having been a member of the House of Representatives, except for a person who has vacated office as a member of the House of Representatives for a period of not less than 5 years up to the date of application for selection;

(4) being a member of a political party;

(5) being or having been a person holding any position in a political party, except for a person who has vacated the position in a political party for a period of not less than five years up to the date of application for selection;

(6) being or having been a Minister, except for a person who has vacated office for a period of not less than 5 years up to the date of application for selection;



(7) being or having been a member of a local assembly or a local administrator, except for a person who has vacated office as a member of a local assembly or a local administrator for a period of not less than 5 years up to the date of application for selection;

(8) being an ascendant, spouse or child of a member of the House of Representatives, a senator, a political official, a member of a local assembly or a local administrator, a candidate for selection to become a senator for the same session, or a person holding office in the Constitutional Court or in an Independent Organ.

Exceptions for the Application of the Provisions on Prohibitions

The provisions on the following prohibitions shall not apply to the persons holding the positions of senator selected by the Senator Selection Committee and the persons appointed to be *ex officio* senators.

- senators selected by the Senator Selection Committee

- being or having been a Minister, except for a person who has vacated office for a period of not less than 5 years up to the date of application for selection.

- *Ex officio* senators

(1) being a government official;

(2) not holding any position or performing any duty in a government agency, State agency, or State enterprise or any position of local assembly or a local administrator;

(3) not carry out any act, through the status or position of senator which, by nature, amounts to an intervention of or interference with the following matters, whether directly or indirectly, for his or her own benefit, the benefit of another person or of a political party:

- the performance of official functions or carrying out of work within the usual duties of a government official, official or employee of a



government agency, State agency, State enterprise, an enterprise in which the State is a major shareholder or a local government organization;

- the carrying out of an act which, by nature, enables him or her to participate in the spending of budget or granting of approval of any project of a State agency, except an act within the affairs of the National Assembly;

- the recruitment, appointment, transfer, reshuffle, promotion, salary increase, or removal from office of a government official who holds a permanent position or receives salary and is not a political official, an official or employee of a government agency, State agency, State enterprise, an enterprise in which the State is a major shareholder or local government organization.

The Term and Membership of the Senate under the Transitory Provisions

The term of the Senate under the Transitory Provisions shall be 5 years from the date of appointment by the Royal Command. Membership of a senator commences on the date of appointment by the Royal Command.

In the case where a position becomes vacant

If a position becomes vacant, the next person in sequential order in the alternate list shall be elevated to be a senator to fill the vacancy. The President of the Senate shall take action and countersign the Royal Command.

An *ex officio* senator shall also vacate office of senator upon vacating from the position held at the time of appointment as a senator, and proceedings shall be taken to appoint the person holding the position to be the *ex officio* senator.

A senator appointed to fill the vacancy shall hold office for the remaining term of the Senate.



In the case where the number of 250 of senators is not met

In the case where the number of 250 of senators is not met as a result of:

(1) the Royal Command appointing a person from the alternate list as a senator to fill the vacancy has not yet been issued;

(2) no person left in the alternate list;

(3) no person holding office of *ex officio* senator.

due to any reason, the Senate shall consist of the existing senators.

In case of the expiration of the term of the Senate in accordance with the Transitory Provisions

Upon expiration of the term of the senate, the senators shall remain in office to perform duties until there are new senators.



Part 2

Duties and Powers of the Senate under the Transitory Provisions



According to the Constitution of the Kingdom of Thailand, the Senate under the Transitory Provisions shall have the same duties and powers as the Senate under the general provisions as follows:

1. Duties and Powers in Legislation

1.1 Consideration of bills and organic law bills

1.1.1 Consideration of bills

Regarding the duties and powers of the Senate in consideration of bills, the Constitution provides that the Senate shall perform the duty in scrutinizing bills which have been approved by the House of Representatives and a bill shall be firstly submitted to the House of Representatives. When the House of Representatives considers and approves a bill, the House of Representatives shall submit such bill to the Senate and the Senate shall complete the consideration of such bill within 60 days. If it is a money bill, the consideration thereof shall be completed within 30 days, provided that the Senate may, in a particular case, resolve to extend the period for not more 30 days. The said period shall mean the period during a session and shall be counted as from the day on which such bill reaches the Senate. If the Senate has not completed its consideration of the bill within the aforementioned time period, it shall be deemed that the Senate has approved such bill.

Upon the completion of the consideration of a bill by the Senate, if the Senate and the House of Representatives both agree, the Prime Minister shall present it to the King for signature, and it shall come into force upon publication in the Government Gazette. If the Senate disagrees with the House of Representatives, such bill shall be withheld and returned to the House of Representatives. In the case where the Senate makes an amendment, the amended bill shall be submitted to the House of Representatives. If the House of Representatives approves such amendment, the Prime Minister shall present it to the King for signature.



In other cases, each House shall appoint persons, being or not being its members, in such an equal number as may be fixed by the House of Representatives, to constitute a joint committee for considering the bill, and the joint committee shall prepare a report thereon and submit that bill which has already considered to both Houses.

If both Houses approve the bill which has already been considered by the joint committee, the Prime Minister shall present it to the King for signature. If either House disapproves it, whether or not the other House has considered it, the bill shall be withheld. In the case where the Senate does not return the bill to the House of Representatives within the prescribed time period, it shall be deemed that the Senate approves such bill and the Prime Minister shall present it to the King for signature.

In the case where a bill is withheld by the Senate, such withheld bill may be reconsidered by the House of Representatives only after the lapse of 180 days as from the date the bill is returned to the House of Representatives whereby the Senate disapproves the bill which has already been considered and resolved by the House of Representatives or after the lapse of 180 days in case of withholding under the condition that the House of Representatives or the Senate, either House, disapproves the bill which has already been considered by the joint committee and submitted to both Houses. However, the period of 180 days shall be decreased to 10 days if the withheld bill is a money bill. While a bill is being withheld, the Council of Ministers or members of the House of Representatives may not introduce a bill having the same or similar principle as that of the bill so withheld. After the lapse of such period, if the House of Representatives resolves to reaffirm the bill considered by the House of Representatives or the bill considered by the joint committee by the votes of more than one-half of the total number of the existing members of the House of Representatives, such bill shall be deemed to have been approved by the National Assembly and the Prime Minister shall present it to the King for signature.



