

The Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018)

MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN, REX;

Given on the 27th Day of February B.E. 2561;

Being the 3rd Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to have an organic law on procedures of the Constitutional Court;

This Organic Act contains certain provisions in relation to the restriction of rights and liberties of people, in respect of which section 26, in conjunction with section 28 and section 34 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Rights and liberties are restricted under this Organic Act for reasons and needs pertaining to the efficient functioning of the Constitutional Court in the interest of the public. The enactment of this Organic Act is in conformity with the conditions provided under section 26 of the Constitution of the Kingdom of Thailand.

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

Section 1. This Organic Act is called the “Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018)”.

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

Section 3. The following shall be repealed:

(1) Order of the National Council for Peace and Order No. 23/2560, dated 5th April B.E. 2560 (2017), Re: Measures to Resolve the Problem of Continuity of Offices in Independent Constitutional Agencies Only with respect to the Constitutional Court and Justices of the Constitutional Court;

(2) Order of the National Council for Peace and Order No. 24/2560, dated 20th April B.E. 2560 (2017), Re: Restraint on Selection or Recruitment of Persons for the Offices of Justices of the Constitutional Court under Order of the National Council for Peace and Order No. 23/2560.

Section 4. In this Organic Act:

“Court” means the Constitutional Court or panel of Justices of the Constitutional Court, as the case may be.

“Justice” means the President of the Constitutional Court or Justice of the Constitutional Court, as the case may be.

“Case” means a trial process commencing from the filing of an application or letter requesting for a court ruling.

“Application” means an application filed in the Court for a court ruling.

“Party” means an applicant or respondent, and also includes an eligible representative.

“Applicant” means a person having standing to file a case in the Court for a ruling under the provisions of the Constitution, organic laws or other laws, regardless of whether the filing is made in the form of an application or a letter.

“Respondent” means a person who is the subject of an allegation in an application or a person who is under an obligation to comply pursuant to a letter submitted to the Court requesting for a ruling.

“Related party” means an agency, group of persons or person related to the case.

“Trial process” means any act under the Constitution and this Organic Act relating to a case performed by a party or the Court or pursuant to a court order, regardless of whether the act was performed by one party towards the Court, or towards another party, or by the Court towards any or all parties, including the filing of an application and other documents, proceedings and voting, as well as acts performed pursuant to duties and powers under the Constitution, organic laws and other laws.

“Proceedings” mean any conduct in a trial process, including an inquiry, deliberation for ruling or hearing.

“Hearing” means a court session related to proceedings during which the parties have the right to be present in the Court.

Section 5. In the case where this Organic Act does not provide otherwise, any matter specifically requiring notice, submission or service of letter or document to a person, if the notice, submission or service of letter or document to such person is conducted at the domicile or address stated in the evidence of housing registration under the law on people’s registration, it shall be deemed that the notice, submission or service is lawful under this Organic Act. In the case where this Organic Act provides for an announcement or dissemination to the general public, it shall be deemed that an announcement or dissemination via an information technology system or any system or means which is easily accessible by the general public is in conformity with this Organic Act.

In the case where this Organic Act provides that the Court or head of agency responsible for the administrative tasks of the Court has the power to prescribe or issue an order on any matter which is not related to proceedings, if there are no specific procedures provided, the Court or head of agency responsible for the administrative tasks of the Court shall make the prescription in the form of a regulation, notification or order, as the case may be. If the regulation, notification or order is generally applicable to persons, it shall be published in the Government Gazette as well as published by means of announcement stated in paragraph one. If the regulation, notification or order prescribes a procedure, the Court or head of agency responsible for the administrative tasks of the Court must also prescribe a clear time limit for each step.

Section 6. The President of the Constitutional Court shall have charge and control of the execution of this Organic Act and shall have the power to issue rules, regulations and notifications of the Court for the implementation of this Organic Act.

The issuance of rules, regulations or notifications of the Court under paragraph one shall be in accordance with a resolution of the panel of Justices of the Constitutional Court, and shall come into force after being published in the Government Gazette.

CHAPTER I

COURT

Section 7. The Court shall have the following duties and powers to adjudicate a case:

- (1) a case relating to the constitutionality of a law or bill;
- (2) a case relating to duties and powers of the House of Representatives, Senate, National Assembly, Council of Ministers or independent agency;
- (3) a case relating to a motion for cessation of an act to overthrow the democratic regime of government with the King as Head of State;
- (4) a case filed by the public or community against a state agency calling for benefits under Chapter V, Duties of the State, of the Constitution;
- (5) a case relating to the termination of membership of a Member of the House of Representatives or Senator;
- (6) a case relating to the submission of a bill having an identical or similar principle to the principle of a bill that has been withheld;
- (7) a case relating to a proposal, submission of a motion or commission of any act, which results in direct or indirect involvement by a Member of the House of Representatives, Senator or committee member in the use of appropriations;

(8) a case relating to the constitutionality of a Draft Rule of Procedure of the House of Representatives, Draft Rule of Procedure of the Senate or Draft Rule of Procedure of the National Assembly;

(9) a case relating to the termination of a ministerial office;

(10) a case relating to a treaty which requires approval of the National Assembly;

(11) a case where a person whose rights or liberties recognised by the Constitution has been violated submits an application for a decision that such action was contrary to or inconsistent with the Constitution;

(12) a case relating to the constitutionality of a Constitutional Amendment;

(13) any other case stipulated by the Constitution, organic laws or other laws to be within the jurisdiction of the Court.

CHAPTER II

COMPOSITION OF THE COURT

Section 8. The Constitutional Court consists of nine Justices appointed by the King from the following persons:

(1) three justices of the Supreme Court holding a position not lower than Presiding Justices of the Supreme Court for not less than three years elected by a plenary meeting of the Supreme Court;

(2) two judges of the Supreme Administrative Court holding a position not lower than judge of the Supreme Administrative Court for not less than five years elected by the plenary meeting of the Supreme Administrative Court;

(3) one person qualified in law obtained by selection from persons holding or having held a position of Professor in a university in Thailand for not less than five years, and currently having renowned academic work;

(4) one person qualified in political science or public administration obtained by selection from persons holding or having held the position of Professor in a university in Thailand for not less than five years, and currently having renowned academic work;

(5) two persons obtained by selection from persons holding or having held a position not lower than Director-General or a position equivalent to a head of government agency, or a position not lower than Deputy Attorney-General for not less than five years.

In the case where the Presiding Justice of the Supreme Court cannot be elected under (1), the plenary meeting of the Supreme Court may elect a person from those who have held a position not lower than justice in the Supreme Court for not less than three years.

The period under paragraph one shall be counted to the date of election or the date of application for selection, as the case may be. In a case of an unavoidable necessity, the Selection Committee may announce a decrease of the period of time under paragraph one or paragraph two, but the decrease shall not result in a period of less than two years.

