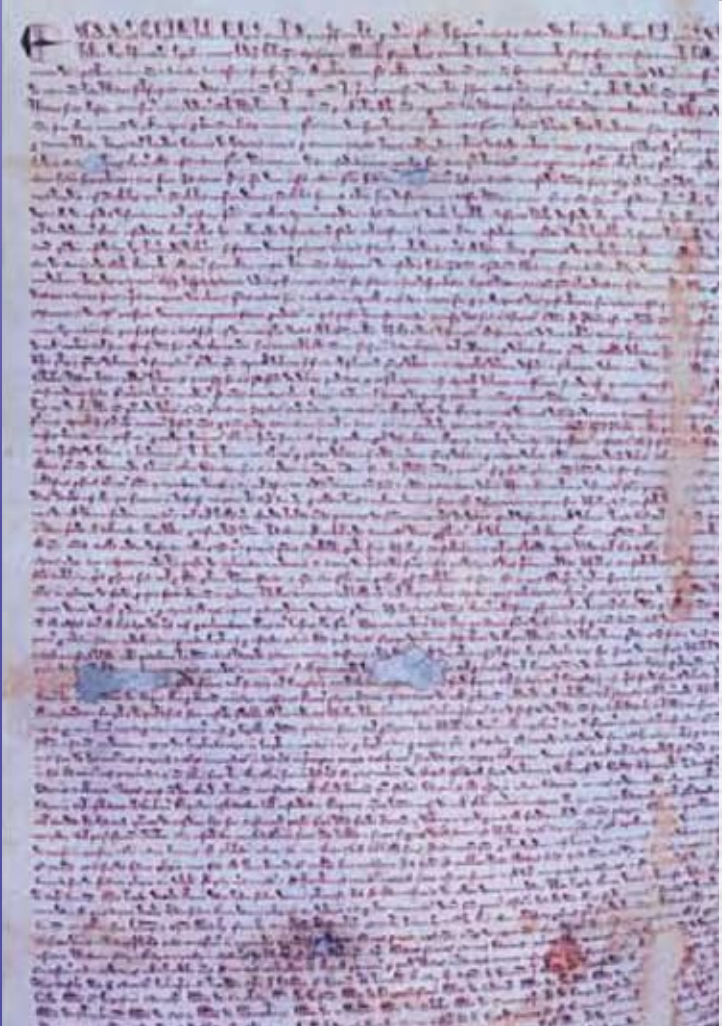




Clauspeter Hill / Jörg Menzel

CONSTITUTIONALISM IN SOUTHEAST ASIA



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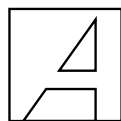
Volume 1 National Constitutions / ASEAN Charter

Konrad-Adenauer-Stiftung
Singapore

Clauspeter Hill / Jörg Menzel

CONSTITUTIONALISM IN SOUTHEAST ASIA

**Volume 1
National Constitutions / ASEAN Charter**



Konrad
Adenauer
Stiftung

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PREFACE

“Every country has its own constitution ... ours is absolutism moderated by assassination”, a Russian is reported to have said in the 19th century. Nowadays, in most countries, constitutions are considered the basic and supreme laws. They typically are supposed to guarantee rules for the political process and rule of law, and often guarantee individual rights and fundamental policies. Constitutions provide legitimacy to states and to governments and should not just be “nice words on paper”, but real supreme law. A constitutional state is not a state that has a constitution but a state that functions according to a constitution. This might be called constitutionalism and although there may be different versions and significant setbacks, the concept of constitutionalism is on the rise.

Southeast Asia is no exception. Nearly all Southeast Asian countries have constitutions and in all of them constitution making or constitutional reform has occurred, or been on the agenda in recent decades. Some Southeast Asian countries have established special Constitutional Courts and Councils. The process of constitutionalization is even visible at a regional level. Southeast Asian states have agreed on a Charter for the Association of Southeast Asian Nations (ASEAN). They have not only started a process which may lead to what is called regional constitutionalization, but have also stipulated “adherence to the rule of law, good governance, the principles of democracy and constitutional government” as principles to be followed by all member states (Article 2 [2g] ASEAN Charter). Constitutionalism clearly is a Southeast Asian agenda item.

This three volume publication includes the constitutional documents of all countries in Southeast Asia as at December 2007, as well as the ASEAN Charter (Vol. I), reports on the national constitutions (Vol. II), and a collection of papers on cross-cutting issues (Vol. III) which were mostly presented at a conference at the end of March 2008. Some of the constitutions have until now not been publicly available in an up to date English language version, but apart from this we believe that it is useful to have them all together in a printed edition. The country reports provide readers with up to date overviews on the different constitutional systems. In these reports, a common structure is used to make comparisons easy. References and recommendations for further reading will facilitate additional research. Some of these reports are the first ever systematic analysis of those respective constitutions, while others draw on substantial literature on those constitutions. The contributions on selected issues highlight specific topics and cross-cutting issues in more depth. Although the whole range of possible topics cannot be addressed in such a volume, they indicate the range of questions facing the emerging constitutionalism within this fascinating region.

This publication, which is the first of its kind in the region, is published and funded by Konrad-Adenauer-Stiftung (KAS). In 2005, this German political foundation established a regional programme for Southeast Asia to address various aspects of the rule of law. The programme aims at strengthening the dialogue within the region as well as between the region and Europe. Constitutionalism naturally plays an important part in this programme. The project would not have been possible without the help of numerous constitutional scholars and experts from around the region. The editors are grateful to all the authors, who dedicated their valuable time to this project and made it possible to finalize the publication within a comparatively tight time frame. Thanks also go to the involved staff at KAS office in Singapore and the Senate in Phnom Penh, and to Chris and Gerald Leather for their extensive proof reading and translation assistance. We would finally like to express our sincere appreciation to the Law Faculty of the National University of Singapore, which is not only the academic home of some of the authors, but was also the co-host of a conference on the occasion of this publication. Special thanks go to Professor Gary Bell for facilitating the arrangement.

PREFACE

Considerable effort has been made to ensure the accuracy of the documented texts. In the case of the Cambodian constitution, an updated and improved translation was prepared especially for this publication. However, the editors can not guarantee the correctness of the published constitutions or accept responsibility for any inaccuracies. We recommend that where high levels of accuracy are required, official versions of the constitutions should be obtained from the respective official sources. It goes without saying that in countries where English is not the official legal language, the English version is not an official version anyway. Although evident, we emphasize that all opinions expressed in Vol. II and III are those of the authors and do not reflect the opinions of the editors or the publisher.

Finally, we want to express our hope that this publication will contribute to the understanding of developments in Southeast Asian constitutional law and that readers find it useful and interesting.

Singapore, March 2008
Clauspeter Hill / Jörg Menzel

This is an updated re-print of volume 1 including amendments to some of the Constitutions (e.g. Singapore and Malaysia). It also comprises the English version of the Constitution of the Union of Myanmar which was adopted on May 29, 2008 after the first print had been produced.

This re-print is timely also in light of the great demand for this collection of legal documents. We are therefore thankful to our readers for their interest and support.

Singapore, January 2010
Clauspeter Hill / Jörg Menzel

BRUNEI



CONSTITUTION OF BRUNEI DARUSSALAM

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CONSTITUTION OF BRUNEI DARUSSALAM

Commencement:

29th September 1959 for Parts I, II, III, X XI and XI1

IS 105/59)

18th October 1959 for Parts IV, V, VI and VII IS 120/59]

1st January 1960 for Part VIII [S 155/59]

1st January 1962 for Part IX [S 108/62]

Invocation.

In the name of ALLAH, the Compassionate, the Merciful, PRAISE be to ALLAH, the Lord of the Universe, and may the benediction and peace of ALLAH be upon Our Leader Muhammad and upon all his Relations and Friends.

BY THE GRACE OF ALLAH, OMAR ALI SAIFUDDIN SA'ADUL KHAIRI WADDIN IBNI AL-MARHUM MOHAMED JAMALUL-ALAM of Brunei Darussalam and all its Dependencies, the Sultan and Yang Di-Pertuan, SOVEREIGN AND CHIEF OF THE MOST ESTEEMED FAMILY ORDER, SOVEREIGN AND CHIEF OF THE MOST HONOURABLE ORDER OF

THE CROWN OF BRUNEI, ORDER OF SRI MAHKOTA NEGARA, MOST ESTEEMED FAMILY ORDER (FIRST CLASS) KELANTAN, HONORARY KNIGHT COMMANDER OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE.

PREAMBLE

WHEREAS provision is being made in a separate Proclamation (in this Constitution referred to as "the Succession and Regency Proclamation, 1959") for certain matters affecting His Majesty the Sultan and Yang Di-Pertuan, the Succession to the Sultanate and His Majesty the Sultan and Yang Di-Pertuan's family;

WHEREAS we intend to govern in accordance with the provisions of this Constitution and the laws of Brunei Darussalam and, by progressive steps hereafter, to introduce further representative institutions into the government of Brunei Darussalam;

AND WHEREAS WE have, with the advice and consent of OUR traditional advisers, decided to make such provisions for the regulation of the government of Brunei Darussalam as is hereinafter contained;

NOW, THEREFORE, WE by the rights and powers of

OUR Prerogatives as Sultan and Yang Di-Pertuan of the Sovereign State and Territory of Brunei Darussalam and all its Dependencies, do HEREBY PROCLAIM in OUR name and on OUR behalf and for and on behalf of OUR SUCCESSORS as hereinafter follows:

PART I
PRELIMINARY
Citation.

1. This Constitution may be cited as the Constitution of Brunei Darussalam.

Interpretation.

2. (1) In this Constitution, unless the context otherwise requires

“Attorney General” means the officer appointed under Clause (1) of Article 81;
[S 65/04]

“Auditor General” means the officer appointed under Clause (1) of Article 66;
[S65/04]

“Brunei Investment Agency” means the body corporate established by the Brunei Investment Agency Act (Chapter 137);
[S 65/04]

“Chief Syar’ie Judge means the Chief Syar’ie Judge appointed under the Syraiah Courts Act (Chapter 184);
[S 65/04]

“citizen of Brunei Darussalam” means a subject of His Majesty the Sultan and Yang Di-Pertuan by virtue of the provisions of any written law relating to nationality;
[S 65/04]

“Civil List” means the provision made for the maintenance of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family out of public funds;
[S 65/04]

“Clerk to the Legislative Council” includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Clerk to that-Council;

“Clerk to the Privy Council” includes any person appointed by His Majesty the Sultan and Yang Di- Pertuan to be Deputy Clerk to that Council;

“Council of Ministers” means the Council of Ministers established by Article 10;
[S 65/04]

“Council of Regency” means the Council of Regency appointed under the Succession and Regency Proclamation, 1959;
[S 65/04]

“debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee;

“Deputy Minister” means any person appointed under Clause (3) of Article 4;
[S 65/04]

“Deputy Sultan and Yang Di-Pertuan” means the person appointed by His Majesty the Sultan and Yang Di-Pertuan under the Succession and Regency Proclamation, 1959;
[S 65/04]

“Government” means the Government of His Majesty the Sultan and Yang Di Pertuan;
[S 65/04]

“high judicial office” means the office of a Judge of the Supreme Court, or of a court having unlimited jurisdiction in civil or criminal matters, or of a court having jurisdiction in appeals from any such court;

“His Majesty” or “His Majesty the Sultan and Yang Di-Pertuan” means

(a) a Sultan whose accession to the throne has been proclaimed whether or not he has been crowned as the Sultan and Yang Di-Pertuan;

(b) where appropriate, a Council of Regency; and

(c) to the extent to which a Deputy to His Majesty the Sultan and Yang Di-Pertuan is authorised to act, that Deputy;

[S 65/04]

“His Majesty in Council” or “His Majesty the Sultan and Yang Di-Pertuan in Council” means His Majesty the Sultan and Yang Di-Pertuan acting after consultation with the Council of Ministers, but not necessarily in accordance with the advice of that Council nor necessarily in that Council assembled;

[S 65/04]

“instrument” includes any publication in the Gazette, whether or not such publication merely purports to publish the doing of an act or the occurrence of a fact or event, or otherwise conveys or purports to convey information;

“Islamic Religion” means the Islamic Religion according to the Shafeite sect of Ahlis Sunnah Waljamaah;
[S 32/04; S 65/04]

“Kepala Wazir” means the noble and illustrious personage known as the Duli Pengiran Perdana Wazir Sahibul Himmah Wal-Waqar;
[S 65/04]

“Legislative Council” means the Legislative Council established by Article 23;
[S 65/04]

“meeting”, in relation to the Legislative Council, means all sittings of that Council held during a period beginning when that Council first meets after being summoned

at any time and ending when that Council is next thereafter either adjourned sine die or prorogued or dissolved without having been prorogued;