In the case where the House of Representatives or the Senate is of the opinion that the bill so introduced or referred to for consideration has the same or similar principle as that of the bill being withheld, the President of the House of Representatives or the President of the Senate shall refer such bill to the Constitutional Court for decision. If the Constitutional Court decides that it is a bill having the same or similar principle as that of the bill so withheld, such bill shall lapse.

In this regard, the Constitution also provides that before the Prime Minister presents any bill to the King for signature:

(a) if members of the House of Representatives, senators or members of both Houses comprising not less than one-tenth of the total number of the existing members of both Houses are of the opinion that the provisions of the said bill are contrary to or inconsistent with the Constitution or it is enacted contrary to the provisions of the Constitution, they shall submit their opinion to the President of the House of Representatives, the President of the Senate or the President of the National Assembly, as the case may be, and the President of the House receiving such opinion shall then refer it to the Constitutional Court for decision and inform the Prime Minister thereof without delay;

(b) if the Prime Minister is of the opinion that the provisions of the said bill are contrary to or inconsistent with the Constitution or it is enacted contrary to the provisions of the Constitution, the Prime Minister shall refer such opinion to the Constitutional Court for decision and inform the President of the House of Representatives and the President of the Senate thereof without delay.

During the consideration of the Constitutional Court, the Prime Minister shall not present the bill to the King for signature.

If the Constitutional Court decides that the provisions of such bill are contrary to or inconsistent with the Constitution or it is enacted contrary to the provisions of the Constitution and that such provisions of the bill form the essential element thereof, such bill shall lapse.



If the Constitutional Court decides that the provisions of such bill are contrary to or inconsistent with the Constitution or it is enacted contrary to the provisions of the Constitution and that the provisions of the bill form the nonessential element thereof, such provisions shall lapse. Consequently, the Prime Minister shall present the bill to the King for signature, and it shall come into force upon publication in the Government Gazette.

1.1.2 Consideration of appropriations bills

The Constitution provides that the House of Representatives shall complete its consideration of an annual appropriations bill, supplementary appropriations bill and transfer of appropriation bill within 105 days as from the date the bill reaches the House of Representatives. If the House of Representatives does not complete the consideration of the bill within the prescribed period of time, such bill shall be deemed to have been approved by the House of Representatives and shall be submitted to the Senate for consideration.

In the consideration by the Senate, the Senate shall approve or disapprove it without any amendment within 20 days as from the date the bill reaches the Senate. Upon the lapse of such time period, such bill shall be deemed to have been approved by the Senate; and in the case where the Senate approves it, the Prime Minister shall present it to the King for signature.

1.1.3 Consideration of organic law bills

As an organ of the National Assembly, the Senate considers organic law bills. The Constitution provides that an organic law bill shall be considered in the same manner as a bill unless stipulated as follows;

(a) an organic law bill shall be introduced to the National Assembly, and the National Assembly shall hold a joint sitting for consideration of such organic law bill, which shall be completed within 180 days. In voting in the third reading, votes for approval of the organic law bill shall be more than one-half of the total number of existing members of the National Assembly. If the joint sitting of the National Assembly has not completed its consideration within the prescribed



period of time, it shall be deemed that the National Assembly approves the organic law bill as introduced;

(b) within 15 days as from the date of its approval of the organic law bill, the National Assembly shall refer such organic law bill to the Supreme Court, the Constitutional Court, or relevant Independent Organ for opinions. In the case where the Supreme Court, the Constitutional Court, or the relevant Independent Organ has no objection within 10 days as from the date of receipt of such bill, the National Assembly shall take further proceedings;

(c) In the case where the Supreme Court, the Constitutional Court or the relevant Independent Organ is of the opinion that provisions of the organic law bill approved by the National Assembly are contrary to or inconsistent with the Constitution or result in an inability to duly comply with the provisions of the Constitution, such opinion shall be referred to the National Assembly, and a joint sitting of the National Assembly shall be held for consideration of such opinion, which shall be completed within 30 days as from the date of receipt of such opinion. In this regard, the National Assembly shall have the power to amend the said organic law bill according to the recommendation of the Supreme Court, the Constitutional Court or the relevant Independent Organ as it deems appropriate. Upon completion, the National Assembly shall take further proceedings.

1.2 Approval or disapproval of an Emergency Decree

Based upon the same principle as prescribed by the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), the consideration of an Emergency Decree, either a general Emergency Decree or an Emergency Decree on taxes, duties or currency, shall be the power of each House to consider whether or not to approve or disapprove it. The consideration shall not be taken in 3 readings as it does so in the consideration of a general bill. The consideration shall be taken to resolve whether to approve or disapprove the Emergency Decree. The Emergency Decree shall be first submitted to the House of Representatives for



consideration. If the House of Representatives approves it, it shall be submitted to the Senate for consideration. If the Senate disapproves it, the Emergency Decree shall be returned to the House of Representatives for further consideration to reaffirm its approval. However, disapproval of the Emergency Decree shall not affect any act done during such Emergency Decree is in force. If the Senate approves it, it shall be approved by the National Assembly and shall continue to be in force as an Act.

In addition, the Constitution provides that before the House of Representatives or the Senate approves an Emergency Decree, members of the House of Representatives or senators of not less than one-fifth of the total number of the existing members of each House have the right to submit an opinion to the President of the House of which they are members that the Emergency Decree is not for the purpose of maintaining national or public safety or national economic security, or averting public calamity, the President of such House shall, within 3 days as from the date of receipt of such opinion, refer it to the Constitutional Court for decision. The consideration of such Emergency Decree shall be deferred until the decision of the Constitutional Court has been notified.

1.3 Amendment to the Constitution

In exercising the right to propose an amendment to the Constitution, the Constitution provides that a person who has the right to submit a motion for amendment to the Constitution shall propose it in the form of the draft Constitution Amendment. The proposal for the amendment to the Constitution which amounts to changing the democratic regime of government with the King as Head of State or changing the form of the State shall be prohibited. The amendment to the Constitution may be proposed not only by the Council of Ministers, or by members of the House of Representatives comprising not less than one-fifth of the total numbers of existing members of the House of Representatives, or by not less than 50,000 persons who have the right to vote as per the law, but also by senators



having the right to propose the amendment to the Constitution by combining with members of the House of Representatives comprising not less than one-fifth of the total number of existing members of both Houses.