Section 9. In addition to the qualifications under section 8, a Justice shall also possess the qualifications as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than forty-five years and not reaching sixty-eight years of age as from the date of election or the date of application for selection;
- (3) having graduated with not lower than Bachelor's degree or its equivalent;
- (4) being of evident integrity;
- (5) being sufficiently in good health to perform duties efficiently.

Section 10. A Justice shall not be under any of the prohibitions as follows:

- (1) being or having been a Justice or holding a position in any Independent Organ;
- (2) being addicted to narcotics;
- (3) being bankrupt or having been dishonestly bankrupt;
- (4) being the owner of, or a shareholder in any a newspaper business or mass media business;
- (5) being a Buddhist monk, Buddhist novice, ascetic or priest;
- (6) being under revocation of the right to vote, whether or not such case is final;
- (7) being of unsound mind or of mental infirmity;
- (8) being under temporary suspension of the right to stand for election, or being a person whose right to stand for election has been revoked;
- (9) being sentenced by a judgment to imprisonment and imprisoned by a warrant of the Court;
- (10) 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;
- (11) having been ordered by a final judgment 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 judgment to imprisonment on the grounds of committing an offence under the law on the prevention and suppression of corruption;
- (12) having been convicted by a final judgment for committing: a misfeasance in public office or in judicial office; an offence under the law on wrongdoing of officials in a State organisations 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 offence under the law on the prevention and suppression of money laundering;

(13) having been sentenced by a final judgment for committing a dishonest act in an election;

(14) being currently under the prohibition from holding a political position;

(15) having been removed from office by a court decision on any proposal, submission of a motion or commission of any act, which results in direct or indirect involvement by a Member of the House of Representatives, Senator or committee member in the use of appropriations;

(16) having been removed from office by a judgment of the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions on a serious violation or non-compliance with ethical standards, or showing circumstances of unusual wealth, or a dishonest discharge of functions or willful performance of duties or exercise of powers inconsistent with the provisions of the Constitution or law;

(17) having been discharged for imprisonment by a final judgment, except for an offence committed through negligence or a petty offence;

(18) being or having been a Member of the House of Representatives, Senator, political official or member of a local assembly or a local administrator in the ten-year period prior to election or selection;

(19) being or having been a member or holder of other office in a political party in the ten-year period prior to election or selection;

(20) being a government official holding a permanent position or receiving permanent salary;

(21) being an official or an employee of a State agency, state enterprise or local administration or being a committee member or advisor to a state agency or state enterprise;

(22) holding any position in a partnership, a company or an organisation carrying out business with a view to making and sharing profit or income, or being an employee of any person;

(23) engaging in an independent profession;

(24) being involved in circumstances which constitute a serious violation or failure to comply with ethical standards.

Section 11. In the case where a person suitable for appointment as a Justice must be selected under section 8 (3), (4) or (5), it shall be the duty and power of the Selection Committee which consists of:

- (1) President of the Supreme Court as Chairperson;
- (2) President of the House of Representatives and Leader of the Opposition in the House of Representatives as members;
- (3) President of the Supreme Administrative Court as member;
- (4) persons appointed by the Independent Organs, from persons who have the qualifications under section 8 and section 9, are not under any of the prohibitions under section 10, and have never performed any duty in the Court or Independent Organs comprising one person from each organ, as members.

The Secretary-General of the Senate shall be the secretary of the Selection Committee, and the Secretariat of the Senate shall perform duties as the administrative unit of the Selection Committee.

When appointing a person under (4), the Independent Organs shall nominate a person appointed by such organs to become the Selection Committee member within twenty days of receiving notice from the Secretary-General of the Senate. The nominated person shall be selected from persons who are impartial, honest and understands the functions of the Court. The person selected to become the Selection Committee member must receive more than one-half of the votes of the existing Independent Organ commissioners. In the case where no person receives more than one-half of the votes, there shall be a re-vote. In this voting, if there are more than two persons selected, only the persons receiving the two highest number of votes shall be contested. In the case where there is an equality of highest number of votes resulting in more than two persons receiving the two highest number of votes, those persons receiving equal number of votes shall draw lots in order to leave only two persons receiving the two highest number of votes. In this latter voting, if no person receives more than one-half the votes of the existing independent agency commissioners, the selection process shall be restarted, in which the persons selected on the first occasion cannot be re-selected.

The Secretary-General of the Senate shall announce the Selection Committee members under (4) for general public notice.

In the case where no person holds office as the Selection Committee member under (2), or the number of the Selection Committee members under (4) is incomplete for any reason, or upon the expiration of selection period under paragraph three and no nomination has been made, the remaining Selection Committee may provisionally perform duties and exercise powers. During this period, the recruitment committee shall be deemed as comprising the existing Selection Committee members.

The Selection Committee members under (4) shall remain in office until the day prior to the day of occurrence of an event requiring the selection of a new Justice, excluding the new selection or additional selection under section 12 paragraph six, paragraph nine and paragraph ten and section 13. Such Selection Committee members shall vacate office upon death, resignation, lack of qualifications or disqualification.

A person appointed to become the Selection Committee member under (4) cannot concurrently be the Selection Committee member for an Independent Organ.

Section 12. In the selection process, the Selection Committee shall deliberate with a view to selecting a person having high responsibility, courage in performing duties, and ethical behaviour that can be a good role model of the society, as well as a proper attitude for the successful performance of duties. In addition to the process of announcement for application for the position, the Selection Committee may select persons who are generally suitable, provided that consent of such person must be obtained. In any event, the diversity of experiences in various fields shall also be taken into consideration. For this purpose, the Selection Committee shall conduct an interview or invite opinions on matters pertaining to the duties and powers of the Court or use any other suitable method as part of the consideration.

The provision in paragraph one shall apply *mutatis mutandis* to the selection of a suitable person for appointment as Justices by the plenary session of the Supreme Court and the plenary session of Judges of the Supreme Administrative Court.

The Selection or election shall be conducted by open ballot, and each Selection Committee member shall also record the reason for selection.

A selected person must obtain the votes of two-thirds of the existing members of the Selection Committee.

A person elected by the plenary session of the Supreme Court or the plenary session of Judges of the Supreme Administrative Court must obtain the votes of more than one-half of the existing Justices of the Supreme Court or Judges of the Supreme Administrative Court, as the case may be.

If no person receives the votes under paragraph four or paragraph five, or the number of persons receiving such votes does not meet the number required in the selection or election, there shall be a re-vote for those who received not more than two-thirds or not more than one-half of the votes, as the case may be. If the number of persons is still insufficient, there shall be another round of voting. In this latter vote, if the number of persons still does not meet the number required in the selection or election, the selection or election process shall be repeated for the remainder.

Within three days as from the closing date for applications, the Secretary-General of the Senate shall announce the list of selected persons for public notice. Such

announcement shall specify details relating to qualifications and work experiences as prescribed by the Selection Committee.