"Minister" means a person appointed under Clause (3) of Article 4;

[S 65/04]

"Mufti Kerajaan" means the person appointed as such by His Majesty the Sultan and Yang Di-Pertuan under the Religious Council and Kadis Courts Act (Chapter 77);

[S 65/04]

"Muslim revenue and funds" means all revenues and funds to which Part IV of the Religious Council and Kadis Courts Act (Chapter 77) applies;

[S 65/04]

"pension rights" includes superannuation rights and provident funds rights;

"Privy Council" means the Privy Council established by Clause (1) of Article 5;

[S 65/04]

"public office" means any office of emolument, remuneration or allowance (including pension or other like allowance) in respect of his tenure in the Government but does not include the Sultanate, the office of Regent, Kepala Wazir, Wazir, Chief Justice, Speaker of the Legislative Council, Deputy Speaker of the Legislative Council, Minister, Deputy Minister, Parliamentary Secretary, Political Secretary, Member of the Legislative Council, Ambassador, High Commissioner, Judge of the Supreme Court, Consul-General, Consul or such other office as His Majesty the Sultan and Yang Di-Pertuan may by Order published in the Gazette, prescribe;

[S 65/04]

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"Regent" means a Regent duly appointed under or referred to in the Succession and Regency Proclamation, 1959;

[S 65/04]

"Religious Council" means the Religious Council constituted by Part II of the Religious Council and Kadis Courts Act (Chapter 77);

[S 65/04]

"Secretary to the Council of Ministers" means the person appointed under Article 22 and includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Secretary to that Council;

[S65/04]

"session", in relation to the Legislative

Council, means the meeting of that Council commencing when it first meets after being constituted under this Constitution, or after its prorogation or dissolution at any time, and terminating when that Council is prorogued or is dissolved without having been prorogued;

[S 65/04]

"sitting", in relation to the Legislative Council, means the period during which that Council is sitting continuously without adjournment, and includes any period during which that Council is in Committee;

[S 65/04]

"Speaker" means the Speaker of the Legislative Council appointed under Clause (1) of Article 37 and includes any person appointed to be his Deputy;

[S 65/04]

"Standing Orders" means the Standing Orders of the Legislative Council made pursuant to Article 48;

[S 65/04]

"State Seal" means the Seal of Brunei Darussalam referred to in Article 79;

[S 65/04]

"Supreme Court" means the Supreme Court of Brunei Darussalam established under the Supreme Court Act (Chapter 5);

[S 65/04]

"tax" includes an impost or a duty but does not include a rate levied for local purposes or a fee for services rendered;

"Wazirs" means the Duli Pengiran Perdana Wazir Sahibul Himmah Wal-Waqar, the Pengiran Bendahara Seri Maharaja Permaisuarah, the Pengiran Digadong Sahibul Mal, the Pengiran Pemancha Sahibul Rae' Wal-Mashuarah and the Pengiran Temanggong Sahibul Bahar;

[S 67/04]

"written law" includes all Acts, Orders, Proclamations and subsidiary legislation, or any part thereof, but does not include any Act of Parliament of the United Kingdom or any Order of Her Britannic Majesty in Council or any Law which no authority in Brunei Darussalam is empowered to amend;

[S 65/04]

"Yang Di-Pertuan Adat Istiadat" means the noble and illustrious personage known as the Duli Pengiran Pemancha or the person appointed under Clause (3) of Article 3A by His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

(2) Where in this Constitution reference is made to any public officer by the term designating his office, such reference

shall be construed as a reference to the officer for the time being discharging the functions of that office.

- (3) Repealed.
[S 65/04]
- (4) Repealed.
[S65/04]
- (5) References in this Constitution to “this Constitution” shall, unless the context otherwise requires, be construed as referring to subsidiary legislation made under this Constitution.
[S 65/04]
- (6) Save as otherwise provided in this Constitution or required by context, the Interpretation and General Clauses Act (Chapter 4) shall apply to the interpretation of this Constitution as it applies to the interpretation of all other written laws.
[S65/04]

PART II RELIGION AND ADAT ISTIADAT

[S 65/04]

Official religion of Brunei Darussalam and religious observance. [S 32/04; S 65/04]

3. (1) The official religion of Brunei Darussalam shall be the Islamic Religion:
Provided that all other religions may be practised in peace and harmony by the persons professing them.
- (2) The Head of the official religion of Brunei Darussalam shall be His Majesty the Sultan and Yang Di-Pertuan.
- (3) The Religious Council shall be the authority responsible for advising His Majesty the Sultan and Yang Di-Pertuan on all matters relating to the Islamic Religion.
- (4) For the purpose of this Article, His Majesty the Sultan and Yang Di-Pertuan may, after consultation with the Religious Council, but not necessarily in accordance with the advice of that Council, make laws in respect of matters relating to the Islamic Religion.

Majlis Mesyuarat Adat Istiadat. [S 65/04]

- 3A. (1) There shall be established a Majlis Mesyuarat Adat Istiadat (to be known in English as the Adat Istiadat Council) which shall consist of a Chairman and other members, all of whom shall be appointed by His Majesty the Sultan and Yang Di-Pertuan and hold office during His Majesty the Sultan and Yang Di-Pertuan’s pleasure.
- (2) The Adat Istiadat Council shall be the authority responsible for advising His Majesty the Sultan and Yang Di-Pertuan

on matters relating to Adat Istiadat or State custom:

Provided that His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of the Adat Istiadat Council.

- (3) The Yang Di-Pertuan Adat Istiadat shall be the Head of the Adat Istiadat Council who shall preside in the Adat Istiadat Council and who shall hold office during His Majesty the Sultan and Yang Di-Pertuan’s pleasure.

PART III EXECUTIVE AUTHORITY

Executive authority and principal officers.

4. (1) The supreme executive authority of Brunei Darussalam shall be vested in His Majesty the Sultan and Yang Di-Pertuan.
 - (1A) His Majesty the Sultan and Yang Di-Pertuan shall be the Prime Minister.
[S 65/04]
 - (1B) His Majesty the Sultan and Yang Di-Pertuan shall be the Supreme Commander of the Royal Brunei Armed Forces.
[S65/04]
 - (2) The executive authority shall be exercised by His Majesty the Sultan and Yang Di-Pertuan.
[S 65/04]
 - (3) His Majesty the Sultan and Yang Di-Pertuan may appoint from among citizens of Brunei Darussalam any number of Ministers and Deputy Ministers who shall be responsible solely to His Majesty the Sultan and Yang Di-Pertuan for the exercise of executive authority and who shall assist and advise His Majesty the Sultan and Yang Di-Pertuan in the discharge of His Majesty the Sultan and Yang Di-Pertuan’s executive authority.
[S 65/04]
 - (4) Repealed.
[S 65/04]
 - (5) The appointment of Ministers and Deputy Ministers shall be made from among the Malay race professing the Islamic Religion, save where His Majesty the Sultan and Yang Di-Pertuan otherwise decides.
[S 32/04; S 65/04]
 - (6) The Ministers and Deputy Ministers shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by Instrument under His Sign Manual and the State Seal and shall hold office for a period of 5 years or such other period, and on such terms as His Majesty the Sultan and Yang Di-Pertuan may determine, and the same persons may be re-appointed,

when such appointment expires, for a further period as specified in the Instrument appointing him:

Provided that His Majesty the Sultan and Yang Di-Pertuan may revoke the appointment of any Minister or Deputy Minister at any time without showing cause.

- (7) Repealed.
[S 65/04]
- (8) Repealed.
[S 65/04]
- (9) His Majesty the Sultan and Yang Di-Pertuan may by Order published in the Gazette specify the functions, powers and duties of the Ministers and Deputy Ministers, and such Ministers and Deputy Ministers shall discharge their functions, powers and duties in accordance with such Orders:
Provided that His Majesty the Sultan and Yang Di-Pertuan may transfer any functions, powers and duties conferred on any person by the existing Instruments to such other person or authority as may be specified by such Order at any time without showing cause.
[S 65/04]

PART IV PRIVY COUNCIL

Establishment of Privy Council.

- 5. (1) There shall be established a Privy Council (to be known in Malay as the Majlis Mesyuarat Di-Raja) constituted in accordance with the provisions of this Part.
[S 65/04]
- (2) The Privy Council, the Members of which shall be styled Privy Councillors, shall consist of
 - (a) if such an appointment has been made, the Deputy Sultan and Yang Di-Pertuan;
 - (b) the Regents, if a Council of Regency has been appointed;
 - (c) ex-officio Members, namely the Kepala Wazir, the Wazirs, Members of the Council of Ministers, Mufti Kerajaan, Chief Syar'ie Judge, Attorney General, Yang Di-Pertuan Adat Istiadat and the person who holds such other office as may from time to time be designated by His Majesty the Sultan and Yang Di-Pertuan by Proclamation in the Gazette; and
 - (d) such other persons (who shall be styled Appointed Members) as His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the State Seal, appoint.
[S65/04]

- (3) Every Appointed Member of the Privy Council shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure and subject thereto for such period and upon such conditions as may be specified in the Instrument appointing him.
- (4) Every Member of the Privy Council shall, before entering upon the duties of his office, take or make and subscribe before His Majesty the Sultan and Yang Di-Pertuan, or, if a Council of Regency has been appointed, before the senior male Regent, or before such other person as His Majesty the Sultan and Yang Di-Pertuan or, as the case may be, the senior male Regent may designate, an oath or declaration in the form set out as Form I in the First Schedule.
[S 65/04]
- (5) Repealed.
[S 65/04]

Functions of Privy Council.

- 6. (1) The Privy Council
 - (a) shall advise His Majesty the Sultan and Yang Di-Pertuan on any amendment, addition or revocation of any provision of this Constitution, in accordance with Article 85;
[S 65/04]
 - (b) shall, subject to any written law, advise His Majesty the Sultan and Yang Di-Pertuan on the appointment of persons to Malay customary ranks, titles, honours and dignities and the designation of the functions appertaining thereto; and
 - (c) shall perform such other functions as may be conferred on it by the Succession and Regency Proclamation, 1959, any other written law or by His Majesty the Sultan and Yang Di-Pertuan.
[S 65/04]
- (2) Minutes shall be kept of all proceedings of the Privy Council.
- (3) His Majesty the Sultan and Yang Di-Pertuan shall appoint some fit and proper person to be the Clerk to the Privy Council, and such person shall, before entering upon the duties of his office, take and subscribe before His Majesty the Sultan and Yang Di-Pertuan or the senior male Regent, as the case may be, an oath in the form set out as Form II in the First Schedule.
[S 65/04]
- (4) Subject to any written law, the exercise of any power conferred on, or the doing

of any act or thing by, the Privy Council may be signified under the hand of the Clerk to the Privy Council.

[S 65/04]

- (5) His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of the Privy Council.

[S 65/04]

Summoning and quorum. [S 65/04]

7. (1) The Privy Council shall not be summoned except by the authority of His Majesty the Sultan and Yang Di-Pertuan or, if a Council of Regency has been appointed, by the senior male Regent or, if His Majesty the Sultan and Yang Di-Pertuan is not present in Brunei Darussalam and if no Council of Regency has been appointed, by the Kepala Wazir.
- (2) (a) No business shall be transacted at any meeting of the Privy Council if there are less than one third of the Members of the Council (besides His Majesty the Sultan and Yang Di-Pertuan or other person presiding) present at the meeting, and His Majesty the Sultan and Yang Di-Pertuan or any other person transaction of business on that account.
- (b) If the number of Members of the Privy Council is not a multiple of 3, then, for the purpose of this Clause, the number of Members shall be deemed to be the next highest multiple of 3.
- (3) Any proceedings in the Privy Council and any such decision taken by that Council shall be valid notwithstanding that some person who was not entitled to do so took part in the proceedings.

Presiding in Privy Council. [S65/04]

8. (1) His Majesty the Sultan and Yang Di-Pertuan shall, so far as practicable, preside at meetings of the Privy Council.
- (2) In the absence of His Majesty the Sultan and Yang Di-Pertuan, the person who shall preside shall be in the following priority
- (a) if such an appointment has been made, the Deputy Sultan and Yang Di-Pertuan;
- (b) if no Deputy Sultan and Yang Di-Pertuan has been appointed and a Council of Regency has been appointed, the senior male Regent present;
- (c) if no Deputy Sultan and Yang Di-Pertuan and no Council of Regency has been appointed, such Member of the Privy

Council as His Majesty the Sultan and Yang Di-Pertuan may appoint or, in the absence of such Member or where no such Member has been appointed, the Kepala Wazir; and

- (d) in any other case, the ex-officio Member of the Privy Council present who stands first in the order in which those officers are referred to in paragraph (c) of Clause (2) of Article 5.