The consideration of the National Assembly to approve the amendment to the Constitution shall be taken in 3 readings as follows:

The first reading is for adoption of principle. Voting in this reading shall be by roll call and open voting, and the amendment shall be approved by the votes of not less than one-half of the total number of existing members of both Houses, provided that in this number, senators comprising not less than one-third of the total number of existing members of the Senate shall vote for approval;

The second reading is for section-by-section deliberation. Voting in the second reading shall be decided by a majority of votes, but in the case where the draft Constitution Amendment is proposed by the people, the persons signing the petition shall also be given opportunities to express their opinions. At the conclusion of the second reading, there shall be an interval of 15 days after which the National Assembly shall proceed with its third reading;

The third reading is the final reading. Voting shall be by roll call and open voting, and promulgation of the Constitution shall be approved by the votes of more than one-half of the total number of the existing members of both Houses, provided that in this number, members of the House of Representatives from political parties whose members do not hold the positions of Minister, President or Vice-President of the House of Representatives shall vote for approval in the number of not less than 20 percent of the total number of members of all such political parties combined, and senators comprising not less than one-third of the total number of existing members of the Senate shall vote for approval; after resolution of approval has been passed, there shall be an interval of 15 days after which the draft Constitution Amendment shall be presented to the King for signature.



In the case where the draft Constitution Amendment is an amendment to Chapter I General Provisions, Chapter II The King or Chapter XV Amendment to the Constitution, or a matter relating to qualifications and prohibitions of persons holding the positions under the Constitution, or a matter relating to duties or powers of the Court or an Independent Organ, or a matter which renders the Court or an Independent Organ unable to act in accordance with its duties or powers, before presenting the draft Constitution Amendment to the King for signature, a referendum shall be held in accordance with the law on referendum, and if the referendum result is to approve the draft Constitution Amendment, it shall be further presented to the King for signature.

Moreover, before the Prime Minister presents to the King for signature, members of the House of Representatives, senators or members of both Houses comprising not less than one-tenth of the total number of existing members of each House or of both Houses, as the case may be, have the right to sign a joint petition submitting their opinions to the President of the House in which they are members or the President of the National Assembly, as the case may be, that the draft Constitution Amendment amounts to changing the democratic regime of government with the King as Head of State or changing the form of the State or it is of the characteristic of an amendment to Chapter I General Provisions, Chapter II The King or Chapter XV Amendment to the Constitution, or a matter relating to qualifications and prohibitions of persons holding the positions under the Constitution, or a matter relating to duties or powers of the Court or an Independent Organ, or a matter which renders the Court or an Independent Organ unable to act in accordance with its duties or powers. The President of the House receiving such petition shall submit the opinions to the Constitutional Court. The Constitutional Court shall render a decision within 30 days from the date the petition is received. While the petition is under consideration for decision by the Constitutional Court, the Prime Minister may not present such the draft Constitution Amendment to the King for signature.



2. Duties and Powers in Controlling the Administration of State Affairs

Under the regime of parliamentary democracy, the Legislature and Executive have worked in close relationship under the checks and balances to prevent the arbitrary abuse of power. For the Senate which is a part of the National Assembly, the Constitution provides its duties and powers in controlling the administration of State affairs as follows:

2.1 Acknowledgement of the statement of policy announced by the Council of Ministers

The Constitution provides that the Council of Ministers which will assume the administration of the State affairs shall, within 15 days as from the date it takes office, states its policies to the National Assembly, which shall be consistent with the duties of the State, directive principles of State policies and National Strategy, and declares the sources of incomes which shall be disbursed on undertaking such policies, with respect to which no vote of confidence shall be called.

2.2 Interpellation

The Constitution provides that every member of the House of Representatives or senator has the right to interpellate a minister verbally or in writing on any matter within the scope of his or her authority in accordance with the rules of procedure of that House. However, the minister has the right to refuse to answer an interpellation if the Council of Ministers is of the opinion that the matter should not yet be disclosed on the ground of safety or vital interest of the State.

2.3 Submission of a motion for general debate

The Constitution provides that senators comprising not less than one-third of the total number of the existing members of the Senate have the right to submit a motion for a general debate in the Senate for the purpose of requesting



the Council of Ministers to give statements of fact or explain important problems in connection with the administration of the State affairs without a resolution to be passed.

3. Duties and Powers in Approval of Important Matters

In general, the principle of the provisions related to the duties and powers in this part is as same as those provided by the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) that the National Assembly has duties and powers to approve important matters and the Senate also shares its duties and powers in this area, for example, the approval of the appointment of the Regent, acknowledgement or approval of the succession to the Throne, approval of the declaration of war and prorogation of an ordinary session before the end of 120 days.

In addition, the Constitution maintains the duty and power in the approval of treaties. There are 4 types of treaties required an approval of the National Assembly:

- (1) any treaty which provides for a change in Thai territories;
- (2) any treaty which provides for a change in external territories over which Thailand has sovereign right or jurisdiction under a treaty or international law;
- (3) any treaty which requires the enactment of an Act for implementation;
- (4) other treaties which may have wide scale effects on the security of economy, society, or trade or investment of the country, including treaties pertaining to free trade, common customs union, or the authorization of natural resources utilization, or which cause the country to lose rights over natural resources, in whole or in part, or on any other treaties provided by law.



4. Providing advice or approving an appointment of a person to hold a position

The Constitution provides duties and powers of the Senate in giving approval to a person for holding positions in organs under the Constitution, namely Judge of the Constitutional Court, Election Commissioner, Ombudsman, Member of the National Anti-Corruption Commission, Member of the State Audit Commission, Auditor-General and Member of the National Human Rights Commission who are elected or selected by the Selection Committee.

5. Other Duties and Powers

In addition to the duties and powers mentioned above, the Senate has other duties and powers under the Constitution, such as, lodging with the President of the Senate a complaint to be referred to the Constitutional Court for rendering a decision as to whether membership of a senator is terminated; passing the approval to prorogation of an ordinary session before the expiration of 120 days; enacting the rules of procedure of the Senate; constituting a committee in order to perform any act, inquire into facts or study any matter and report its findings to the Senate within the time period as prescribed by the Senate.