Upon selection or election of a candidate by the Selection Committee, the plenary session of the Supreme Court and the plenary session of Judges of the Supreme Administrative Court, such person shall be nominated to the Senate for approval. The selected or elected person must receive the approval of the Senate by the votes of not less than one-half of the existing members of the Senate.

In the case where the Senate disapproves all or some of the selected or elected persons, such names shall be returned to the Selection Committee, the plenary session of the Supreme Court or the plenary session of Judges of the Supreme Administrative Court, as the case may be, together with reasons to allow the selection or election of a replacement which must be completed within sixty days as from the disapproval of the Senate. The replacement shall be nominated to the Senate for approval. A person who has been disapproved by the Senate cannot be re-entered for selection or election on this new occasion.

Upon approval of the Senate, if it is a case where the President of the Constitutional Court also vacates office, the approved persons shall jointly meet with Justices who are still in office, if any, to select one among themselves as the President of the Constitutional Court and notify the President of the Senate of the outcome. In the case where the persons approved by the Senate still do not meet the number required in the selection or election, but when added to the Justices still in office, if any, to seven persons, such persons may proceed with the meeting to select the President of the Constitutional Court. Upon Royal Appointment, the Court may provisionally act in accordance with duties and powers, during which the Court shall be deemed to comprise of only the existing Justices. The selection or election shall be re-undertaken forthwith to meet the number required in selection or election.

The President of the Senate shall report to the King for appointment of the President of the Constitutional Court and Justices, and shall countersign the Royal Command.

Section 13. A person who has obtained approval of the Senate to become a Justice whilst remaining in office under section 10 (20), (21) or (22) or engaging in a profession under section 10 (23) must show evidence of resignation or cessation of professional engagement to the President of the Senate within the period prescribed by the President of the Senate, which must be prior to the time when the President of the Senate reports to the King for Royal Appointment as Justice. In the case that evidence is not shown within such period, it shall be deemed that such person has relinquished the appointment and the selection or election process shall be restarted.

Section 14. In the case where there is a question relating to the qualification or disqualification of an applicant, elected person or selected person, the Selection Committee shall have the duties and powers to decide on the question. A decision of the Selection Committee shall be final.

The submission of a matter to the Selection Committee under paragraph one shall be in accordance with rules and procedures prescribed by the Selection Committee.

A decision shall be voted on by open ballot.

In the case where there is a question relating to the qualification or disqualification of a member of the Selection Committee, the Supreme Administrative Court shall reach a decision within fifteen days of receipt of the matter. In any event there shall be no prejudice to any action already taken by the Selection Committee prior to the decision.

Section 15. The Chairperson of the Selection Committee and members of the Selection Committee shall receive meeting allowances and other remuneration as prescribed by the President of the Senate, provided that a meeting allowance shall be prescribed on the basis of meetings attended at a rate not less than one-half of the monthly sum payable to the Chairperson or Member of the Commission on the National Assembly Officials in accordance with the law on the National Assembly Officials, as the case may be.

Section 16. Before taking office, a Justice shall make a solemn declaration before the King in the following words:

“I, (name of the declarer) do solemnly declare that I will be loyal to the King and will faithfully perform my duties in the name of the King without any prejudice in the interest of justice for the people and public order of the Kingdom. I will also uphold and observe a democratic regime of government with the King as Head of State, the Constitution of the Kingdom of Thailand and the law in every respect.”

Section 17. A Justice shall hold office for a term of seven years as from the date of appointment by the King and shall hold office for only one term.

In the case where a Justice vacates office at the expiration of term, such Justice who vacates office shall remain in office to perform duties until the newly appointed Justice takes office.

Section 18. In addition to the vacation of office upon the expiration of term, a Justice vacates office upon:

- (1) being disqualified under section 8 or section 9 or being under any of the prohibitions under section 10;
- (2) death;
- (3) resignation;
- (4) being seventy-five years of age;

(5) a resolution of the Court by the votes of not less than three-fourths of the total number of the existing Justices to remove such person from office on the ground of violation or failure to comply with ethical standards of the Justice;

(6) being subject to a judgment of the Supreme Court or the Supreme Court's Criminal Division for persons Holding Political Positions that such Justice has circumstances of unusual wealth or has committed a wrongdoing of dishonest discharge of functions or intentional performance of duties or exercise of powers contrary to the provisions of the Constitution or law, or violation or a serious failure to comply with ethical standards.

The President of the Constitutional Court who resigns shall also vacate the office of Justice.

In the case where there is a question as to whether a Justice has vacated office under (1) or (3), it shall be duty and power of the Selection Committee. A decision of the Selection Committee shall be final.

In the case where there is no President of the Constitutional Court, or there is a person in office but such person cannot perform duties, the Justices shall elect one Justice to act as the President of the Constitutional Court.

Section 19. Upon a Justice vacating office at the expiration of term, selection or election of a new Justice shall be undertaken within one hundred and twenty days prior to the term expiration date of such Justice. However, if a Justice vacates office for a reason other than the expiration of term, selection or election of Justice shall be undertaken within ninety days as from the vacancy of office.

Section 20. In the case where a Justice has vacated office, and a Justice has not yet been appointed to fill the vacancy, the remaining Justices may continue to perform duties. However, if there are fewer than seven Justices remaining, there shall be no hearing or ruling. In such a case, if there is a necessity in the interest of national security, the Court may request to the President of the Supreme Court and the President of the Supreme Administrative Court to proceed under section 21 so that there are seven Justices.

Section 21. In the case where a Justice must cease performing duties due to an allegation and the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions has accepted the plaint, and there are fewer than seven Justices remaining, the President of the Supreme Court and the President of the Supreme Administrative Court shall jointly appoint persons who possess the same qualifications and are not under any of the same prohibitions applicable to Justice to provisionally perform the duties of suspended Justices, but not more than nine persons. The appointed person shall perform duties as a Justice until the Justice who has been provisionally replaced is able to perform duties, or until a new Justice is appointed to fill the vacancy. Such appointment shall also have regard to the composition under section 8.

Section 22. Upon a petition with reasonable evidence that a Justice has vacated office pursuant to section 18 (1) or (3), the President of the Senate shall submit the matter to the Chairperson of the Selection Committee within five days of receiving such petition. The Selection Committee shall reach a decision without delay. A decision shall be made by majority vote. In the case of an equality of votes, the Chairperson of the Selection Committee shall cast an additional vote as an adjudicating vote.

The evidence under paragraph one shall be as prescribed by the Selection Committee.

Section 23. The performance of duties and exercise of powers of the Court must be expeditious, just, free from any prejudice, courageous and properly conducted in accordance with ethical standards.

A Justice must perform duties on a full-time basis. Participation in education or training in any course or programme fully or partly held during official hours shall be deemed as non-performance of duties on a full-time basis, except for a course or programme organised by the Court specifically for Justices.