**PART IVA
PARDONS BOARD**

[S65/04]

Establishment of Pardons Board. [S 65/04]

- 8A. (1) For the purposes of this Part, there shall be established a Pardons Board which shall consist of the Attorney General, the Mufti Kerajaan and not more than 3 other members.
- (2) The 3 other members shall be appointed by His Majesty the Sultan and Yang Di-Pertuan and shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

Prerogative of Mercy.

9. (1) His Majesty the Sultan and Yang Di-Pertuan may exercise in his absolute discretion, in respect of any offence for which an offender may be or has been tried in Brunei Darussalam, such one or more of the following powers -
- [S 65/04]
- (a) grant to any person concerned in, or convicted of, any such offence a pardon either free or subject to conditions;
- [S 65/04]
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for such an offence;
- (c) substitute a less severe form of punishment for that imposed by any sentence for such an offence;
- (d) remit the whole or any part of any sentence passed for such an offence or of any sum of money imposed as a penalty or forfeiture, or otherwise due to Brunei Darussalam His Majesty the Sultan and Yang Di-Pertuan or any other person on account of such offence; or
- (e) order the discharge of any person who may be imprisoned for any offence or for non-payment of any sum of money as aforesaid.
- [S 65/04]

- (2) In exercising his powers, His Majesty the Sultan and Yang Di-Pertuan may have regard to, but is not bound to act in accordance with, the advice of the Pardons Board.
[S 65/04]
- (3) Repealed.
- (4) It shall be the duty of the Attorney General to supply to the Pardons Board any information which the prosecution may have in relation to any offender who has been sentenced to death which may be material to the exercise in relation to that offender of the powers vested in His Majesty the Sultan and Yang Di-Pertuan by Clause (1).
- (5) Before tendering its advice on any matter, the Pardons Board shall consider any written opinion which may have been delivered thereon by the Attorney General on the law applicable and by the Mufti Kerajaan on any aspect of Islamic law.
[S 65/04]

PART V COUNCIL OF MINISTERS

[S 65/04]

Establishment of Council of Ministers.

[S 65/04]

10. There shall be established a Council of Ministers (to be known in Malay as the Majlis Mesyuarat Menteri-Menteri), constituted in accordance with the provisions of this Part.

Constitution of Council of Ministers.

[S 65/04]

11. The Council of Ministers shall consist of the Prime Minister and the Ministers appointed under Clause (3) of Article 4.

Tenure of office and vacation of seats.

12. Subject to this Constitution, every Minister shall hold his seat in the Council of Ministers during His Majesty the Sultan and Yang Di-Pertuan's pleasure.
13. Repealed.

Attendance at Council of Ministers of non-Members.

14. Whenever His Majesty the Sultan and Yang Di-Pertuan or in his absence, other person presiding decides to obtain the advice of any person touching the affairs of the Government, he may require such person to attend any meeting of the Council of Ministers for such purpose.
[S 65/04]

Precedence.

15. The Members of the Council of Ministers shall have seniority and precedence amongst themselves in that Council as His Majesty the Sultan and Yang Di-Pertuan may assign.
[S 65/04]

Summoning and quorum.

16. (1) The Council of Ministers shall not be summoned except by the authority of His Majesty the Sultan and Yang Di-Pertuan.
- (2) No business shall be transacted at any meeting of the Council of Ministers if there are less than 5 Members of the Council, besides His Majesty the Sultan and Yang Di-Pertuan or other person presiding, present at the meeting, and His Majesty the Sultan and Yang Di-Pertuan or other person presiding at the meeting has objected to the transaction of business on that account.
[S 65/04]
- (3) The Council of Ministers shall not be disqualified from the transaction of business by reason of any vacancy amongst its Members, including any vacancy not filled when that Council is first constituted or is reconstituted at any time; and any proceedings therein and decisions taken therefrom shall be valid notwithstanding that some person who was not entitled to do so took part in the proceedings.
[S 65/04]

Presiding in Council of Ministers.

17. In the absence of His Majesty the Sultan and Yang Di-Pertuan, the person who shall preside shall be the Member of the Council of Ministers present who stands first in order of precedence according to Article 15. [S 65/04]

Consultation with Council of Ministers.

18. (1) In the exercise of his powers and the performance of his duties, His Majesty the Sultan and Yang Di-Pertuan shall, subject to the provisions of this Article, consult with the Council of Ministers.
[S 65/04]
- (2) Clause (1) shall not apply to the exercise or performance by His Majesty the Sultan and Yang Di-Pertuan of any power or duty, whether conferred or imposed on him by this Constitution or by any written law, if the law by which that power or duty is conferred or imposed empowers or requires His Majesty the Sultan and Yang Di-Pertuan to exercise that power or perform that duty after consultation with some

authority other than the Council of Ministers or does not require His Majesty the Sultan and Yang Di-Pertuan to consult with any authority.

[S 65/04]

- (3) Notwithstanding Clause (1), His Majesty the Sultan and Yang Di-Pertuan shall not be obliged to consult the Council of Ministers in cases

[S 65/04]

(a) which are of such a nature that, in his judgment, Brunei Darussalam may sustain material prejudice by his consulting the Council of Ministers thereon;

[S 65/04]

(b) in which the matters to be decided are, in his judgment, too unimportant to require the advice of the Council of Ministers; or

(c) in which the matters to be decided are, in his judgment, too urgent to admit of the advice of the Council of Ministers being given by the time within which it may be necessary for him to act:

Provided that, in every case falling within paragraph (c), His Majesty the Sultan and Yang Di-Pertuan shall, as soon as practicable, inform the Council of Ministers of the measures which he has adopted with the reasons therefor.

- (4) His Majesty the Sultan and Yang Di-Pertuan shall have the power to set the agenda of the Council of Ministers.

[S 65/04]

His Majesty not bound to act in accordance with the advice of Council of Ministers.

[S 65/04]

19. (1) His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of the Council of Ministers, but in any such case, he shall record in writing, for inclusion in the minutes, the reasons for his decision.

- (2) Whenever His Majesty the Sultan and Yang Di-Pertuan shall so act against the advice of the Council of Ministers, any Member shall be competent to require that there be recorded upon the minutes any advice or opinion he may have given upon the question together with the reasons therefor.

Decision of Council of Ministers. [S 65/04]

- 19A. No decision of the Council of Ministers shall be valid unless approved by His Majesty the Sultan and Yang Di-Pertuan.

Minutes.

20. (1) Minutes shall be kept of all the proceedings of the Council of Ministers.

- (2) As soon as practicable after the minutes of a meeting of the Council of Ministers have been confirmed, a full transcript thereof shall be transmitted by the Secretary to the Council of Ministers to His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

**PART VI
LEGISLATIVE COUNCIL**

[S 65/04]

Establishment of Legislative Council.

[S 65/04]

23. There shall be established a Legislative Council (to be known in Malay as *Majlis Mesyuarat Negara*) constituted in accordance with the provisions of this Part.

Composition and Membership of Legislative Council. [S 65/04]

24. (1) The Second Schedule which concerns the composition and membership of the Legislative Council shall have effect.

- (2) His Majesty the Sultan and Yang Di-Pertuan may by Order published in the Gazette add to, revoke or amend the provisions of the Second Schedule.

25. Repealed.

[S 65/04]

26. Repealed.

[S 65/04]

27. Repealed.

28. Repealed.

[S 65/04]

Qualifications for Members. [S 65/04]

29. Subject to Article 30, any person (other than a Regent) who is a citizen of Brunei Darussalam and who has attained the age of 21 years shall be qualified to be a Member of the Legislative Council.

Disqualification for Members. [S 65/04]

30. No person shall be qualified to be a Member of the Legislative Council who

- (a) is, due to his own act, under any acknowledgement of allegiance, obedience or loyalty to a power or state outside Brunei Darussalam, or has voluntarily acquired the citizenship of or has exercised rights of citizenship in a foreign country, or has shown himself by act or speech to have the intent to be disloyal or disaffected towards His Majesty the Sultan and Yang Di-Pertuan;

- (b) is a person declared to be of unsound mind under any law in force in Brunei Darussalam;
- (c) has been sentenced by a court in Brunei Darussalam or elsewhere, to death, imprisonment or to a fine of \$ 1,000 or more for any offence by whatever name called: Provided that this paragraph shall not apply to any person
 - (i) until the time for lodging an appeal has lapsed or, if an appeal has been lodged, until such appeal has been dismissed or the appeal has been allowed and the sentence provided for under paragraph (c) has been set aside by the appellate court;
 - (ii) who has been sentenced to a fine as aforesaid which conviction is for an offence which does not involve any element of dishonesty, fraud or moral turpitude;
 - (iii) who has received a free pardon for that offence;
 - (iv) if 3 years or more have elapsed since the termination of his imprisonment or the imposition of the fine on him; or
 - (v) in respect of whom His Majesty the Sultan and Yang Di-Pertuan has, after full consideration of the circumstances, directed that this paragraph shall not apply;
- (d) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Brunei Darussalam or elsewhere;
- (e) is a murtad in accordance with the Hukum Syara'; or is disqualified under any law relating to offences in connection with elections to the Legislative Council by reason of having been convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence.
- (a) if he shall be appointed as a Regent;
- (b) if he shall, by writing under his hand addressed to the Clerk of the Legislative Council, resign his seat in the Legislative Council; [S 65/04]
- (c) if he, except in the case of an ex-officio Member, shall be absent from 2 consecutive meetings of the Legislative Council without having obtained from the Speaker, before the termination of either of such meetings, permission to be or to remain absent therefrom; or [S 65/04]
- (d) repealed; [S 65/04]
- (e) repealed; [S 65/01]
- (f) if any circumstances arise which, if he were not a Member of the Legislative Council, would cause him to be disqualified under Article 30. [S 65/04]

(4) His Majesty the Sultan and Yang Di-Pertuan or the Legislative Council may, for such reason as may appear to His Majesty the Sultan and Yang Di-Pertuan or that Council to be good and sufficient, declare any Member of that Council to be incapable of discharging his functions as a Member of that Council, and thereupon, such Member shall not sit in or take part in the proceedings of that Council until he is declared by His Majesty the Sultan and Yang Di-Pertuan or that Council to be again capable of discharging his functions: Provided that where the Member is declared by His Majesty the Sultan and Yang Di-Pertuan to be incapable of discharging his functions, the Legislative Council shall not have the power to declare such Member to be again capable of discharging his functions without the prior approval of His Majesty the Sultan and Yang Di-Pertuan. [S 65/04]

(5) His Majesty the Sultan and Yang Di-Pertuan or the Legislative Council may, for such reason as may appear to His Majesty the Sultan and Yang Di-Pertuan or that Council to be good and sufficient, suspend any Member, from the exercise of his functions and his rights and privileges, as a Member of that Council, and thereupon, such Member shall not sit in or take part in the proceedings of that Council until the suspension is ended by His Majesty the Sultan

Tenure of office and vacation of seats.

[S 65/04]

31. (1) Every Member of the Legislative Council shall hold his seat therein during His Majesty the Sultan and Yang Di-Pertuan's pleasure. [S 65/04]
- (2) Every Member of the Legislative Council shall cease to be a Member when that Council is dissolved after he has been appointed or if his seat shall become vacant under this Constitution. [S 65/04]
- (3) The seat of a Member shall become vacant [S 65/04]

and Yang Di-Pertuan or that Council: Provided that where the Member is suspended by His Majesty the Sultan and Yang Di-Pertuan, the Legislative Council shall not have the power to end the suspension of such Member without the prior approval of His Majesty the Sultan and Yang Di-Pertuan.

- [S 65/04]
- (6) Any person vacating his seat as a Member of the Legislative Council may, if qualified, be again appointed as, or elected to be, a Member.
[S 65/04]
- (7) Repealed.
[S 65/04]
- (8) Repealed.
[S 65/04]

Decisions of questions as to membership of Legislative Council.

[S 65/04]

32. His Majesty the Sultan and Yang Di-Pertuan shall have exclusive jurisdiction to determine any question on whether

- (a) any person has been validly disqualified to be a Member of the Legislative Council;
- (b) any Member of the Legislative Council has been validly appointed or elected as a Member of, or dismissed from that Council;
- (c) any Member of the Legislative Council has been validly declared to be incapable of discharging his functions or suspended from the Legislative Council; or
- (d) any such Member of the Legislative Council has vacated his seat therein.

Temporary appointments.