6. Duties and Powers of the Senate under the Transitory Provisions

The Senate under the Transitory Provisions, in addition to the duties and powers under the general provisions, has additional duties and powers, under the current Constitution, in accordance with the Transitory Provisions. This is to achieve the objectives of the national reform in the transitional phase as provided by the Constitution, as follows:



6.1 Consideration of bills for the implementation of Chapter XVI National Reform

Section 270 of the Constitution of the Kingdom of Thailand provides that a bill which is to be enacted for the implementation of Chapter XVI National Reform shall be submitted to and considered by the joint sitting of the National Assembly. When the Council of Ministers is of the opinion that a bill is to be enacted for the implementation of Chapter XVI National Reform, it shall notify the President of the National Assembly and submit such bill thereto. In the case where the Council of Ministers does not notify that the bill is to be enacted for the implementation of Chapter XVI National Reform, if senators are of the opinion that such bill is a bill to be enacted for the implementation of Chapter XVI National Reform, senators comprising not less than one-fifth of the members of the Senate may sign a joint petition to request the President of the National Assembly to make a decision thereon. Such petition shall be submitted prior to the completion of consideration of that bill by the Senate.

Upon receiving such request, the President of the National Assembly shall present the matter to a joint committee consisting of the President of the Senate, as the Chairperson, and one Vice-President of the House of Representatives, the Leader of the Opposition in the House of Representatives, one representative from the Council of Ministers and one Chairperson of a standing committee elected by and from Chairpersons of all standing committees of the Senate, as members, to make a ruling thereon. The ruling of the joint committee shall be made by a majority of votes and shall be final. The President of the National Assembly shall proceed in accordance therewith.



6.2 Consideration of a bill withheld by the Senate or the House of Representatives under section 137 (2) or (3)

Section 271 of the Constitution of the Kingdom of Thailand provides that during the initial period within the term of the Senate under the Transitory Provisions (5 years), the consideration of a bill withheld by the Senate or the House of Representatives under section 137 (2) or (3) shall be done by a joint sitting of the National Assembly, if such bill relates to amendment to penalties or elements of malfeasances in public office or in judicial office, or offences of officials in an organization or agency of the State. This is only when such amendment causes an offender to be exonerated from the offence or be excused from the penalty or it is a bill that the Senate has resolved, with a vote of not less than two-thirds of the total number of existing members, that such bill seriously affects the administration of justice.

6.3 Monitoring, recommending and accelerating national reform

Section 270 of the Constitution of the Kingdom of Thailand provides that the Senate under the Transitory Provisions shall have the duty and power to monitor, recommend and accelerate national reform in order to achieve the objectives under Chapter XVI National Reform, and the preparation and implementation of the National Strategy. In this regard, the Council of Ministers shall report the progress of implementing the national reform plan to the National Assembly every 3 months.

6.4 Approval of a person suitable to be appointed as Prime Minister

During the initial period of 5 years from the date of installation of the first National Assembly under the Constitution, an approval of a person suitable to be appointed as Prime Minister shall be done by the consideration of the House of Representatives. It shall consider an approval of the person who has the qualifications and is not under any of the prohibitions under the Constitution, and who is a person listed by a political party only with respect to the list of names of political parties whose members have been elected as members of the



House of Representatives constituting not less than five percent of the total number of existing members of the House of Representatives. **Such consideration and approval shall be done by a joint sitting of the National Assembly, instead of by a sitting of the House of Representatives as in a normal case. The resolution approving the appointment of any person as Prime Minister shall be made by votes of more than one-half of the total number of existing members of both Houses, instead of by votes of more than one-half of the total number of existing members of the House of Representatives as in a normal case.** During the initial period of 5 years from the date of installation of the first National Assembly, in the case where the Prime Minister cannot be appointed from the persons in the lists submitted by political parties regardless of a reason, and members of both Houses comprising not less than one-half of the total number of existing members of both Houses submit a joint signed petition to the President of the National Assembly requesting the National Assembly to pass a resolution exempting the nomination of the Prime Minister from the persons in the lists submitted by political parties and in such case, the President of the National Assembly shall promptly convene a joint sitting of the National Assembly. In the case where the National Assembly passes a resolution approving the exemption with votes of not less than two-third of the total number of existing members of both Houses, the joint sitting of the National Assembly shall consider and approve the person suitable to be appointed as Prime Minister. The persons being nominate, may or may not be in the list submitted by political parties. The resolution to appoint a person to be the Prime Minister shall be by a majority of one-half of the existing members of both Houses.



However, in accordance with the Transitory Provisions, senators shall enjoy their rights together with members of the House of Representatives to consider and approve a person suitable for being appointed as Prime Minister. Their rights to nominate any person suitable for being appointed as Prime Minister are restricted as such power shall be reserved for only members of the House of Representatives. In case where the Prime Minister cannot be appointed from the persons in the lists submitted by political parties regardless of a reason, members of both Houses, including members the House of Representatives and senators under the Transitory Provisions, have the right to submit the petition to the President of the National Assembly requesting for the exemption of the nomination of the Prime Minister from the persons in the lists submitted by political parties.



Part 3

Parliamentary Works



Ordinary Session of the National Assembly

As from the announcement date of the result of the election of members of the House of Representatives which is a general election, the National Assembly shall be convoked for the first sitting of its members within 15 days.

The King has the power to convoke the National Assembly for the first sitting, to open and prorogue its session. The King may be present to perform the opening State ceremony of the first annual ordinary session or may command the Heir to the Throne who is *sui juris* or any person to perform the ceremony as His Representative.

Each year, there shall be two ordinary sessions of the National Assembly. Each of them shall last one hundred and twenty days but the King may prolong this time period. An ordinary session may be prorogued before the end of 120 days only with the approval of the National Assembly.

The day on which the first sitting is held shall be considered as the commencement date of the first annual ordinary session, and the commencement date of the second annual ordinary session shall be fixed by the House of Representatives. However, in the case where the period of time from the first sitting to the end of the calendar year is insufficient to hold the second annual ordinary session, the second annual ordinary session may be omitted in that year.

Convocation of an Extraordinary Session

An extraordinary session is a special session of the National Assembly held out of the ordinary session. This Constitution prescribes that an extraordinary session may be opened in the following cases:

- when it is necessary for the interests of the State, the King may convoke an extraordinary session of the National Assembly;
- members of both Houses, the House of Representatives and the Senate, or members of the House of Representatives comprising not less than one-third of the total number of existing members of both Houses have the right to lodge



with the President of the National Assembly their petition to report to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly. The President of the National Assembly shall report to the King and countersign the Royal Command.