Section 24. The monthly salary, stipend and other benefits of Justices shall be in accordance with the law governing such matters. A Justice shall also receive a meeting allowance for each attendance in a meeting as a member equal to a member under the Royal Decree on Meeting Allowances of Members. A Justice shall receive a monthly lump sum for reception expenses at the rate prescribed by the Ministry of Finance, which shall not be less than the stipend of Justices.

Section 25. A Justice who holds office for not less than one year shall be eligible to receive a one-time retirement benefit upon vacation of office for one of the following causes:

- (1) expiration of term;
- (2) death;
- (3) resignation;
- (4) being seventy-five years of age.

The retirement benefit shall be calculated by multiplying the monthly salary under section 24 with the number of years in office, a fraction of a year shall be counted as one year.

The right to receive retirement compensation is an exclusive right of an individual, except for death which shall vest in the spouse and notified heir. If death is caused by the performance of duties or during the performance of duties, the retirement benefit under paragraph two shall be doubled.

Section 26. In the performance of duties under this Organic Act, a Justice shall be a judicial officer under the Penal Code.

CHAPTER III

PROCEEDINGS

Part 1

General Provisions

Section 27. Proceedings shall be conducted under the inquisitorial system. The Court shall have the power to find facts regardless of whether it is to the benefit or detriment of any party. When deciding on a question of fact, the Court may admit any type of evidence, except where specifically provided by law to be inadmissible. Regardless of whether the inquiry into such evidence may be erroneous or a deviation of the steps, procedures or time limits provided by law, if the Court grants the parties an opportunity to adduce refuting evidence, such evidence is admissible in the Court. The foregoing provisions shall enable the obtaining of true facts in the case.

Proceedings of the Court must be expeditious as provided in this Organic Act and rules of the Court.

When performing duties, the Court has the power to subpoena relevant documents or evidence from a person or summon a person to testify, as well as to direct a State agency or an inquiry official to take any action in the interest of proceedings.

Section 28. In addition to the provisions of this Organic Act, the President of the Constitutional Court shall have the power to issue rules of the Court pertaining to proceedings insofar as they are not contrary to or inconsistent with this Organic Act. Such rules of the Court, however, must not unnecessarily create a step or cause a delay.

Section 29. Proceedings must be conducted at the courthouse on an official court day and during official hours prescribed by the Court in rules of the Court. However, in a case of emergency or necessity, the Court may order proceedings to be conducted at another place or on any day or any time.

Section 30. The counting of a period of time which provides a commencement date and an end date shall begin on the day following the commencement date, and if the end date of the period falls on a public holiday or the Court's holiday, the subsequent official day shall be counted as the end date of the period.

Section 31. A period prescribed in this Organic Act or in rules of the Court, or as prescribed by the Court when deemed appropriate, or upon a request of a party, may be reduced or extended by the court as necessary in the interest of justice, except where the Constitution provides for a specific period.

Section 32. A Justice may be objected for one of the following grounds:

(1) having been a Judge or Justice in another court or having been an arbitrator who has decided on the case or question related to the case for which a ruling was requested;

(2) being or having been a husband or wife or relative of a party, namely being an ascendant or descendant at any level, or being a sibling or cousin within three levels, or being an marriage relative within two levels;

(3) having testified or given an opinion as a witness, by which knowledge of events in the case has been acquired in another court adjudicating on the question related to the case for which a ruling was requested;

(4) being or having been a legal representative of any party;

(5) having or having had a case which the Justice, husband, wife or direct ascendant or descendant thereof, on the one hand, is in dispute with a party, husband, wife or direct ascendant or descendant of the party, on the other hand.

Section 33. In the case where a Justice has an interest or any cause other than that provided in section 32, the Justice may be objected for serious grounds which may result in injustice in the proceedings or ruling.

Section 34. A Justice may not recuse oneself from proceedings or a case ruling or order except where there are grounds for objection under section 32 or section 33.

Upon a request for recusal under paragraph one and approval of the Court, the recused Justice shall refrain from performing duties in such case.

Section 35. When there are grounds objection of a Justice under section 32 or section 33, either party may raise the objection by filing an objection motion in the Court prior to a ruling or adjudication, but in any event shall not be more than ten days as from knowledge of such grounds for objection.

Upon the filing of an objection motion under paragraph one, the Court shall decide on the matter of objection without delay.

Section 36. A motion to object a Justice under section 35 must specify either the grounds under section 32 or section 33 together with the relevant facts and circumstances.

When there are objections to more than one Justice in a trial, the party shall file a separate motion for each Justice.

Section 37. Upon a request for recusal under section 34 or objection motion under section 35, the Court shall deliberate on the grounds for recusal or objection. The Justice requesting recusal or is subject to an objection may not participate in the deliberations or cast a vote in the decision on recusal request or objection motion against oneself, except in a case of an unavoidable necessity.

When considering a ground for recusal or objection against a Justice, the Court shall also hear the explanation of the Justice requesting recusal or objected to.

A decision on the grounds for recusal or grounds for objection under paragraph one shall be made by a majority vote. If the votes are equal, the presiding person shall cast an additional vote as an adjudicating vote.

A vote under paragraph three shall be cast by secret ballot.

Upon a decision of the Court, the Justice requesting recusal or objected as well as the party shall be notified accordingly.

Proceedings that have been conducted prior to the Court's decision remain valid and shall not be rendered invalid because of a court decision to allow recusal or sustain the objection, except when stated otherwise in the Court's order.

Upon a decision on the grounds for recusal or objection, if there are fewer than seven Justices remaining to perform duties, the Court shall request to the President of the Supreme Court and the President of the Supreme Administrative Court to proceed under section 21 to appoint ad hoc Justices so as to have seven Justices for the case.

Section 38. The Court has the power to maintain peace and order in case proceedings in relation to persons entering or wishing to enter the courthouse, or the vicinity of the courthouse, or to attend an inquiry hearing of the Court, or in a case of necessity in the interest of peace and order or good morals of the people, the Court may order any person or any group to act or refrain from an act to enable the proceedings to continue in an orderly and expeditious manner.

The Court has the power to issue rules of the court relating to operations under paragraph one to enable the orderly and efficient conduct of trial process.

A criticism of an order or ruling made in good faith and does not use words or connotations that are rude, sarcastic or malicious does not constitute an offence of contempt of the Court.

Section 39. A person who violates a rule of the Court or the Court's order under section 38 shall be deemed to be in contempt of the Court and the Court shall have the powers as follows:

(1) warning, with or without a reprimand in writing;

(2) expulsion from the Court's vicinity;

(3) imprisonment for a term not exceeding one month or a fine not exceeding fifty thousand baht, or both.

An order under paragraph one shall be issued by the Court only as necessary after having regard to the circumstances of the case.