33. (1) Where for the time being
- (a) one of the Members is appointed to act as Regent;
- (b) repealed; [S 65/04]
- (c) repealed; [S 65/04]
- (d) the seat of a Member is vacant otherwise than by reason of a dissolution of the Legislative Council;
[S 65/04]
- (e) a Member is unable to sit in the Legislative Council in consequence of a declaration or suspension by His Majesty the Sultan and Yang Di-Pertuan or that Council, as provided in Clause (4) or (5) of Article 31; or
[S65/04]
- (f) repealed; [S 65/04]
- (g) repealed; [S 65/04]
- (h) repealed; [S 65/04]
- (i) the seat of a Member shall become vacant

for whatever reason, [S 65/04] His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the State Seal, appoint a person to be a Member for the period of such vacancy.

[S 65/04]

- (2) Repealed.
[S 65/04]
- (3) Every person so appointed shall, so long as his appointment shall subsist, for all intents and purposes be a Member of the Legislative Council, and Part VI shall apply to him accordingly.
[S 65/04]
- (4) Repealed.
[S 65/04]
- (5) For the purposes of this Article, any temporary appointment shall cease to have effect on notification by the Clerk to the Legislative Council to the person appointed of the revocation of the appointment, or on the supersession of the appointment by the definitive appointment of a person to fill the vacancy.
[S65/04]

Attendance at Legislative Council of non-Members.

34. (1) Whenever His Majesty the Sultan and Yang Di-Pertuan or the Speaker desires to obtain the advice of any person in Brunei Darussalam touching on any business about to be brought before the Legislative Council, His Majesty the Sultan and Yang Di-Pertuan or the Speaker, as the case may be, may summon any such person to attend that Council for such purpose.

[S 65/04]

- (2) Any person so required may, with the permission of the Speaker and subject to Standing Orders, address that Council but, save as aforesaid, shall take no part in the proceedings thereof.

[S 65/04]

35. Repealed.

[S 65/04]

36. Repealed.

[S 65/04]

Speaker and Deputy Speaker. [S 65/04]

37. (1) His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the State Seal, appoint a Speaker of the Legislative Council either from among the Members of that Council or from among persons who are not Members thereof. [S 65/04]
- (1A) His Majesty the Sultan and Yang Di-Pertuan may by Instrument under the State Seal appoint a Deputy Speaker of the Legislative Council from among the

Members of that Council or from among persons who are not Members thereof.

[S 65/04]

- (2) Any person appointed as Speaker or Deputy Speaker shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure and, subject thereto, for such period as may be specified in the Instalment by which he is appointed:

[S 65/04]

Provided that the Speaker or Deputy Speaker may, by writing under his hand addressed to His Majesty the Sultan and Yang Di-Pertuan, resign his office and, in the case of a Speaker or Deputy Speaker appointed from among the Members of the Legislative Council, shall vacate his office if he ceases to be a Member of that Council.

[S 65/04]

Speaker or Deputy Speaker to attend and preside. [S 65/04]

38. The Speaker or the Deputy Speaker, as the case may be, shall so far as practicable, attend and preside at all meetings of the Legislative Council, and in their absence such Member of that Council as the Speaker or Deputy Speaker may, after consultation with His Majesty the Sultan and Yang Di-Pertuan, generally or specially appoint, shall preside.

PART VII LEGISLATION AND PROCEDURE IN THE LEGISLATIVE COUNCIL

Power to make laws. [S 65/04]

39. His Majesty the Sultan and Yang Di-Pertuan shall have the power to make laws for the peace, order, security and good government of Brunei Darussalam.

Introduction of Bills. [S 65/04]

40. (1) Subject to this Constitution and to the Standing Orders, any Member of the Legislative Council may introduce any Bill or propose any motion for debate in, or present any petition to the Legislative Council; and such Bill, motion or petition shall be debated and disposed of in accordance with the Standing Orders.

[S 65/04]

- (2) Repealed.

[S 65/04]

- (3) Repealed.

[S 65/04]

Publication of Bills. [S65/04]

41. (1) Save in a case of urgency to be certified in writing by His Majesty the Sultan and Yang Di-Pertuan, every Bill shall be published in the Gazette.
(2) Within 7 days of the publication of a Bill in

the Gazette or of the date of any certificate under Clause (1), the Bill shall be laid on the table of the Legislative Council whether or not that Council is sitting.

Description of Bills, motions and petitions not to proceed without approval. [S65/04]

42. (1) Except with the prior approval of His Majesty the Sultan and Yang Di-Pertuan, a Member of the Legislative Council shall not introduce or propose, and the Legislative Council shall not proceed upon, any Bill, any amendment to any Bill, or any motion, petition or business which, in the opinion of His Majesty the Sultan and Yang Di-Pertuan, falls within any of the following classes
- (a) any Bill, motion, petition or business relating to the issue of Bank Notes or the establishment of any Bank Association or the amendment of the constitution thereof;
 - (b) any Bill, motion, petition or business which shall appear inconsistent with obligations imposed upon His Majesty the Sultan and Yang Di-Pertuan by Treaty or Agreement with another power or State;
 - (c) any Bill, motion, petition or business relating to questions of defence or public security;
 - (d) any Bill, motion, petition or business that may have the effect of lowering or adversely affect directly or indirectly the rights, position, discretion, powers, privileges, sovereignty or prerogatives of His Majesty the Sultan and Yang Di-Pertuan, his Successors, His Consort or other members of the Royal Family;
 - (e) any Bill, motion, petition or business that may have the effect of lowering or adversely affect directly or indirectly the standing or prominence of the National Philosophy of Melayu Islam Beraja (known in English as Malay Islamic Monarchy);
 - (f) any Bill, motion, petition or business which would provide for or directly or indirectly affect the finances or currency of Brunei Darussalam;
 - (g) any Bill, motion, petition or business which would provide for or directly or indirectly affect the compounding or remitting of any debt due to Brunei Darussalam;
 - (h) any Bill, motion, petition or business which would provide for or directly or indirectly affect the custody of the Consolidated Fund, the charging of any

- money on the Consolidated Fund or the abolition of any such charge;
- (i) any Bill, motion, petition or business which would provide for or directly or indirectly affect the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any alteration in any such payment, issue or withdrawal otherwise than by reducing it;
 - (j) any Bill, motion, petition or business which would provide for or directly or indirectly affect the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys, or the audit of the accounts of Brunei Darussalam;
 - (k) any Bill, motion, petition or business which would provide for or directly or indirectly affect the borrowing of money, or the giving of any guarantee by Brunei Darussalam, or the amendment of the law relating to the financial obligations of Brunei Darussalam; or
 - (l) any Bill, motion, petition or business which would provide for or directly or indirectly affect the assignment of any tax or fee.
- (2) A Bill, amendment to a Bill, or any motion, petition or business shall not be deemed to make provision for any of the matters specified in paragraphs (f) to (l) of Clause (1) by reason only that it provides
- (a) for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee, or a fee or charge for any service rendered; or
 - (b) for the imposition, alteration or regulation of any tax or rate by any local authority or body for local purposes.
- (3) The approval of His Majesty the Sultan and Yang Di-Pertuan in relation to any Bill or amendment to any Bill, or any motion, petition or business, under Clause (1) may be expressed at any time before His Majesty the Sultan and Yang Di-Pertuan has assented thereto, and may, if given while the Legislative Council is sitting, be given in writing through any Minister.
- (4) For the purpose of Clause (1), the Speaker, or Deputy Speaker in the absence of the Speaker, may at any time in his discretion, adjourn the Legislative Council or suspend the sitting so as to obtain the advice of His Majesty the Sultan and Yang Di-Pertuan on any Bill, amendment to any Bill, or any motion, petition or business.

Voting.

43. (1) Subject to Clauses (3), (4) and (5), all questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the Members present and voting.
[S 65/04]
- (2) The Speaker and, in his absence the Deputy Speaker, and in his absence, the Member presiding shall have an original vote and shall in addition, if upon any question for which the votes are equally divided, have and exercise a casting vote.
[S 65/04]
- (3) If, having debated a Bill, the Legislative Council resolves that the Bill shall be rejected (such resolution shall hereinafter be referred to as a "negative resolution") then Clause (4) shall apply.
[S 65/04]
- (4) If the Legislative Council passes a negative resolution, the Speaker shall, within 14 days of the passing of that resolution, submit a report to His Majesty the Sultan and Yang Di-Pertuan giving a summary of the debate and the reasons for such resolution.
[S 65/04]
- (5) His Majesty the Sultan and Yang Di-Pertuan, having considered the report of the Speaker may, notwithstanding the negative resolution, declare that the Bill shall have effect as an Act either in the form in which it was introduced or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit, from a date to be specified in the Gazette.
[S 65/04]

Vacancies and quorum.

44. (1) The Legislative Council shall not be disqualified from the transaction of business by reason of any vacancy among the Members, including any vacancy not filled when that Council is first constituted or reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in that Council, or otherwise took part in those proceedings.
[S 65/04]
- (2) If, at any sitting of the Legislative Council, any Member who is present draws the attention of the person presiding at the sitting to the fact that less than one-third of the Members are present apart from any Member presiding and, after

such interval, if any, as may be provided for by the Standing Orders, the person presiding is satisfied that there are less than that number of Members so present, the sitting shall be adjourned.

[S 65/04]

- (3) The calculation of one-third referred to in Clause (2) shall be in accordance with the Standing Orders,
[S65/04]

Assent to Bills. [S 65/04]

45. (1) When any Bill has been passed by the Legislative Council, such Bill shall only become law either in the form in which it was passed or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit, if His Majesty the Sultan and Yang Di-Pertuan assents to, signs and seals the Bill with the State Seal.
- (2) In the event His Majesty the Sultan and Yang Di-Pertuan amends the Bill after it has been passed by the Legislative Council, His Majesty the Sultan and Yang Di-Pertuan shall not be required to refer the Bill back to the Legislative Council.
- (3) A law assented to by His Majesty the Sultan and Yang Di-Pertuan shall come into operation on the date on which such assent shall be given, or, if it shall be enacted either in such law or in some other law (including any law in force on the commencement of this Part) that it shall come into operation on some other date, on that date.

Style of laws and enacting words.

46. All laws shall be styled Acts and the enacting words shall be "Be it enacted by His Majesty the Sultan and Yang Di-Pertuan with the advice and consent of the Legislative Council as follows:".

[S 65/04]

Reserved powers. [S 65/04]

47. (1) If His Majesty the Sultan and Yang Di-Pertuan shall consider that it is expedient in the interests of public order, good faith or good government of Brunei Darussalam, or for any other reason whatsoever, that any Bill introduced, or any motion, petition or business proposed in the Legislative Council shall have effect, then, if that Council shall fail to pass that Bill or carry that motion, petition or business within such time and in such form or manner as His Majesty the Sultan and Yang Di-Pertuan may think reasonable and expedient, His Majesty the Sultan and Yang Di-Pertuan may, at any time, notwithstanding any

provision of this Constitution or the Standing Orders, declare that that Bill or motion, petition or business shall have effect as if it had been passed or carried by that Council either in the form in which it was so introduced or proposed or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit which have been moved or proposed in that Council or in any committee thereof; and the Bill or motion or petition shall be deemed thereupon to have been so passed or carried; and the provisions of this Constitution, and, in particular, the provisions of Article 45, relating to assent to Bills shall have effect accordingly.

- (2) Any such declaration made by His Majesty the Sultan and Yang Di-Pertuan under Clause (1) together with the Bill, motion, petition or business so deemed to have been passed or carried shall be notified in the Gazette by the Speaker.
- (3) Any such declaration, other than a declaration relating to a Bill, may be revoked by His Majesty the Sultan and Yang Di-Pertuan; and the Speaker shall notify such revocation in the Gazette; and from the date of such notification, any motion, petition or business which shall be deemed to have been carried by virtue of the declaration revoked shall cease to have effect; and such cessation shall have the same effect as the repeal of a written law.

Standing Orders.

48. (1) Subject to this Constitution, the Legislative Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, including the power to impose sanctions.
[S 65/04]
- (2) Repealed.
[S 65/04]
- (3) No Standing Order shall be suspended without the approval of the Speaker and such approval shall only be granted by him if he is satisfied that such suspension is necessary for the proper and expeditious dispatch of the business of the Legislative Council.
[S 65/04]
- (4) No Standing Orders made by the Legislative Council and no amendments, suspension or revocation of the Standing Orders shall have effect unless approved by His Majesty the Sultan and Yang Di-Pertuan.
[S 65/04]

Oath to be taken by Members. [65/04]

49. Every Member of the Legislative Council shall, before entering upon the duties of his office and taking his seat, take or make and subscribe before the Speaker or Deputy Speaker or other Member, presiding an oath or declaration in the form set out as Form IV in the First Schedule: Provided that any person who, having previously been a Member of the Legislative Council, again becomes a Member of that Council within one month after the termination of his previous membership thereof may enter upon the duties of his office and take his seat without again taking or making and subscribing such oath or declaration.