Privilege

At a sitting of the House of Representatives, Senate or at a joint sitting of the National Assembly, words expressed in giving statements of fact or opinions or in casting the votes by any member are absolutely privileged. No charge or action in any manner whatsoever shall be brought against such member.

The privilege mentioned above does not extend to a member who expresses words at a sitting which is broadcast through radio or television or any other mean if such words appear out of the precinct of the National Assembly and the expression of such words constitutes a criminal offence or a wrongful act against any other person who is not a minister or member of that House. If the words expressed by the member cause damage to another person who is not a minister or member of that House, the President of that House shall cause explanations to be published as requested by that person in accordance with procedures and within such period of time prescribed in the rules of procedure of that House, without prejudice to the right of such person to bring the case before the Court.

The said privilege extends to printers and publishers of the minutes of sittings in accordance with the rules of procedure of the Senate or the National Assembly, as the case may be, and to persons permitted by the presiding member to give statements of fact or opinions at such sitting as well as to persons who broadcasts the sitting through radio or television or any other mean with the permission of the President of the such House *mutatis mutandis*.

In addition, the privilege shall also extend to persons performing duties and complying with the summons of Committees.



Immunity

During a session, no senator shall be arrested, detained or summoned by a warrant for inquiry as a suspect in a criminal case unless permission of the Senate is obtained or he/she is arrested in flagrante delicto. In the case where a senator has been arrested *in flagrante delicto*, a report shall forthwith be submitted to the President of the Senate, and, for the benefit of a sitting, the President of the Senate may order the release of the person so arrested in order to attend the sitting. If a senator is detained during inquiry or trial before the beginning of a session, when the session begins, the inquiry officer or the Court, as the case may be, shall order his or her release as soon as the President of the Senate has so requested. In this regard, the Court may order their release on bail or on bail and bond. In the case where a criminal charge is brought against a senator, whether in a session or not, the Court may try the case during the session, but the trial shall not hinder such member from attending the sitting of the House.

Joint Sitting of the National Assembly

The National Assembly shall hold a joint sitting in the following cases:

- (1) the approval of the appointment of the Regent in the case where the King does not appoint the Regent in advance;
- (2) the making of a solemn declaration by the Regent before the National Assembly;
- (3) the acknowledgement of an amendment to the Palace Law on Succession, B.E. 2467 (1924);
- (4) the acknowledgement or approval of the succession to the Throne;
- (5) the approval of the prorogation of an annual ordinary session before the end of 120 days;
- (6) the opening State ceremony of the first annual ordinary session;
- (7) the consideration of an organic law bill;
- (8) the reconsideration of a bill that is refused assent by the King;



(9) the consideration for approval of the draft Constitution amendment or bills which have not yet been approved by the National Assembly or in the case where the National Assembly approves it but the King refuses his assent to the draft Amendment or when the period of 90 days has lapsed but the King does not return such draft and or when the term of the House of Representatives expires or the House of Representatives is dissolved and the Council of Ministers which is newly appointed after the general election makes a request to the National Assembly for the National Assembly, the House of Representatives or the Senate, as the case may be, to further consider such amendments or bills;

(10) the holding of a general debate at a sitting of the National Assembly in the case of an important issue concerning the security, safety or economy of the country or in the case where there is an important issue in the administration of the State affairs in regard to which the Council of Ministers deems it advisable to take the opinions of members of the House of Representatives and senators;

(11) the enactment of the rules of procedure of the National Assembly;

(12) the declaration on statement of policies of the Council of Ministers which will assume the administration of the State affairs;

(13) the approval of the declaration of war;

(14) the hearing and approval of a treaty which provides for a change in Thai territories or external territories over which Thailand has sovereign right or jurisdiction under a treaty or international law, or; which requires the enactment of an Act for implementation, and other treaties which may have wide scale effects on the security of economy, society, or trade or investment of the country;

(15) the amendment to the Constitution;

(16) other cases as provided in the Constitution.

Rules of a joint sitting of the National Assembly shall be included in the rules of procedure of the National Assembly. During the period when the rules of procedure of the National Assembly have not yet been issued, the rules of procedure of the House of Representatives shall apply *mutatis mutandis* for the time being.



President and Vice-President of the National Assembly

The President of the House of Representatives is the President of the National Assembly. The President of the Senate is the Vice-President of the National Assembly. In the case where there is no President of the House of Representatives, or the President of the House of Representatives is not present or is unable to perform his or her duties, the President of the Senate shall act as the President of the National Assembly in his or her capacity.

During the period where the President of the Senate has to act as the President of the National Assembly but there is no the President of the Senate, and where such a case occurs when there is no House of Representatives, the Vice-President of the Senate shall act as the President of the National Assembly. If there is no Vice-President of the Senate, the senator who is the oldest at the time shall act as the President of the National Assembly, and the President of the Senate shall expeditiously be elected.

Duties and powers

- The President of the National Assembly shall make an announcement in the name of the King, to appoint a person as Regent in the case where the King has not appointed the Regent.
- The President of the National Assembly shall countersign the Royal Command in the case where a Regent is appointed whenever the King is absent from the Kingdom or unable to perform His functions for any reason whatsoever.
- The President of the National Assembly shall inform the National Assembly of the Amendment to the Palace Law on Succession, B.E. 2467 (1924) and shall countersign the Royal Command.
- The President of the National Assembly shall countersign the Royal Command appointing or removing the President of the Privy Council.
- The President of the National Assembly shall invite the Heir or the Successor to ascend the Throne and proclaim such Heir or the Successor as King.



- The President of the National Assembly shall conduct the proceedings of the National Assembly at joint sittings in accordance with the rules of procedure.

- The Vice-President of the National Assembly shall have the duties and powers in accordance with the Constitution and as entrusted by the President of the National Assembly.

Code of Ethics

The Senate has the power to enact rules of procedure regarding the code of ethics of members and committee members.

Emoluments and other remuneration

Emoluments and other remuneration of the President and Vice-Presidents of the Senate and senators shall be prescribed by Royal Decree.