A sentence under (3) must be passed by resolution with the votes of not less than two-thirds of existing Justices.

When implementing an order under (3), the Criminal Procedure Code shall apply *mutatis mutandis*.

Section 40. Payment of fees, travel and accommodation allowances for a person summoned by the Court for inquiry, as well as other expenses relating to any conduct in the interest of the Court's proceedings shall be as notified by the Court.

Part 2

Submission of Application and Submission of Letter to the Court for a Ruling

Section 41. A person who requests the Court for ruling of a case under section 7 shall be a person, group of persons or organ provided in the Constitution, organic law or other law.

A request for the Court ruling of a case under paragraph 7 shall be made by an application in accordance with the form prescribed by rule of the Court, except in the following cases which shall be done by letter of request for ruling to the Court:

(1) the President of the National Assembly, the President of the House of Representatives or the President of the Senate refers the opinions of members of such House, or the Prime Minister requests the Court to consider the constitutionality of a Bill of Law;

(2) the Courts of Justice, the Administrative Court or the Military Court requests the court to consider the constitutionality of a law;

(3) the President of the House of Representatives or the President of the Senate requests the Court to consider the constitutionality of an Emergency Decree;

(4) the House of Representatives, the Senate, the National Assembly, the Council of Ministers or the Independent organ requests the Court to decide on a question relating to duties and powers;

(5) the President of the House of Representatives or the President of the Senate requests the Court to decide on a question relating to the submission of a Bill containing an identical or similar principle to the principle of a Bill that is withheld;

(6) the President of the National Assembly, the President of the House of Representatives or the President of the Senate refers the opinion of members of such House to the Court for a decision relating to the constitutionality of the Draft Rules of Procedure of the House of Representatives, Draft Rules of Procedure of the Senate and Draft Rules of Procedure of the National Assembly;

(7) the Council of Ministers requests the Court for a decision relating to a treaty which must be approved by the National Assembly;

(8) the President of the National Assembly, the President of the House of Representatives or the President of the Senate refers the opinion of members of such House to the Court for a decision on the constitutionality of a Draft Constitutional Amendment;

(9) a request for the Court ruling under section 7 (13) prescribed by rules of the Court to be done in writing.

In the proceeding under (2), the opinion or objection of parties together with reasons shall be sent to the Office of the Judiciary, the Office of the Administrative Courts or the Judge Advocate General's Department, as the case may be, for submission to the Court for a ruling.

Section 42. An application must be made in writing, using polite words, containing the requisite information in accordance with the form prescribed by rules of the Court which at least must specify the following:

(1) name and address of applicant;

(2) matter or all actions which constitute grounds for requesting the Court ruling together with the relevant facts or circumstances;

(3) section of the Constitution and laws relating to the grounds of application;

(4) a specific request for a certain court action together with clear supporting reasons.

When submitting an application under paragraph one, the party shall submit the number of copies as prescribed by rules of the Court.

Where an application which does not contain all the items under paragraph one, or is unclear, or incomprehensible, the agency responsible for the administrative tasks of the Court shall give advice to the applicant to make corrections to the application.

In a trial proceeding, the applicant may personally undertake all proceedings, or may grant a power of attorney to a lawyer or another person to submit the application or undertake proceedings on behalf of the applicant. The recipient of a power of attorney must have attained legal age and have knowledge and skills to act on behalf of the grantor of power of attorney.

Section 43. A letter requesting for the Court ruling under section 41 paragraph two shall be done as an official letter which at least specifies the relevant factual details, desire of the Court action and relevant sections of the Constitution and laws.

Section 44. The submission of a request for the Court ruling under section 7(2) must concern a question relating to duties and powers that has already arisen. In the case of a question arising in an agency, such agency shall have the right to submit a letter to the Court to request for the Court ruling. In the case of a dispute between agencies, the agencies concerned shall have the right to submit a letter to the Court to request for the Court ruling.

Section 45. A person or community which is a direct beneficiary of the performance of state duties under Chapter V, Duties of the State, of the Constitution, and has suffered a loss as a consequence of a failure to perform duties of the state, or the performance of duties was deficient or unduly delayed, shall have the right to submit an application to the Court for a ruling under section 7 (4) in accordance with the rules and procedures as follows:

(1) such person or community has requested the relevant state agency to provide the person or community with benefits from the performance of constitutional duties, and such state agency denies taking action, or fails to take action within ninety days as from the date of receiving the request or failure to perform duties properly, and the person or community has lodged an objection to such action or inaction in writing with such agency within thirty days of knowledge or of receiving notice or deemed notice; and

(2) the person or community under (1) has submitted a complaint to the Ombudsman stating that the state agency under (1) failed to effect full and proper performance of constitutional duties within thirty days as from the date of written objection under (1); in this case, if the Ombudsman finds that such state agency has already effected full and proper performance of constitutional duties, the complainant and state agency shall be notified; however, if the Ombudsman finds that such state agency still failed to effect full and proper performance of duties, the matter shall be submitted to the Council of Ministers for acknowledgement;

(3) the Council of Ministers shall consider the opinion of the Ombudsman and issue orders as deemed appropriate; in this case, the Council of Ministers may task any committee or agency to consider and submit an opinion for consideration of the Council of Ministers; upon an order of the Council of Ministers, the person or community shall be notified accordingly; if such person or community finds that the order of the Council of Ministers still fails to fully and properly comply with Chapter V, Duties of the State, of the Constitution, an application may be submitted for the Court ruling under section 7(4) within thirty days of receiving such notice.

During proceedings under this section, the state agency shall in the preliminary comply with the Council of Ministers resolution until the Court reaches a ruling.

The Court shall reach a ruling under this section within one hundred and twenty days as from the date of receiving the application.

Section 46. A person whose right or liberty has been directly infringed and suffered a grievance or loss, or may suffer an unavoidable grievance or loss due to such infringement of right or liberty, shall have the right to submit an application to the Court for a ruling under section 7 (11). A complaint shall first be lodged with the Ombudsman within ninety days of knowledge or presumed knowledge of the infringement of right or liberty. However, if the infringement of right or liberty is continuing, the complaint may be

submitted as long as the infringement of right or liberty still exists. The provision of section 48 paragraph one and paragraph two shall apply *mutatis mutandis*. An application must be submitted to the Court within ninety days of receiving notice of the Ombudsman's opinion, or on the expiration date of the time limit of the Ombudsman's non-submission of an application to the Court pursuant to section 48 paragraph two.

Subject to section 42, the submission of an application under paragraph one shall clearly specify the action claimed to be a direct infringement of one's right or liberty and how one's right or liberty was infringed.

In the case where the Court finds that an application under paragraph one does not raise a matter which deserves a ruling, the Court may deny acceptance of the application for consideration. If the Court finds that the case is prohibited under section 47, the Court shall order the rejection of the application for consideration.