Clerk to the Legislative Council. [S 65/04]

50. His Majesty the Sultan and Yang Di-Pertuan shall appoint some fit and proper person to be the Clerk to the Legislative Council, and who shall hold the office during His Majesty the Sultan and Yang Di-Pertuan's pleasure, and such person shall, before entering upon the duties of his office, take before the Speaker or other Member presiding an oath in the form set out as Form V in the First Schedule.

Minutes.

51. (1) Minutes shall be kept of all the proceedings of the Legislative Council.
- (2) As soon as practicable, a full transcript of the minutes of every sitting of the Legislative Council shall be transmitted by the Clerk to the Legislative Council to His Majesty the Sultan and Yang Di-Pertuan. [S 65/04]

Sessions of Legislative Council. [S 65/04]

52. (1) Unless otherwise directed by His Majesty the Sultan and Yang Di-Pertuan, there shall be a session of the Legislative Council once at least in every year, so that a period of more than 12 months shall not intervene between the last sitting in one session and the date appointed for its first sitting in the next session. [S 65/04]
- (2) Each session of the Legislative Council shall be held at such place and shall commence and end at such time as His Majesty the Sultan and Yang Di-Pertuan may from time to time, by notice published in the Gazette, appoint. [S 65/04]

Privileges of Members of Legislative Council. [S 65/04]

53. (1) Subject to Clause (1A), every Member of the Legislative Council may express his opinion freely in the Legislative Council or

any committee thereof, upon any matter which comes before it. [S 65/04] (1A) No Member of the Legislative Council shall speak or make any comments

- (a) directly or indirectly derogatory of the rights, status, position, powers, privileges, sovereignty or prerogatives of His Majesty the Sultan and Yang Di-Pertuan, his Successors, His Consort or other members of the Royal Family or the National Philosophy of Malay Islamic Monarchy; or
- (b) which constitute an offence under the Sedition Act (Chapter 24). [S 65/04]
- (2) The validity of any proceedings in the Legislative Council or any committee thereof shall not be questioned in or be subject to any review by any court. [S 65/04]
- (3) Subject to Clause (1A), no person shall be liable to any proceedings in any court in respect of anything said, or any vote given, by him when taking part in any proceedings of the Legislative Council or any committee thereof. [S 65/04]
- (4) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of the Legislative Council.

Right of His Majesty to address Legislative Council.

[S 65/04]

54. His Majesty the Sultan and Yang Di-Pertuan shall have the right to address the Legislative Council at any time upon any matter.

Prorogation and dissolution.

55. (1) His Majesty the Sultan and Yang Di-Pertuan may at any time, by Proclamation published in the Gazette, prorogue or dissolve the Legislative Council.
- (2) His Majesty the Sultan and Yang Di-Pertuan shall dissolve the Legislative Council at the expiration of 5 years from the date when it first meets after it is first constituted or is reconstituted at any time unless it has been sooner dissolved.

**PART VIII
FINANCE****No taxation unless authorised by law.**

56. No tax or rate shall be levied by or for the purposes of Brunei Darussalam except by or under the authority of law.

Civil List of His Majesty, His Consort and the Royal Family.

[S 65/04]

57. (1) There shall be provided by law a Civil List making provision for His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family, which Civil List shall be a charge on the Consolidated Fund.
- (2) The Civil List shall be reasonable, adequate and suitable to the rank, position and dignity of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family, and shall not be directly or indirectly diminished during His Majesty the Sultan and Yang Di-Pertuan's reign.
- (3) In assessing the Civil List, it shall not be permissible to take into account any income of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family which is derived from the personal estates and properties of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family and those which are not the property of Brunei Darussalam.
- (4) His Majesty the Sultan and Yang Di-Pertuan may draw up, maintain or amend a schedule of the members of the Royal Family to whom an allowance will be payable under this Article.
- (5) His Majesty the Sultan and Yang Di-Pertuan may revoke, suspend or reduce any allowance to any member of the Royal Family to whom such allowance would otherwise be payable under this Article.

Consolidated Fund.

58. All revenues and moneys howsoever raised or received by the Government from whatsoever source shall, subject to this Constitution and any written law, be paid into and from one fund to be known as the "Consolidated Fund".
- [S 65/04]

Expenditure charged on Consolidated Fund.

59. (1) There shall be charged on the Consolidated Fund in addition to any grant, remuneration or other moneys so charged by any provision of this Constitution or by any written law
- (a) the costs, charges and expenses, other than the emoluments of members of the public service, incidental to the collection and management of the revenues raised or received by the Government;
- [S 65/04]

(b) all pensions, compensation for loss of office and gratuities for which the Government is liable;

(c) all debt charges for which the Government is liable; and

[S65/04]

(d) all moneys required to satisfy any judgment, decision or award against the Government by any court or tribunal.

[S 65/04]

- (2) For the purposes of this Article, "debt charges" include interest, sinking fund charges, the repayment or amortization of debt, and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

[S 65/04]

Annual estimates of receipts and expenditure.

60. (1) His Majesty the Sultan and Yang Di-Pertuan shall, in respect of every financial year, cause to be laid before the Legislative Council a statement of the estimated receipts and expenditure of the Government for that year and, unless the Legislative Council by written law in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year. [S65/04]
- (2) The estimates of expenditure shall show separately
- (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
- (b) subject to Clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.
- [S 65/04]
- (3) The sums to be shown under paragraph (b) of Clause (2) shall not include
- (a) sums representing the proceeds of any loan raised by the Government for any specific purpose and appropriated for such purpose by or under the written law or Act authorising the raising of that loan; and
- (b) sums representing any money, or interest on money, received by the Government subject to a trust and to be applied in accordance with the terms of that trust.
- [S 65/04]
- (4) The statement shall also show, so far as practicable, the assets and liabilities of the Government, other than the assets and liabilities of the Brunei Investment

Agency, at the end of the last completed financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding.

[S 20/85; S 65/04]

Supply Bill. [S 65/04]

61. The heads of expenditure to be met from the Consolidated Fund but not charged thereon other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 60, shall be included in a Bill, to be known as the Annual Supply Bill, providing the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the application of those sums for the purposes specified therein. [S65/04]

Supplementary and excess expenditure.

62. If, in respect of any financial year, it is found

- (a) that the amount appropriated by the Annual Supply Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Annual Supply Act; or
- (b) that any moneys have been expended for any purpose in excess of that amount, if any, appropriated for that purpose by an Annual Supply Act,

[S65/04]

a Supplementary Estimate showing the sums required or spent shall be caused by His Majesty the Sultan and Yang Di-Pertuan to be laid before the Legislative Council and the heads of any such expenditure shall be included in a Supplementary Supply Bill.

Power to authorise expenditure on account or for unspecified purposes.

63. The Legislative Council shall have power in respect of any financial year

[S 65/04]

- (a) before the passing of the Annual Supply Bill to authorise by written law expenditure for part of the year; and
- (b) to authorise by written law expenditure for the whole or part of the year otherwise than in accordance with Articles 59 to 62 inclusive if, owing to the magnitude or indefinite character of any services or to circumstances which require any action of unusual urgency, it appears to be desirable to do so.

[S 65/04]

Contingencies Fund. [S 65/04]

64. (1) The Legislative Council may by written law

provide for the creation of a Contingencies Fund and for authorising the Minister of Finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Contingencies Fund to meet that need.

[S 65/04]

(2) Where any advance has been made in accordance with Clause (1), a Supplementary Estimate shall be presented and a Supplementary Supply Bill introduced into the Legislative Council as soon as possible for the purpose of replacing the amount so advanced.

[S 65/04]

Withdrawals from Consolidated Fund.

[S 65/04]

65. (1) Subject to Clause (2), no moneys shall be withdrawn from the Consolidated Fund unless they are

- (a) charged on the Consolidated Fund;
- (b) authorised to be issued by a Supply Act; or
- (c) authorised to be issued under Article 63.

[S 65/04]

(2) Clause (1) shall not apply to any such sums as are mentioned in Clause (3) of Article 60.

[S 65/04]

(3) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by law.

Auditor General.

66. (1) There shall be an Auditor General who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan.

(2) A person who has held the office of Auditor General shall be eligible for re-appointment but shall not, while holding that office be eligible for any other appointment in the public service of Brunei Darussalam.

[S 65/04]

(3) The Auditor General shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure, but he may at any time resign his office.

[S 65/04]

(4) The Legislative Council shall provide for the remuneration of the Auditor General and the remuneration so provided shall be charged on the Consolidated Fund.

[S 65/04]

(5) Repealed.

[S 65/04]

(6) Repealed.

[S 65/04]

Powers and duties of Auditor General.

67. (1) The accounts of Brunei Darussalam shall, subject to this Constitution and any written law, be audited and reported upon by the Auditor General, who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

[S 65/04]

- (2) The Auditor General shall perform such other duties and exercise such powers in relation to the accounts of Brunei Darussalam and to the accounts of other public authorities and bodies administering public funds as may be provided by any written law.

Reports of Auditor General.

68. The Auditor General shall submit his reports to His Majesty the Sultan and Yang Di-Pertuan who may cause the reports to be laid before the Legislative Council.

Exclusion of Muslim revenues and funds.

69. The provisions of this Part shall not be applicable to Muslim revenues and funds.

PART IX**PUBLIC SERVICE**

[S 65/04]

Tenure of office in public service. [S 65/04]

70. Save as otherwise provided in this Constitution, every person holding office in the public service of the Government shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

Public Service Commission. [65/04]

71. (1) There shall be a Public Service Commission which shall consist of a Chairman and such number of members, including a Deputy Chairman, as His Majesty the Sultan and Yang Di-Pertuan may appoint.

[S 65/04]

- (2) Subject to Clause (3), every person who is appointed to be a member of the Public Service Commission shall, unless he earlier resigns his office or is removed therefrom, hold office for a period of 3 years from the date of his appointment and shall be eligible for re-appointment.

[S 65/04]

- (3) All members of the Public Service Commission, including the Chairman and Deputy Chairman, if any, shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

(4) His Majesty the Sultan and Yang Di-Pertuan may grant leave of absence from his duties to any member of the Public Service Commission, and may appoint a person to be a temporary member for the period of such leave.

(5) The procedure of the Public Service Commission shall, subject to any regulations made under Article 75, be as determined by the Commission.

[S 65/04]

(6) For the purposes of the Penal Code (Chapter 22), a member of the Public Service Commission shall be deemed to be a public servant.

[S 65/04]

Secretary to Public Service Commission.

72. There shall be a Secretary to the Public Service Commission who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan, and who shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

Salaries of members of Public Service Commission.

73. Every person appointed to be a member of the Public Service Commission shall be paid such salary or- allowances, or both, as may be determined by His Majesty the Sultan and Yang Di-Pertuan; and all such salaries and allowances shall be a charge on the Consolidated Fund.

[S 65/04]

Appointments in public service.

74. (1) The power to appoint, transfer, promote, dismiss or exercise disciplinary control over public officers is hereby vested in His Majesty the Sultan and Yang Di-Pertuan.

(2) In exercise of the power conferred upon him by Clause (1), His Majesty the Sultan and Yang Di-Pertuan shall, unless the regulations under Article 75 otherwise provide, consult and act in accordance with the recommendation of the Public Service Commission.

[S 65/04]

(3) Nothing in this Article shall affect the provisions of any written law relating to members of the Royal Brunei Armed Forces, the Royal Brunei Police Force or the Prison Service of Brunei Darussalam.

[S 65/04]

Regulations.

75. His Majesty the Sultan and Yang Di-Pertuan may make regulations to provide for

[S 65/04]

- (a) the exercise by the Public Service Commission of any of its functions; or
- (b) the exercise by the Public Service Commission or by any person, subject to such conditions as may be prescribed, of any of the powers vested in His Majesty the Sultan and Yang Di-Pertuan by Article 74 and may further provide that any such person shall be free from the restriction imposed by Clause (2) of Article 74.

[S 65/04]

His Majesty to require oaths. [S 65/04]

76. His Majesty the Sultan and Yang Di-Pertuan may, whenever he thinks fit, require any person in the public service of Brunei Darussalam to take or make before him or such person as he may appoint, an oath or declaration of allegiance in the form set out as Form VI in the First Schedule. [S 65/04]
77. Repealed.
78. Repealed.

**PART X
STATE SEAL**

[S65/04]

State Seal. [S 65/04]

79. His Majesty the Sultan and Yang Di-Pertuan shall keep and use the State Seal for sealing all things whatsoever that shall pass that State Seal. [S 65/04]

**PART XI
MISCELLANEOUS**

Provisions to give effect to Constitution.