Conflict of Interest

The Constitution of the Kingdom of Thailand, B.E. 2560 (2017) prescribes principles of “conflict of interest” related to senators as follows:

senators shall not:

(1) hold any position or have any duty in a government agency, State agency or State enterprise, or hold a position of a member of a local assembly or a local administrator;

(2) receive or interfere or intervene in the acquisition of any concession from the State, a government agency, State agency or State enterprise, or become a party to a contract of the nature of monopoly or exclusivity with the State, a government agency, State agency or State enterprise, or become a partner or shareholder in a partnership or company receiving such concession or becoming a party to a contract of such nature, whether directly or indirectly. This provision shall apply to spouses and children of senators and also to persons other than spouses and children of such senators who act as agents or partners of, or who



are entrusted by senators to act;

(3) receive any special money or benefit from a government agency, State agency or State enterprise apart from that given by the government agency, State agency or State enterprise to other persons in the ordinary course of business. This provision shall apply to spouses and children of senators and also to persons other than spouses and children of such senators who act as agents or partners of, or who are entrusted by senators to act;

(4) directly or indirectly perform any act which amounts to a wrongful obstruction of or interference with the exercise of rights or liberties of newspapers or mass media.

However, the provision of the conflict of interest shall not apply in the case where:

- a senator receives military pensions, gratuities, pensions, annuities for royalty or any other form of payment of the same nature;
- a senator accepts or holds a position of a member of a Committee of the National Assembly or the Senate, or a committee member appointed in the course of the administration of State affairs related to parliamentary affairs, or a committee member specifically provided by law.

Moreover, a senator shall not, through the status or position of a senator, carry out any act which, by nature, amounts to an intervention of or interference with the following matters, whether directly or indirectly, for his or her own benefit, the benefit of another person or of a political party:

(1) the performance of official functions or carrying out of work within the usual duties of a government official, official or employee of a government agency, State agency, State enterprise, an enterprise in which the State is a major shareholder or a local government organization;

(2) the carrying out of an act which, by nature, enables him or her to participate in the spending of budget or granting of approval of any project of



a State agency, except an act within the affairs of the National Assembly;

(3) the recruitment, appointment, transfer, reshuffle, promotion, salary increase, or removal from office of a government official who holds a permanent position or receives salary and is not a political official, an official or employee of a government agency, State agency, State enterprise, an enterprise in which the State is a major shareholder or local government administration.

Nonetheless, the above provisions do not apply to senators *ex officio* under the Transitory Provisions.

Ethical Standards

The Constitutional Court and Independent Organs shall jointly prescribe ethical standards applicable to the judges of the Constitutional Court and persons holding positions in the Independent Organs, including the Auditor-General and heads of the Secretariat of the Constitutional Court and the Independent Organs. In preparing the ethical standards, opinions of the House of Representatives, the Senate, and the Council of Ministers shall also be taken into consideration. Upon promulgation, it shall apply to members of the House of Representatives, senators and the Council of Ministers. However, the House of Representatives, the Senate or the Council of Ministers may prescribe additional ethics suitable to its performance of duties and not contrary to or inconsistent with the ethical standards mentioned above and shall be published in the Government Gazette.

Submission of an account showing assets and liabilities

When a senator assumes a position or remove from a position, he or she is under a duty to submit an account showing assets and liabilities of himself/herself, their spouses and children to the National Anti-Corruption Commission.