Section 47. The exercise of right to submit an application under section 46 must concern an action committed by a state agency, state official or agency exercising state powers which infringes a right or liberty, and must not be any one of the following cases:

- (1) the act of government's action;
- (2) the Constitution or organic law has prescribed a specific petition process or specific person with standing to request the court for ruling;
- (3) the law provides for specific steps and procedures and those steps and procedures have not yet been exhausted;
- (4) a matter pending trial by another court, or a matter which another court has rendered a final judgment or order;
- (5) an action of a committee under section 192 of the Constitution;
- (6) an action related to personnel administration of the Judicial Commission, the Administrative Court's Judicial Commission, the Military Court's Judicial Commission, as well as proceedings related to military discipline.

Section 48. Subject to section 47, where a person whose right or liberty protected by the Constitution has been infringed finds that such infringement was a result of a provision of law being contrary to or inconsistent with the Constitution, an application shall be submitted to the Ombudsman, and the Ombudsman shall consider the submission of an application to the Court together with an opinion within sixty days of receiving the application from the applicant. The Ombudsman shall notify the applicant of the outcome of consideration within ten days of the expiration of such period.

In the case where the Ombudsman does not submit an application under paragraph one, or does not submit an application within the period under paragraph one, the person whose right has been infringed may submit an application directly to the Court.

The provision of paragraph one and paragraph two shall apply *mutatis mutandis* to the case where a person whose right or liberty has been infringed submits an

application to the Court for the Court ruling that such action was contrary to or inconsistent with the Constitution.

Section 49. For the benefit of considering whether an application would be admitted, the Court may appoint a bench of not less than three Justices to undertake the consideration. More than one bench may also be appointed.

In the case of an appointment of a bench under paragraph one, upon the filing of an application in the Court for a ruling, the agency responsible for the administrative tasks of the Court shall refer the matter to the bench under paragraph one within two days of the agency responsible for the administrative tasks of the Court receiving the application pursuant to rules of the Court. Such bench shall have the competence to examine and order the acceptance of the application for ruling within five days of receiving the matter from the agency responsible for the administrative tasks of the Court. Such order shall be deemed as an order of the Court.

In the case that the bench under paragraph one is of the opinion that an application should not be accepted for trial and ruling, the application shall be submitted to the Court for consideration within the period under paragraph two. The Court shall complete its consideration within five days as from the day of receiving the matter from such bench. If the Court concurs with the opinion, the Court's order shall be issued. If the Court does not concur, proceedings shall continue in accordance with the Court's opinion.

An order of a bench under paragraph two shall be done by majority vote.

In the case where a bench under paragraph one is not appointed, the Court shall consider and order whether or not to accept the application within five days as from the agency responsible for the administrative tasks of the Court receives the matter.

Section 50. Upon the submission of a letter requesting for the Court ruling and the Court finds that the case is in accordance with section 41 paragraph two (1), (2), (3), (4), (5), (6), (7), (8) or (9), the Court shall accept the matter for consideration and further proceedings.

Section 51. Where an application is already submitted to the Court, prior to the Court ruling or order, if the applicant dies or withdraws the application, or there is no longer any cause for a ruling in the case, the Court may issue the disposal of such case, except where the continuance of proceedings is in the public interest.

Part 3

Bench and Trial Proceedings

Section 52. In a hearing and ruling, all Justices in the bench shall participate in the proceedings and participate in the ruling, except where there are grounds of objection or other unavoidable necessity or a case under paragraph three.

A bench of the Court in proceedings and ruling shall consist of not less than seven Justices.

A Justice who has not participated in proceedings on an important issue of a case does not have the competence to participate in the ruling of such case. If there is a question on whether or not a Justice has participated in proceedings on an important issue of a case, the Court shall reach a decision before further proceedings, except where non-participation in the ruling will result in the bench consisting of fewer than seven Justices.

Section 53. In the interest of justice, the Court or bench under section 49 paragraph one, as the case may be, may order a party who has not properly undertaken the trial proceeding, to make corrections within the period and under the conditions as deemed appropriate.

If the party fails to proceed with the trial proceeding pursuant to the order under paragraph one without reasonable excuse, in the case of the applicant, the Court may order the rejection of application for ruling or order the disposal of such case. In the case of the respondent, it shall be deemed that the respondent does not wish to make a reply and the Court shall continue with the trial proceeding.

Section 54. Upon the Court ordering the acceptance of an application concerning another party for a ruling, a copy of the application shall be served on the respondent or an order shall be issued to notify the respondent to collect a copy of the application within the period prescribed by the Court.

Upon the respondent receiving a copy of the application, a statement of reply shall be submitted within fifteen days of receiving a copy of the application, or within the period prescribed by the Court, and the provisions of section 42 shall also apply *mutatis mutandis*.

In the case where the respondent does not submit a statement of reply within the period under paragraph two or does not collect a copy of the application within the period under paragraph one, it shall be deemed that the respondent does not wish to submit a statement of reply, and the Court shall continue with the trial proceeding.

Section 55. The applicant may amend the application or the respondent may amend the statement of reply. A motion to amend shall be submitted at least seven days

prior to the scheduled date of the Court ruling. In the case of submission of motion less than seven days prior to the scheduled date of the Court ruling, or the amendment will result in a change of issue to be ruled upon, the Court may reject the motion. However, in the case where the Court accepts the motion for consideration, the Court shall also send a copy of the amendment to the other party for notice.

Section 56. Service of a copy of application, copy of statement of reply or other documents between the Court and a party, witness or related person, shall be made to the domicile or regular residence or any correspondence address notified by the party, witness or related person.

The means of service and announcement in lieu of service shall be in accordance with rules of the Court.

Section 57. Upon the Court accepting the case for consideration, the Court shall determine the issues and the sequence of issues to be ruled upon, without prejudice to the Court's power to amend or add issues or sequence of issues that has already been determined or arranged.

All Justices, except Justices that have been given leave to recuse or has been recused due to an objection, must provide an individual opinion on the issues and in the sequence of issues determined or arranged by the Court.

Upon the Court's acceptance of a matter, no Justice can deny ruling on the matter by claiming that it is not within the Court's competence.

Section 58. If the Court finds that a case concerns a question of law, or there is sufficient evidence to render a ruling, the Court may deliberate to consider and render a ruling without conducting an inquiry or cease an inquiry.

If the Court finds that an evidence was created or obtained unlawfully or is not relevant to the matter ruled upon, or is not needed for the ruling, or will cause an undue delay on the case, the Court may refrain from examination or not admit such evidence.

The Justices comprising not less than two-thirds of the existing Justices may adopt a resolution not to use a document or evidence which may affect national security in the case.

Section 59. A hearing of the Court shall be open to the public, except where deemed appropriate to maintain order in the courthouse's vicinity, or to protect the public interest, the Court has the power to determine the persons allowed to remain in the trial room.