80. (1) His Majesty the Sultan and Yang Di-Pertuan may by Order, at any time within 3 years after the publication in the Gazette of this Constitution, make such provision as appears to him necessary or expedient for the purpose of bringing existing instruments into accord with the provisions of this Constitution or otherwise for giving effect, or enabling effect to be given, to those provisions; and, in particular and without prejudice to the generality of the foregoing power His Majesty the Sultan and Yang Di-Pertuan may by such Orders
- (a) modify, add to or adapt any provisions in existing instruments which refer, in whatever terms, to His Majesty the Sultan and Yang Di-Pertuan in Council, the State Council or the Council of State;
 - (b) provide for the transfer of functions, powers and duties conferred or imposed by existing instruments upon

any person or authority to such other person or authority as may be specified by such Orders;

- (c) proceed to make any appointment which he would be authorised to make under Part VI if this Constitution were in operation and may also, at any time after such appointments, proceed to make any appointment which he would be authorised to make under Article 11 if that Article and Part VI were in force and the appointments made under Part VI had taken effect:
[S 65/04]
Provided that, except in so far as may be necessary to give effect to the provisions of this Clause, no appointment made by virtue hereof shall have effect before the commencement of that Part;
[S 65/04]
- (d) provide for the financial procedure of Brunei Darussalam including, until other provision has been made under Clause (1) of Article 64, the establishment of a Contingencies Fund;
[S 65/04]
- (e) provide for the audit of the moneys of Brunei Darussalam and of other public bodies administering public funds, and until otherwise provided by the Legislative Council pursuant to Clause (4) of Article 66, provide for the remuneration of Auditor General;
[S 65/04]
- (f) until otherwise provided by the Legislative Council pursuant to Article 73, provide for the remuneration of the member of the Public Service Commission;
[S 65/04]
- (g) provide for the incorporation of the Prime Minister for the purpose of holding and disposing of property, movable and immovable, in his corporate capacity, on behalf of Brunei Darussalam, and for the purpose of transferring to him, in that capacity on behalf of Brunei Darussalam, certain property, movable and immovable situate within and outside Brunei Darussalam, at present held on behalf of Brunei Darussalam by certain other persons and bodies;
- (h) provide for the procedure in administrative appeals to His

Majesty the Sultan and Yang Di-Pertuan in Council.

- (2) Subject to this Article, the existing instruments shall until repealed by the authority having power to do so under this Constitution continue in force on and after the commencement of this Constitution, or any Part thereof, with such modifications as may be made therein by any Order made under this Article or by any other written law.
[S 65/04]
- (3) Notwithstanding anything in this Constitution contained, the State Council existing immediately before the commencement of this Constitution shall continue to have full legislative and executive authority until the commencement of Parts V, VI and VII.
- (4) In this Article, "existing instruments" means Acts, rules, regulations, by-laws, proclamations, orders, licences, permits and other instalments having the force of law, or issued in pursuance of statutory powers, and in force in Brunei Darussalam at the date of the Order by which they are affected.
[S 65/04]
- (5) An Order made under this Article may be amended or revoked by a further Order and may be given a retrospective effect to a date not earlier than the date of the publication in the Gazette of this Constitution.
[S 65/04]

Attorney General and his functions.

[S 65/04]

- 81.(1) There shall be an Attorney General who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by notification published in the Gazette.
- (2) The Attorney General shall advise on all legal matters connected with the affairs of Brunei Darussalam referred to him by His Majesty the Sultan and Yang Di-Pertuan or by the Government.
- (3) The Attorney General shall have power exercisable at his discretion to institute, conduct or discontinue any proceedings for an offence other than
 - (a) proceedings before a Syariah Court, subject to the provisions of any written law to the contrary; or
 - (b) proceedings before a Court Martial, subject to the provisions of any written law to the contrary.
- (4) In the exercise of this power, the Attorney General shall not be subject to the direction or control of any person or authority.

- (5) The Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal in Brunei Darussalam.
- (6) The Attorney General shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure, but he may at any time resign his office.

Official language. [S 65/04]

- 82.(1) The official language of Brunei Darussalam shall be the Malay language.
- (2) An official version in the English language shall be provided of anything which, by this Constitution or by any written law or by the Standing Orders, is required to be printed or in writing, and such version shall, in addition to the official Malay version, be accepted as an authentic text.
- (3) In the case of any doubt, conflict or discrepancy between the Malay and the English texts of this Constitution, or anything printed or written in accordance with Clause (2), the Malay text shall prevail.

State of Emergency.

- 83.(1) Whenever it appears to His Majesty the Sultan and Yang Di-Pertuan that an occasion of emergency or public danger is imminent, exists or has arisen where the security or economic life of Brunei Darussalam, or any part thereof, is or may be threatened, whether by war or external aggression or internal disturbance, actual or threatened, he may by Proclamation (hereinafter referred to as a "Proclamation of Emergency") declare a state of emergency either in the whole of Brunei Darussalam or in such part of Brunei Darussalam as may be specified in the Proclamation.
[S 65/04]
- (2) No Proclamation of Emergency shall be in force for more than 2 years, without prejudice, however, to the right of His Majesty the Sultan and Yang Di-Pertuan to issue another such Proclamation at or before the end of that period.
[S 65/04]
- (2A) Notwithstanding Clause (2), His Majesty the Sultan and Yang Di-Pertuan may by another such Proclamation declare the cessation of a state of emergency in the whole of Brunei Darussalam or in such part of Brunei Darussalam as may be specified in the Proclamation before the end of 2 years.
[S 65/04]

- (3) When a Proclamation of Emergency has been made and so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan may make any Orders whatsoever which he considers desirable in the public interest; and may prescribe penalties which may be imposed for any offence against any such Order; and may provide for the trial by any court of persons charged with such offences.
[S65/04]
- (4) Without prejudice to the generality of Clause (3), such Orders may be made with regard to any matters coming within the classes of subject hereinafter enumerated, that is to say
[S 65/04]
- (a) censorship, the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;
[S 65/04]
 - (b) arrest, detention, exclusion and deportation;
 - (c) control of the harbours, ports and territorial waters of Brunei Darussalam, and of the movements of vessels;
 - (d) transportation by land, air or water and the control of the transport and movement of persons, animals and things;
 - (e) trading, storage, exportation, importation, production and manufacture;
 - (f) supply and distribution of food, water, fuel, light and other necessities;
 - (g) appropriation, control, forfeiture and disposition of property and the use thereof;
 - (h) conferring powers on public officers and others;
 - (i) requiring persons to do work or render services;
 - (j) constituting a special police force;
 - (k) formation of tribunals and other bodies for the purpose of deciding any matters specified in any such Orders;
 - (l) modification, amendment, supersession or suspension of all or any of the provisions of any written law;
 - (m) entry into, and search of, premises or other places, and search and interrogation of persons;
 - (n) prescribing fees or other payments; and
[S 65/04]
 - (o) control, exploitation, use, disposition,
- appropriation. or deployment of any natural resources.
[S 65/04]
- (5) Notwithstanding anything contained in Part VIII, His Majesty the Sultan and Yang Di-Pertuan may, by any such Order, make all such financial provisions as he thinks necessary during the period of the emergency, including provision for the public service, and for the payment of compensation for work required compulsorily to be undertaken, and for property compulsorily taken.
[S 65/04]
- (6) Any Order made under this Article shall, unless His Majesty the Sultan and Yang Di-Pertuan otherwise directs, come into force on the day on which it is made.
[S 65/04]
- (7) Every Order made under this Article shall, at the next Meeting of the Legislative Council, be laid before that Council and that Council may resolve that any such Order shall, to the extent and as from such date as may be specified in such resolution, either cease to have effect (and any such cessation shall, if assented to by His Majesty the Sultan and Yang Di-Pertuan, have the same effect as the repeal of a written law) or be passed by that Council.
[S 65/04]
- (8) Such Orders or cessation of such Orders, as the case may be, shall be published in the Gazette as soon as circumstances permit.
[S 65/04]
- (9) Any Order made under this Article shall, if the Proclamation of Emergency specified only part of Brunei Darussalam, have effect only in such part:
[S 65/04]
- Provided that if, while a Proclamation of Emergency is in force in any part of Brunei Darussalam, another Proclamation of Emergency is made in respect of any other part of Brunei Darussalam, any Order already made and still in force when the last Proclamation comes into operation shall, forthwith, have effect in the part of Brunei Darussalam specified in the last Proclamation.
- (10) Every Order made in pursuance of this Article, and every instrument made in pursuance of any such Order, shall have effect notwithstanding anything inconsistent therewith contained in this Constitution or in any written law.
[S 65/04]

Saving of Acts, Proclamations and Orders.

[S 65/04]

83A. (1) It is hereby declared for the avoidance of doubt that every existing law including

(a) each and every Proclamation of Emergency declaring a state of emergency in Brunei Darussalam made under Article 83, commencing with the Proclamation of Emergency made on 12th December 1962 and thereafter every 2 years or thereabouts and ending with the Proclamation of Emergency made on the 16th day of Muharram 1425 Hijriah corresponding to the 8th day of March 2004; and

(b) each and every Order, Instrument, Act, Enactment or other written law made under Article 83 during any such period of emergency, shall be deemed to have been validly passed or made, to be fully effectual and to have had full force and effect from the date on which such Proclamation, Order, Instrument, Act, Enactment or other written law was declared or made even if such Proclamation, Order, Instrument, Act, Enactment or other written law was inconsistent with any provision of this Constitution; and the said Proclamation, Order, Instrument, Act, Enactment or other written law referred to in paragraphs (a) and (b) shall be deemed to have been duly laid before and passed by the Legislative Council in accordance with Clause (7) of Article 83.

(2) At the expiration of a period of 6 months beginning with the date on which a Proclamation of Emergency made after the 16th day of Muharram 1425 Hijriah corresponding to the 8th day of March 2004 ceases to be in force, any Proclamation, Order, Instrument, Act, Enactment or other written law made under Article 83 during any such period of emergency and, to the extent that it could not have been validly made but for Article 83, any Proclamation, Order, Instrument, Act, Enactment or other written law made while the Proclamation was in force, shall cease to have effect except as to things done or omitted to be done before the expiration of that period.

Effect of Constitution on His Majesty's Prerogatives. [S 65/04]

84. (1) The Government shall be regulated in accordance with the provisions of this

Constitution, and the form of the Government shall not be altered save in pursuance of the power conferred by Article 85.

[S 65/04]

(2) Nothing in this Constitution shall be deemed to derogate from the prerogative powers and jurisdiction of His Majesty the Sultan and Yang Di-Pertuan and, for the avoidance of doubt, it is declared that His Majesty the Sultan and Yang Di-Pertuan retains the power to make laws and to proclaim a further Part or Parts of the law of this Constitution as to His Majesty the Sultan and Yang Di-Pertuan from time to time may seem expedient.

[S 65/04]

Appointment to specified offices.

[S 32/04; S 65/04]

84A. (1) No person shall be appointed to any office specified in the Third Schedule unless he is a citizen of Brunei Darussalam of the Malay race professing the Islamic Religion.

(2) His Majesty the Sultan and Yang Di-Pertuan may by Order published in the Gazette amend the Third Schedule.

Immunity.

[S 65/04]

84B. (1) His Majesty the Sultan and Yang Di-Pertuan can do no wrong in either his personal or any official capacity. His Majesty the Sultan and Yang Di-Pertuan shall not be liable to any proceedings whatsoever in any court in respect of anything done or omitted to have been done by him during or after his reign in either his personal or any official capacity.

(2) Any person acting on behalf, or under the authority, of His Majesty the Sultan and Yang Di-Pertuan shall not be liable to any proceedings whatsoever in any court in respect of anything done or omitted to have been done by him in his official capacity: Provided that, subject to Article 84C, provision may be made by written law for the bringing of proceedings against the Government or any officer, servant or agent thereof, but not His Majesty the Sultan and Yang Di-Pertuan, in respect of wrongs committed in the course of carrying on the government of Brunei Darussalam:

(3) Any such law as is referred to in the proviso to Clause (2) shall not be deemed to be an amendment to this Constitution.

No judicial review. [S 65/04]

- 84C. (1) The remedy of judicial review is and shall not be available in Brunei Darussalam.
- (2) For the avoidance of doubt, there is and shall be no judicial review in any court of any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of or refusal or omission to exercise any power, authority or discretion by His Majesty the Sultan and Yang Di-Pertuan, or any party acting on his behalf or under his authority or in the performance of any public function, under the provisions of this Constitution or any written law or otherwise, including any question relating to compliance with any procedural requirement governing such act or decision.
- (3) In this Article, "judicial review" means proceedings instituted by any manner whatsoever including, but not limited to, proceedings by way of
- an application for any of the prerogative orders of mandamus, prohibition and certiorari;
 - an application for a declaration or an injunction;
 - a writ of habeas corpus; and
 - any other suit or action relating to or arising out of any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of or refusal or omission to exercise any power, authority or discretion conferred on His Majesty, the Sultan and Yang Di-Pertuan, or any party acting on his behalf or under his authority or in the performance of any public function, under the provisions of this Constitution or any written law or otherwise.
- (4) Save as provided in this Constitution, His Majesty the Sultan and Yang Di-Pertuan shall not be required to assign any reason for any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of or refusal or omission to exercise any power, authority or discretion under the provisions of this Constitution or any written law or otherwise.