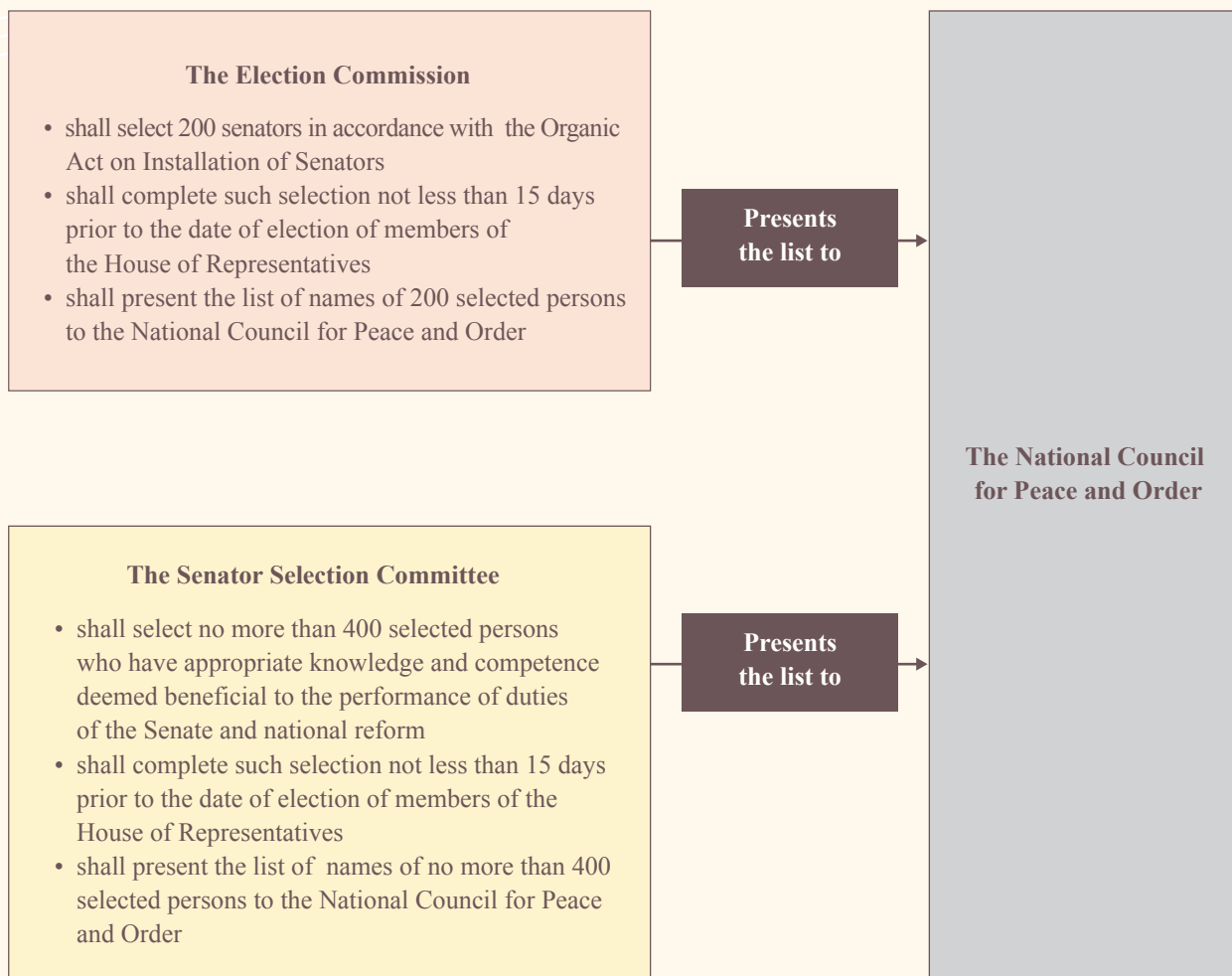


Appendix



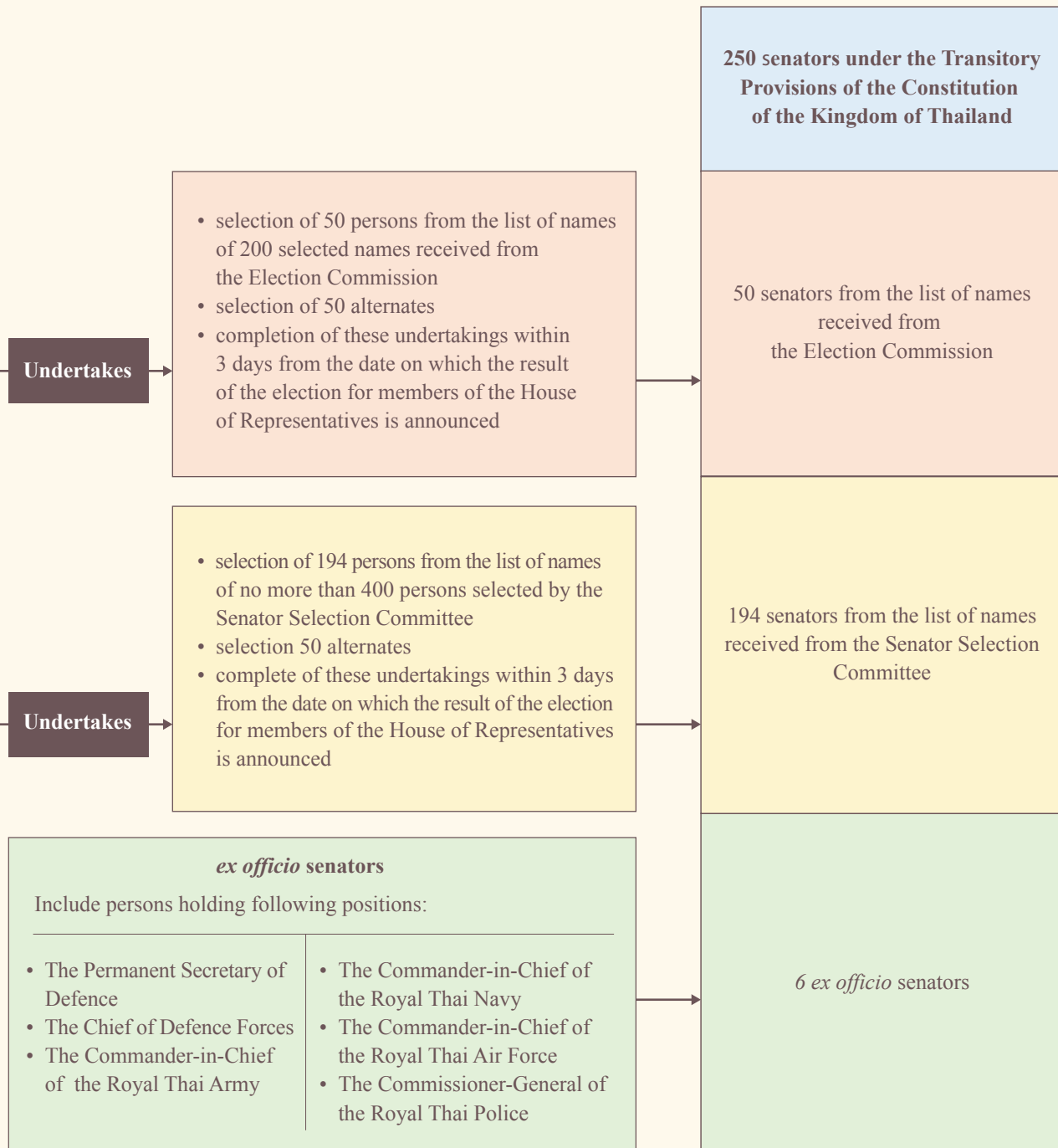
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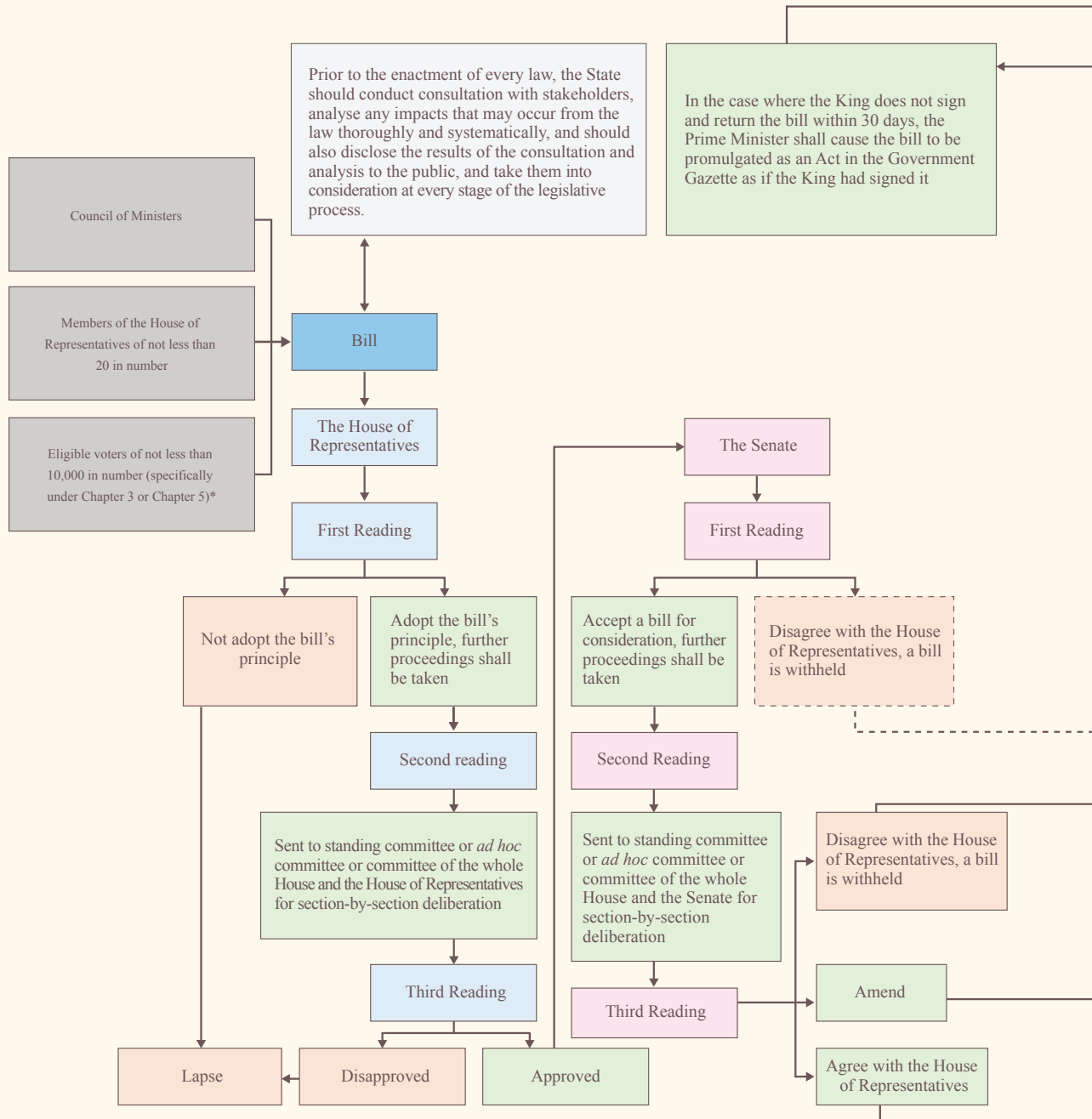
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Legislative Process according to