Upon the Court announcing the first inquiry hearing date, a copy of the announcement shall be sent to the parties at least fifteen days prior to the scheduled date. Subsequent inquiry hearing dates shall be as prescribed by the Court. Such schedule announcements shall also be posted at the courthouse.

Section 60. A party may adduce oneself, a person and other evidence as evidence and has the right to examine evidence and request a copy of evidence of oneself or the other party during official hours in accordance with procedures and periods prescribed by rules of the Court.

When adducing evidence under paragraph one, a party shall submit a list of evidence and method of obtaining such evidence.

Subject to section 58, prior to the Court ruling, a party may submit an additional list of evidence but the submission must be made at least seven days prior to the Court's scheduled date of a ruling.

Section 61. For expeditions and fair proceedings, the Court may conduct a pre-examination of evidence. The parties must be notified at least fifteen days in advance of the scheduled date for pre-examination of evidence.

Section 62. When conducting an inquisition on a witness, regardless of a witness adduced by a party or summoned by the Court, the Court shall ask questions and allow the witness to testify on those points by a declaration or reply to the Court's questions. The Court may ask the witness any question of fact connected to the case, even if not raised by any party.

In the interest of justice, the Court may allow a party to further examine the witness on issues and facts determined by the Court. In this case, the party adducing the witness shall examine first.

After the parties examine a witness under paragraph two, no other party may ask the witness further questions except where allowed by the Court.

Section 63. The Court may allow an inquisition on a witness outside the courthouse as requested by either or both parties. Such an inquisition shall be conducted by video conference in accordance with rules of the Court.

A witness inquisition under paragraph one shall be deemed to be conducted in the Court's trial room.

Section 64. In the case where the Court deems appropriate, or in the case of a request from a party adducing a witness and allowed by the Court, the Court may direct a witness or expert witness who has to testify to submit an affidavit to affirm facts or opinions to the Court on the issues determined by the Court or on the issues prescribed by a party as allowed by the Court. The affidavit affirming facts or opinion shall be submitted to the Court in advance and a copy sent to the other party for acknowledgement at least seven days prior to the inquisitorial hearing date of the witness or expert witness.

A party who objects to a fact stated in such advance affidavit affirming facts or opinion on any issue shall submit a written objection to the Court at least three days prior to the inquisitorial hearing date of the witness or expert witness, or otherwise it shall be deemed that the party has no objection.

On the witness inquisitorial hearing date, the witness shall affirm the affidavit submitted in advance and answer additional questions of the Court and other parties on the issues submitted to the Court under paragraph two with the Court's permission. If the witness does not appear before the Court or appears before the Court but refuses to answer questions, the Court shall decline to admit the affidavit affirming facts and opinions submitted in advance of the witness or expert witness as evidence in the case, except where necessary or appropriate in the interest of justice, the Court may admit the affidavit affirming facts or opinions submitted in advance of such witness or expert witness as other supporting evidence.

A witness or expert witness who submits an affidavit affirming facts or opinions in advance under paragraph one to the Court cannot withdraw the affidavit. Upon the witness affirming the affidavit affirming facts or opinions in advance, the affidavit shall be deemed as comprising a part of the witness' testimony.

Section 65. The provisions in paragraph one and paragraph two of section 64 shall apply *mutatis mutandis* to the case where the Court directs a witness or expert witness to submit an affidavit affirming facts or opinions to the Court on the issues determined by the Court in lieu of testifying before the Court, except for the period under section 64 paragraph one which shall commence from the date of receiving the Court's order.

Section 66. During an inquisitorial hearing of the Court, the Court shall record the proceedings in the case files and direct the parties and witness to affix their signatures as evidence. If a party or witness cannot affix a signature or refuses to affix a signature, the Court shall record the cause for absence of signature in lieu of the signature.

The Court shall also record a witness' testimony from the inquisition in the case files by means of an audio recording device or audio-visual recording device or by any other means as prescribed by rules of the Court.

Section 67. Either party or both parties have the right to request for permission to deliver an opening or closing statement as deemed appropriate by the Court and within the period prescribed by the Court.

An opening or closing statement shall be made in writing, except where deemed appropriate by the Court, it may be delivered orally. The provisions of section 66 paragraph two shall also apply *mutatis mutandis*.

Rules, procedures and time limits for delivering an opening or closing statement shall be as prescribed by rules of the Court.

Section 68. A party, witness relating to one's testimony, or third party having a legitimate interest or reasonable cause, has the right to request an inspection, copy or certified copy of a document in the case file in accordance with rules, procedures and conditions prescribed by rules of the Court which may also set a fee.

Section 69. The Court shall be the recorder of proceedings.

Section 70. A Justice who has been assigned by the Court shall be the signor of notifications, orders, case reports or other letters of the Court.

Section 71. In order to prevent subsequent serious and irreversible loss, or to prevent proximate violence, and the applicant's application contains sufficient grounds for the Court to decide according to the request, when the Court deems appropriate or when requested by a party, the Court shall have the power to prescribe provisional measures or procedures prior to a ruling and order a State agency, state official or a related person to comply, in accordance with rules, procedures and case types prescribed by rules of the Court.

A provisional measure or procedure prior to ruling under paragraph one shall be effective for a period not exceeding sixty days as from the date of Court prescription of such provisional measure or procedure.

CHAPTER IV

RULING OR ORDER

Section 72. The Court ruling shall be done by majority vote, except where provided otherwise by the Constitution. In the case of equal votes, the Court shall deliberate until a resolution is reached.

All Justices in the bench cannot abstain from voting on any issue prescribed by the Court, except for a case under section 52 paragraph three.

Section 73. The Court ruling shall at least consist of the claim and request as stated in the application or letter requesting for the Court ruling, objections in the reply statement, issues of the case, summary of facts obtained from trial, reasons for ruling on each issue and the provisions of the Constitution and laws referred to, as well as the outcome of the ruling.

The Court ruling must be signed by Justices making the ruling. If a Justice has a necessary and unavoidable cause for an inability to sign, the bench shall assign a Justice in the bench to record such cause which shall be attached to the ruling.

Section 74. Subject to the provisions of the Constitution, if there is a need to enforce the Court ruling, the Court shall have the power to include an enforcement order to enforce the Court ruling. The Court may prescribe an effective date any time in the future subsequent to the reading of the ruling, or may prescribe any enforcement condition or measure, to the extent of necessity or as appropriate and just for the case. An organisation, state agency or person having a duty to comply shall report the outcome of compliance or obstacles to compliance with the Court enforcement order within thirty days of the Court

ruling, or within the period prescribed by the Court. The foregoing shall be in accordance with rules, procedures and case types prescribed by rules of the Court.

Section 75. When making a ruling, every Justice in the bench shall prepare an individual opinion in writing as well as give an oral statement in a meeting. The meeting shall then deliberate before adopting a resolution.