Extra-territorial effect of laws. [S 65/04]

- 84D. Laws of Brunei Darussalam may have extra-territorial effect, provided it is so stated in such laws.

PART XII AMENDMENT AND INTERPRETATION OF CONSTITUTION

[S 65/04]

Amendment of Constitution.

85. (1) His Majesty the Sultan and Yang Di-Pertuan may, by Proclamation, amend, add to or revoke any of the provisions of this Constitution including this Article; and this Constitution shall not otherwise be amended, added to or revoked.
[S 65/04]
- (2) His Majesty the Sultan and Yang Di-Pertuan shall consult the Privy Council in relation to the exercise of the powers vested in him by this Article but His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of that Council.
[S 65/04]
- (3) His Majesty the Sultan and Yang Di-Pertuan shall not make any Proclamation for the amendment or revocation of any provision of this Constitution unless a draft of the Proclamation has been laid before that Council to enable the Legislative Council to determine if any amendments to the draft of the Proclamation should be made.
[S 65/04]
- (4) If no amendments are proposed by the Legislative Council within 14 days, His Majesty the Sultan and Yang Di-Pertuan may proceed to declare the Proclamation; if amendments are proposed by the Legislative Council within 14 days, the Speaker shall, within 14 days of that Council making the proposal, submit a report to His Majesty the Sultan and Yang Di-Pertuan giving a summary of the debate and the reasons for the proposed amendments.
[S 65/04]
- (5) His Majesty the Sultan and Yang Di-Pertuan having considered the report of the Speaker may declare that the Proclamation shall have effect under Clause (1) either in the form in which it was laid before the Legislative Council or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit.
[S 65/04]

Interpretation Tribunal.

86. (1) His Majesty the Sultan and Yang Di-Pertuan may refer any question involving, arising from, relating to, or in connection with, the meaning, interpretation, purpose,

- construction, ambit or effect of any of the provisions of this Constitution to the Interpretation Tribunal established in accordance with Clause (7) for its determination.
[S 65/04]
- (2) When any such question arises in any legal proceedings before any court, His Majesty the Sultan and Yang Di-Pertuan may direct that court to refer such question to the Interpretation Tribunal or that court shall refer such question to His Majesty the Sultan and Yang Di-Pertuan, with a submission that His Majesty the Sultan and Yang Di-Pertuan should refer that question to the Interpretation Tribunal, and upon receiving such reference His Majesty the Sultan and Yang Di-Pertuan may refer such question to the Interpretation Tribunal: Provided that the court shall not refer such question which has already been decided by the Interpretation Tribunal.
[S65/04]
- (3) If His Majesty the Sultan and Yang Di-Pertuan does not refer such question to the Interpretation Tribunal, he shall cause the court by whom the reference thereof was made to be so informed, and the court shall thereupon proceed with the determination of the legal proceedings before it. [S 65/04]
- (4) The decision of a majority of the Interpretation Tribunal upon any question referred to it under this Article shall be deemed to be a decision of the Tribunal; and any decision of the Tribunal shall be in writing and shall be published in the Gazette, and may be proved by production of the Gazette.
[S 65/04]
- (5) In the case of a reference made by His Majesty the Sultan and Yang Di-Pertuan to the Interpretation Tribunal pursuant to a reference under Clause (2), His Majesty the Sultan and Yang Di-Pertuan shall cause the determination of the Interpretation Tribunal to be communicated to the court by which the question has been referred and, in such case, that court may make such provision as may be just as to the costs of, and incurred by, such reference.
[S 65/04]
- (6) The determination of the Interpretation Tribunal in any question referred to it under this Article shall be binding and conclusive upon all persons, and shall not be called in question in or be subject to any review by or appeal to any court.
[S 65/04]
- (7) The Interpretation Tribunal shall consist of 3 members
- (a) Chairman who shall be a person who holds or has held high judicial office in any country, or has for at least 20 years been engaged in legal practice in any country;
 - (b) one member who shall be a person who has for at least 10 years been engaged in legal practice in any country; and
 - (c) one member who shall be a person from any country who professes the Islamic Religion who holds or has held office in Islamic law or is an expert in Islamic law and jurisprudence. The Chairman and other members shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by Instrument under the State Seal, and shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.
[S 65/04]
- (8) His Majesty the Sultan and Yang Di-Pertuan may from time to time make, amend or revoke rules relating to the procedure to be followed in referring or determining questions under this Article, and may make arrangements as to the remuneration to be paid to members of the Interpretation Tribunal, which remuneration shall be charged on the Consolidated Fund.
[S 65/04]
- (9) The Interpretation Tribunal may depart from any of its previous decisions.
[S 65/04]

Authorised reprints of Constitution.

[S 65/04]

87. (1) His Majesty the Sultan and Yang Di-Pertuan may, from time to time, authorise the Attorney General to cause to be printed and published an up-to-date reprint of this Constitution, incorporating therein all amendments in force at the date of such authorisation.
- (2) Any reprint of this Constitution printed and published under Clause (1) shall be deemed to be and shall be, without any question whatsoever in all courts and for all purposes whatsoever, the authentic text of this Constitution in force as from the date specified in that reprint until superseded by the next or a subsequent reprint.
- (3) In the preparation and compilation of any reprint under Clause (1), the Attorney General shall have, with the necessary modifications, all the powers conferred upon him by the Law Revision Act (Chapter 1).

CAMBODIA



CONSTITUTION OF THE KINGDOM OF CAMBODIA (As Amended)

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PREAMBLE

WE, THE PEOPLE OF CAMBODIA,

Being the heirs of a great civilization, a prosperous, powerful, large and glorious nation whose prestige radiated like a diamond;

Having endured suffering and destruction and having experienced a tragic decline in the course of last two decades; Have awakened to stand up with resolute determination and commitment to strengthen our national unity, to preserve and defend Cambodia's territory and its precious sovereignty and the prestige of Angkor civilization, to build the nation up to again be an "Island of Peace" based on a liberal multi-party-democratic system, to guarantee human rights and the respect of law, and to be responsible for progressively developing the prosperity and glory of our nation.

WITH THIS RESOLUTE WILL,

We inscribe the following as the Constitution of the Kingdom of Cambodia:

CHAPTER I SOVEREIGNTY

Article 1:

Cambodia is a Kingdom in which the King shall rule according to the Constitution and the principles of liberal multi-party democracy.

The Kingdom of Cambodia shall be an independent, sovereign, peaceful, permanently neutral and non-aligned country.

Article 2:

The territorial integrity of the Kingdom of Cambodia shall never be violated within its borders as defined in the 1/100,000 scale map made between the years 1933-1953, and internationally recognized between the years 1963 - 1969.

Article 3:

The Kingdom of Cambodia is an indivisible state.

Article 4:

The motto of the Kingdom of Cambodia is "Nation, Religion, King".

Article 5:

The official language and script is Khmer.

Article 6:

Phnom Penh is the Royal capital of the Kingdom of Cambodia.

The national flag, anthem and coat-of-arms are defined in Annexes 1, 2, and 3.

CHAPTER II THE KING

Article 7:

The King of Cambodia reigns but does not govern.

The King shall be the Head of State for life.

The King shall be inviolable.

Article 8:

The King of Cambodia is a symbol of the unity and eternity of the nation.

The King is the guarantor of national independence, the sovereignty and territorial integrity of the Kingdom of Cambodia and the guarantor of the rights and freedom of all citizens and of international treaties.

Article 9:

The King shall assume the supreme role as arbitrator to ensure the regular execution of public powers.

Article 10:

The Cambodian monarchy is an elected regime. The King shall have no power to appoint his successor to reign.

Article 11 - New (As amended March 1999):

If the King cannot perform his normal duties as the Head of State due to His serious illness as certified by doctors chosen by the President of the Senate, the President of the National Assembly and the Prime Minister, the President of the Senate shall perform the duties of the Head of State as the King's Regent.

If the President of the Senate cannot perform the duties of the Head of State for the King as the King's Regent when the King is seriously ill as stipulated in the previous paragraph, the President of National Assembly shall perform these duties.

The position as the Head of State as the King's Regent may be taken by other dignitaries, in

the circumstances described in the previous paragraph, in the following order:

- A. First Vice-President of the Senate
- B. First Vice-President of the National Assembly
- C. Second Vice-President of the Senate
- D. Second Vice-President of the National Assembly

Article 12 - New (As amended March 1999):

When the King dies, the President of the Senate shall perform the duties of the Acting Head of State as the Regent of the Kingdom of Cambodia.

If, when the King dies, the President of the Senate cannot perform the duties of the Acting Head of State in place of the King, the responsibilities of Acting Head of State in the capacity of Regent shall be exercised in compliance with the second and third paragraph of Article 11 - New.

Article 13 - New (As amended March 1999):

Within a period of not more than seven days, the Council of the Throne shall choose a new King of the Kingdom of Cambodia.

The Royal Council of the Throne shall consist of:

- The President of the Senate
- The President of the National Assembly
- The Prime Minister
- The Chief Monk of each of the Orders of Mahayana Buddhism (MohaNikay) and Theravada Buddhism (ThammayutekakNikay)
- The First and Second Vice-Presidents of the Senate
- The First and Second Vice-Presidents of the National Assembly

The organization and functioning of the Council of the Throne shall be determined by law.

Article 14:

The King of Cambodia shall be a member of the Royal family, be at least 30 years old and descend from the bloodline of King Ang Duong, King Norodom or King Sisowath.

Upon enthronement, the King shall take an Oath of Allegiance as stipulated in Annex 4.

Article 15:

The wife of the reigning King shall have the royal title of Queen of the Kingdom of Cambodia.

Article 16:

The Queen of the Kingdom of Cambodia shall not have the right to engage in politics, to assume the role of Head of State or Head of Government, or to assume other administrative or political roles.

The Queen of the Kingdom of Cambodia exercises duties that serve social, humanitarian and religious interests and assists the King with protocol and diplomatic functions.

Article 17:

The provision of paragraph 1 of Article 7 of this Constitution, under which the King reigns but does not govern, shall never be amended.

Article 18 - New (As amended March 1999):

The King shall communicate with the Senate and the National Assembly by royal messages.

These royal messages shall not be subject to discussion by the Senate and the National Assembly.

Article 19 - New (As amended July 2001):

The King shall appoint the Prime Minister and the Council of Ministers in accordance with the procedures stipulated in Article 119- New.

Article 20:

The King shall grant official audiences twice a month to the Prime Minister and the Council of Ministers to hear their reports on the current situation of the nation.

Article 21:

Upon the request of the Council of Ministers, the King shall sign Royal decrees (Reach Kret) appointing, transferring or removing from office, senior civil and military officials, ambassadors and envoys extraordinary and plenipotentiary.

Upon the request of the Supreme Council of the Magistracy, the King shall sign Royal decrees appointing, transferring or terminating the appointment of judges.

Article 22 - New (As amended March 1999):

When the nation faces danger the King, with the joint approval of the Prime Minister, the President of the National Assembly and the President of the Senate, shall make a proclamation to the people putting the country into a state of emergency

Article 23:

The King is the Supreme Commander of the Royal Khmer Armed Forces. The Commander-in-Chief of the Royal Khmer Armed Forces shall be appointed to command the Armed Forces.

Article 24 - New (As amended March 1999):

The King shall serve as Chairman of the Supreme Council of National Defense, to be established by law. With the approval of the National Assembly and the Senate, the King shall declare war.

Article 25:

The King shall receive letters of credential from ambassadors or envoys extraordinary and plenipotentiary of foreign countries accredited to the Kingdom of Cambodia.

Article 26 - New (As amended March 1999):

The King shall sign and ratify international treaties and conventions after they have been approved by the National Assembly and the Senate.

Article 27:

The King shall have the right to grant pardons or amnesties.

Article 28 - New (As amended 1994 and March 1999):

The King shall sign Royal proclamations promulgating the Constitution and laws passed by the National Assembly and completely reviewed by the Senate, and shall sign any Royal decree proposed by the Council of Ministers.

If the King is sick and requires medical treatment abroad, He has the right to delegate the power of signing Royal proclamations and Royal decrees to the Acting Head of State by delegating writs.

Article 29 - New (As amended July 2001):

The King establishes and confers national decorations.

The King confers civil and military ranks and positions as determined by law.

Article 30 - New (As amended March 1999):

In the absence of the King, the President of the Senate shall assume the duties of Acting Head of State.