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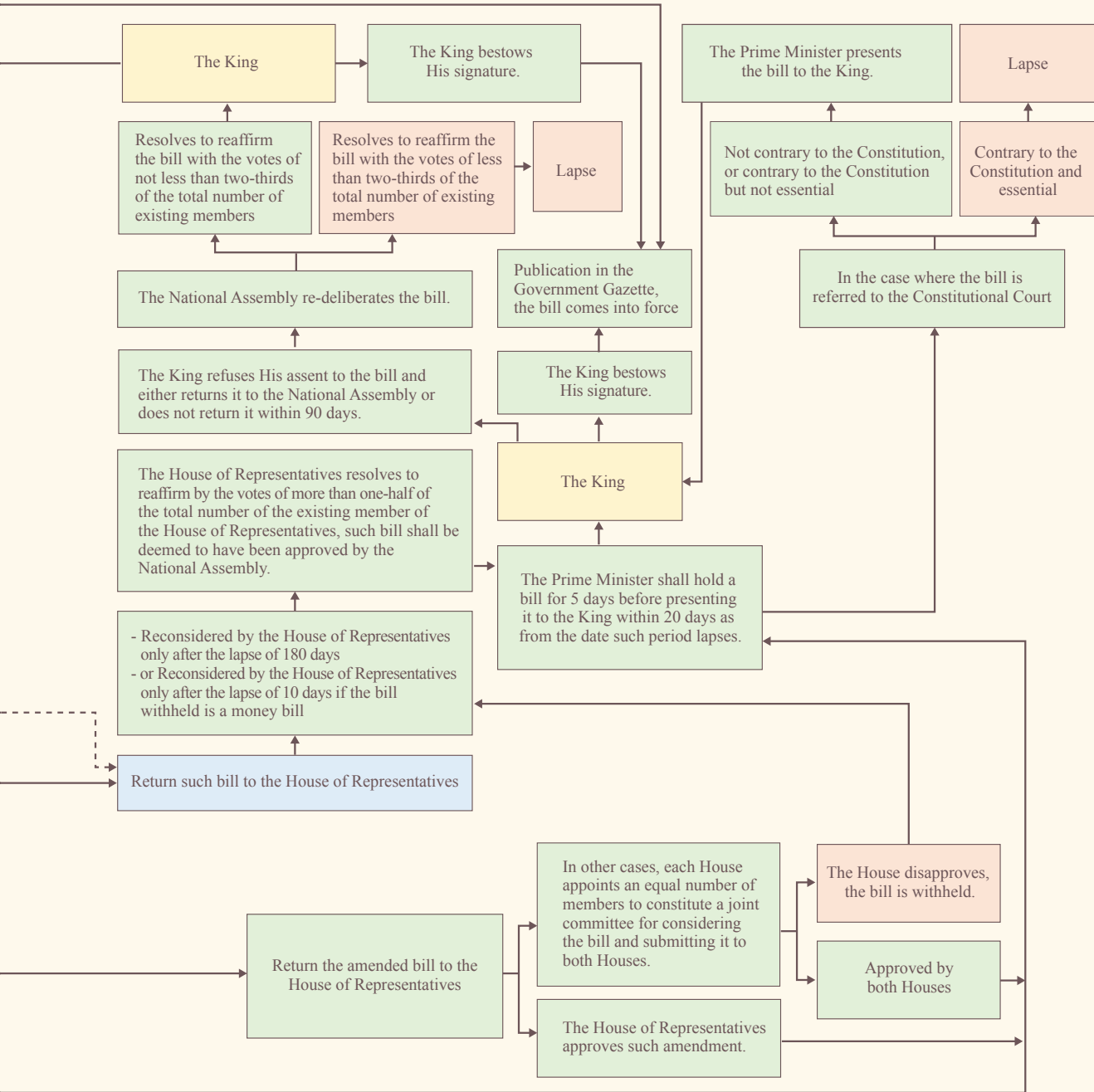


Remark: A money bill may be introduced only with the endorsement of the Prime Minister.

*Chapter III rights and liberties of the Thai people and Chapter V duties of the State



the Constitution of the Kingdom of Thailand





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