The individual opinion under paragraph one shall be made in brief and published in accordance with rules of the Court.

When making a ruling, the bench may assign a Justice to prepare the ruling in accordance with the Court resolution.

The Court ruling shall be published in the Government Gazette within thirty days of the date of ruling.

Section 76. The Court ruling shall come into effect on the reading date.

In the case of the court ruling in a case involving parties, if either party or both parties, as the case may be, duly acknowledges the scheduled date but is absent, the Court shall record the absence, and it shall be deemed that the ruling has been duly read.

In the case of a ruling not involving a respondent, the Court shall give notice of the Court ruling to the applicant or sender of letter of request for the Court ruling and the date of Court resolution as stated in the ruling shall be deemed as the reading date.

In the case where the Court has a ruling under section 173 section 212, section 213 or section 231 (1) of the Constitution, the agency responsible for the administrative tasks of the Court shall prepare a notification of the Court ruling outcome for publication in the Government Gazette without delay.

A notice to the parties to attend the reading of the ruling and reading of the Court ruling under paragraph two, and the notice of ruling under paragraph three, shall be in accordance with rules and procedures prescribed by rules of the Court.

Section 77. An order to reject an application for ruling or to dispose a case must consist of the case background in brief, reasons for the order, supporting opinions and provisions of the Constitution and laws referred to.

The provisions of section 75 paragraph three shall apply *mutatis mutandis* to the rendering of an order. Upon completion of the order, the parties shall be notified and a notice posted at the courthouse for a period of not less than fifteen days.

The Court's order under paragraph one and paragraph two shall come into effect on the date of court resolution as stated in the order.

Section 78. In the case where a ruling or order of the Court contains a minor error or mistake, if the court by finds by itself or upon a request of a party and the Court deems appropriate, the Court may order a correction of such minor error or mistake.

A correction order under paragraph one must not reverse or change the outcome of the original ruling or order. Upon issuance of such order, the parties shall be

notified and the provisions of section 75 paragraph three and paragraph four shall apply *mutatis mutandis*.

Rules and procedures for making an order under paragraph one and paragraph two shall be as prescribed by rules of the Court.

TRANSITORY PROVISIONS

Section 79. The President of the Constitutional Court and Justices of the Constitutional Court whose terms have not yet terminated under the Constitution of the Kingdom of Thailand B.E. 2550 (2007), and are still in office on the day prior to the date this Organic Act comes into force, shall remain in office until the expiration of term pursuant to the provisions of the Constitution of the Kingdom of Thailand B.E. 2550 (2007), or the vacation of office under section 18, except for the case under (1) in relation to the lack of qualifications under section 8 which shall not apply. It shall be deemed that the Justices of the Constitutional Court who continue to hold offices under this paragraph, and the Justices of the Constitutional Court who continue to perform duties under paragraph two comprise a number which satisfies the composition under section 8.

The President of the Constitutional Court and the Justices of the Constitutional Court who must continue to perform duties on the day prior to the date of coming into force of this Organic act pursuant to Order of the National Council for Peace and Order No. 24/2560, dated 20th April B.E. 2560 (2017), Re: Restraint on Election or Selection of Persons for the Office of the Justices of the Constitutional Court under Order of the National Council for Peace and Order No. 23/2560, whose terms have already terminated under the provisions of the Constitution of the Kingdom of Thailand B.E. 2550 (2007), shall continue to perform duties until new the Justices of the Constitutional Court under section 8 paragraph one (1), (2) and (5) assumes duties.

Section 80. The selection or election of a person to replace the President of the Constitutional Court and the Justices of the Constitutional Court under section 79 paragraph one who vacates office for any reason, and to replace the President of the Constitutional Court and the Justices of the Constitutional Court who continue to perform duties under section 79 paragraph two, shall proceed upon the convening of the first sitting of the National Assembly after a general election under the Constitution of the Kingdom of Thailand.

Within twenty days of the expiration of the period under paragraph one, Independent Organs shall appoint and nominate representatives to the Secretariat of the Senate to comprise the Selection Committee under section 11.

Upon the expiration of the period under paragraph two, if an Independent Organ is still unable to appoint a representative, or in the case there is no Leader of the Opposition in the House of Representatives, the Selection Committee can continue to perform duties. In which case, the Selection Committee shall be deemed to consist of the existing members. However, this does not prejudice the right of the Independent Organ to appoint a representative at a subsequent date. Such appointment does not invalidate actions already taken by the Selection Committee.

Upon the lapse of twenty days as from the expiration of the period under paragraph two, the Selection Committee shall consider and decide, as regards the President of the Constitutional Court and the Justices of the Constitutional Court who performed duties on the day prior to the coming into force of this Organic Act pursuant to section 79 paragraph two, on the designation thereof as persons requiring selection or election in categories under section 8 (1), (2) and (5).

A decision of the Selection Committee shall be final.

Section 81. The Selection Committee under section 80 shall select a suitable person for appointment as the Justices of the Constitutional Court in the number commensurate to the number of vacant offices and according to the categories decided by the Selection Committee under section 80 paragraph four within sixty days of the decision under section 80.

In the case where election of a suitable person for appointment as a Justice of the Constitutional Court is required, the provisions of paragraph one shall apply *mutatis mutandis* to the election of a suitable person for appointment as a Justice of the Constitutional Court of the plenary session of the Supreme Court or plenary session of Judges of the Supreme Administrative Court, as the case may be.

In the case where there is no President of the Constitutional Court, upon approval by the Senate of a selected or elected person, the person approved by the Senate and the Justices of the Constitutional Court remaining in office under section 79 paragraph one shall jointly meet to select one among themselves as the President of the Constitutional Court and notify the President of the Senate accordingly.

Section 82. All rules, regulations, notifications, orders or resolutions of the Court issued under the Constitution of the Kingdom of Thailand B.E. 2550 (2007) which were in force on the day prior to the effective date of this Organic Act shall continue to be in force insofar as they are not contrary to or inconsistent with the Constitution or this Organic Act, until rules, regulations, notifications, orders or resolutions of the Court under this Organic Act are issued.

Section 83. An inquisition or any other proceedings in the performance of duties and powers of the Court taken prior to the effective date of this Organic Act shall be

deemed as proceedings taken under this Organic Act. Further proceedings shall be as provided in this Organic Act.

In the case of a question on whether a matter pending consideration and no procedure has been provided under this Organic Act, further proceedings shall be taken in accordance with the resolution of the Court.

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

Remarks: - The reasons for promulgating this Organic Act are as follows. The Constitution of the Kingdom of Thailand provides that the selection, decision on the vacation of office of the Justice of the Constitutional Court, trial and adjudication of matters pursuant to the duties and powers of the Constitutional Court, and operations of the Constitutional Court shall be as provided by Organic Act. Hence, it is expedient to enact this Organic Act.