If the President of the Senate cannot perform his duties as the Acting Head of State in place of the King, at the time of the King's absence, the responsibilities of Acting Head of State shall be exercised in compliance with the second and third paragraphs of Article 11 - New.

CHAPTER III THE RIGHTS AND OBLIGATIONS OF KHMER CITIZENS

Article 31:

The Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights and the covenants and conventions related to human rights, women's rights and children's rights.

Khmer citizens shall be equal before the law, enjoying the same rights and freedom and obligations regardless of race, color, sex, language, religious belief, political tendency, national origin, social status, wealth or other status. The exercise of personal rights and freedom by any individual shall not adversely affect the rights and freedom

of others. The exercise of such rights and freedom shall be in accordance with the law.

Article 32:

Everybody shall have the right to life, freedom and personal security.

Capital punishment is prohibited.

Article 33:

Khmer citizens shall not be deprived of their nationality, or exiled, or arrested and deported to any foreign country, unless there is a mutual agreement.

Khmer citizens residing abroad shall be protected by the State.

The acquisition of Khmer nationality shall be determined by law.

Article 34 - New (As amended March 1999):

Khmer citizens of either sex shall enjoy the right to vote and to stand as candidates for an election.

Khmer citizens of either sex who are at least eighteen years old shall have the right to vote.

Khmer citizens of either sex who are at least twentyfive years old shall have the right to stand as candidates for the National Assembly elections.

Khmer citizens of either sex who are at least forty years old shall have the right to stand as candidates for the Senate elections.

Restrictions on the right to vote and the right to stand as candidates in elections shall be determined by an electoral law.

Article 35:

Khmer citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the nation.

All requests from citizens shall be thoroughly considered and resolved by institutions of the state.

Article 36:

Khmer citizens of either sex shall enjoy the right to choose any employment according to their ability and the needs of the society.

Khmer citizens of either sex shall receive equal pay for the same work.

Housework shall have the same value as work outside the home.

Khmer citizens of either sex shall have the right to obtain social security and other social benefits as determined by law.

Khmer citizens of either sex shall have the right to form and to be members of trade unions.

The organization and functioning of trade unions shall be determined by law.

Article 37:

The right to strike and to organize peaceful demonstrations shall be implemented and exercised within the framework of law.

Article 38:

The law prohibits all physical abuse of any individual. The law protects the life, honor and dignity of citizens.

No person shall be accused, arrested, or detained except in accordance with the law.

The coercion, physical ill-treatment or any other mistreatment which imposes additional punishment on a detainee or prisoner is prohibited. Persons who commit, participate in or conspire in such acts shall be punished according to the law.

Confessions obtained by physical or mental force shall not be admissible as evidence of guilt. The accused shall have the benefit of any reasonable doubt.

Any accused shall be presumed to be innocent until they are finally convicted by the court. Everybody shall have the right to defend him/herself through the judicial system.

Article 39:

Khmer citizens have the right to denounce, make complaints, or claim for compensation for damages caused by any breach of the law by institutions of the state, social organizations or by members of such organizations. The settlement of complaints and claims for compensation for damages is the responsibility of the courts.

Article 40:

The freedom of citizens to travel near and far and their right to legal settlement shall be respected.

Khmer citizens shall have the right to settle abroad or return.

The rights to privacy of residence, and to the confidentiality of correspondence by mail, telegram, fax, telex and telephone, shall be guaranteed.

Any search of a house, personal property or a person shall be in accordance with the law.

Article 41:

Khmer citizens shall have freedom of expression of their ideas, freedom of information, freedom of publication and freedom of assembly. No one shall exercise these rights to infringe upon the honor of others, or to affect the good customs of society, public order and national security.

The regime of the media shall be determined by law.

Article 42:

Khmer Citizens have the right to establish associations and political parties. These rights shall be determined by law. Khmer citizens may take part in mass organizations to work together to protect national achievement and social order.

Article 43:

Khmer citizens of either sex shall have the right to freedom of belief.

Freedom of belief and religious worship shall be guaranteed by the State on the condition that such freedom does not affect other beliefs and religions or violate public order and security.

Buddhism is the religion of the State.

Article 44:

All persons, individually or collectively, shall have the right to own property. Only natural persons or legal entities of Khmer nationality shall have the right to own land.

Legal private ownership shall be protected by law.

Expropriation of ownership from any person shall be exercised only in the public interest as provided for by law and shall require fair and just compensation in advance.

Article 45:

All forms of discrimination against women shall be abolished.

The exploitation of women in employment is prohibited.

Men and women are equal in all fields especially with respect to marriage and family matters. Marriage shall be conducted according to law, based on the principle of mutual consent between one husband and one wife.

Article 46:

Trading human beings, the exploitation of prostitution and obscenity, which affect the reputation of women, shall be prohibited.

The termination of a woman's employment because of her pregnancy is prohibited. Women shall have the right to take maternity leave with full pay and with no loss of seniority or other social benefits.

The State and society shall provide opportunities to women, especially for those living in rural areas without adequate social support, so that they can obtain employment and medical care, send their children to school and have decent living conditions.

Article 47:

Parents shall have the duty to take care of and educate their children to become good citizens.

Children shall have the duty to take good care of their elderly parents according to Khmer customs.

Article 48:

The State shall protect the rights of children as stipulated in the Convention on Children, in particular, the rights to life, education, protection during wartime, and protection from economic or sexual exploitation.

The State shall protect children from any forms of labor that are injurious to their educational opportunities, health and welfare.

Article 49:

Every Khmer citizen shall respect the Constitution and the laws.

Every Khmer citizen has a duty to take part in national reconstruction and to defend the motherland.

The duty to defend the motherland shall be exercised in accordance with law.

Article 50:

Khmer citizens of either sex shall respect the principles of national sovereignty and liberal multi-party democracy.

Khmer citizens of either sex shall respect public property and legally acquired private property.

CHAPTER IV THE POLITICAL SYSTEM

Article 51 - New (As amended March 1999):

The Kingdom of Cambodia adopts a liberal multi-party democratic policy.

Khmer citizens are the masters of their own country. All power belongs to the citizens.

The citizens exercise their powers through the National Assembly, the Senate, the Royal Government and the Judiciary.

The legislative, executive and judicial powers shall be separate.

Article 52:

The Royal Government of Cambodia shall protect the independence, sovereignty and territorial integrity of the Kingdom of Cambodia, adopt a policy of national reconciliation to ensure national unity, and preserve good customs and traditions of the nation. The Royal Government of Cambodia shall preserve and protect legality and ensure public order and security. The State shall give priority to improving the welfare and standard of living of citizens.

Article 53:

The Kingdom of Cambodia adopts a policy of permanent neutrality and non-alignment. The Kingdom of Cambodia follows a policy of peaceful co-existence with its neighbors and with all other countries throughout the world.

The Kingdom of Cambodia shall not invade any country, nor interfere in any other country's internal affairs, directly or indirectly, and shall solve any problems peacefully with due respect for mutual interests.

The Kingdom of Cambodia shall not join in any military alliance or military pact that is incompatible with its policy of neutrality.

The Kingdom of Cambodia shall not permit any foreign military base on its territory and shall not have its own military bases abroad, except within the framework of a United Nations' request.

The Kingdom of Cambodia reserves the right to receive foreign assistance in the form of military equipment, armaments, ammunitions, training of its armed forces and other assistance for self-defense and for maintaining public order and security within its territory.

Article 54:

The manufacturing, use and storage of nuclear, chemical or biological weapons are absolutely prohibited.

Article 55:

Any treaty and agreement incompatible with the independence, sovereignty, territorial integrity, neutrality and national unity of the Kingdom of Cambodia, shall be annulled.

CHAPTER V ECONOMY

Article 56:

The Kingdom of Cambodia adopts a market economy system.

The organization and functioning of this economic system shall be determined by law.

Article 57:

No taxes may be collected without authorization by law.

The national budget shall be determined by law. The control of the monetary and financial system shall be determined by law.

Article 58:

State property comprises land, underground mineral resources, mountains, sea, undersea, continental shelf, coastline, airspace, islands, rivers, canals, streams, lakes, forests, natural resources, economic and cultural centers, bases for national defense and other buildings determined as State property.

The control, use and management of State properties shall be determined by law.

Article 59:

The State shall protect the environment and the balance of natural resources and establish a precise plan for the management of land, water, airspace, wind, geology, ecological systems, mines, oil and gas, rocks and sand, gems, forests and forestry products, wildlife, fish and aquatic resources.

Article 60:

Citizens shall have the right to freely sell their products.

The obligation to sell products to the State or the temporary use of private property or products by the State shall be prohibited unless authorized by law under special circumstances.

Article 61:

The State shall promote economic development in all sectors and particularly in remote areas, especially in agriculture, handicrafts and industry, with attention to policies on water, electricity, roads and means of transportation, modern technology and credit systems.

Article 62:

The State shall pay attention to and help improve the means of production, protect the price of products for farmers and crafters and find marketplaces for them to sell their products.

Article 63:

The State shall pay attention to marketing in order to improve citizens' living standard to a decent level.

Article 64:

The State shall ban the importation, manufacture and sale of illicit drugs, counterfeit or expired goods and severely punish those who import, manufacture or sell illicit drugs, counterfeit or expired goods, which affect the health and life of consumers.

CHAPTER VI EDUCATION, CULTURE, AND SOCIAL AFFAIRS

Article 65:

The State shall protect and promote citizens' rights to quality education at all levels and shall take all measures, step by step, to make quality education available to all citizens.

The State shall pay attention to physical education and sports for the welfare of all Khmer citizens.

Article 66:

The State shall establish a comprehensive and standardized educational system throughout the country which shall guarantee the principles of freedom to operate educational institutions and equal access to education in order to ensure that all citizens have an equal opportunity to earn a living.

Article 67:

The State shall adopt an educational program and the principles of modern pedagogy which encompass technology and foreign languages.

The State shall control public and private educational institutions and classrooms at all levels.

Article 68:

The State shall provide free primary and secondary education to all citizens in public schools.

Citizens shall receive education for at least 9 years.

The State shall help promote and develop Pali schools and Buddhist institutes.

Article 69:

The State shall preserve and promote national culture.

The State shall protect and promote the Khmer language as required.

The State shall preserve ancient temples and artifacts and redecorate historic sites.

Article 70:

Any offense affecting cultural artistic heritage shall carry a severe punishment.

Article 71:

The perimeter of national heritage sites including those classified as world heritage sites shall be considered as neutral zones where there shall be no military activity.

Article 72:

The health of the people shall be guaranteed. The State shall pay attention to disease prevention and medical treatment.

Poor people shall receive free medical consultations in public hospitals, infirmaries and maternity clinics.

The State shall establish infirmaries and maternity clinics in rural areas.

Article 73:

The State shall pay attention to children and mothers. The State shall establish nurseries and help support women who have numerous children and have inadequate support.

Article 74:

The State shall help support the disabled and the families of combatants who sacrificed their lives for the nation.

Article 75:

The State shall establish a social security system for workers and employees.

CHAPTER VII THE NATIONAL ASSEMBLY

Article 76:

The National Assembly shall consist of at least 120 Members.

The Members shall be elected by a free, universal, equal, direct and secret ballot.

The Members may be re-elected.

Candidates for election to the National Assembly shall be Khmer citizens of either sex, have the right to vote, be at least 25 years of age and have Khmer nationality at birth.

The organization responsible for conducting the election, electoral procedures and processes shall be determined by an electoral law.

Article 77:

The Members of the National Assembly shall represent all the Khmer people, not only citizens from their constituencies.

Any imperative mandate shall be nullified.

Article 78:

The term of the National Assembly is five years and ends on the day when the new National Assembly takes office.

The National Assembly shall not be dissolved before the end of its term except when the Royal government is twice deposed within a period of twelve months.

In this case, the King shall dissolve the National Assembly, upon a request by the Prime Minister and with the approval of the President of the National Assembly.

The election of a new National Assembly shall be held no later than sixty days from the date of the dissolution.

During this period, the Royal government shall only be empowered to conduct routine business.

In time of war or other special circumstances when an election cannot be held, the National Assembly may extend its term for one year at a time, at the request of the King.

The declaration of an extension of the National Assembly's term must be approved by at least a two-thirds majority vote of all Members of the National Assembly.

Article 79:

A Member of the National Assembly shall not hold any active public function and be a member of other institutions provided for in the Constitution, except when a National Assembly Member is required to serve in the Council of Ministers of the Royal Government.

In this case, the said National Assembly Member shall remain a Member of the National Assembly but may not hold any position on the Standing Committee or on other Commissions of the National Assembly.

Article 80:

Members of the National Assembly shall enjoy parliamentary immunity.

No Member of the National Assembly shall be prosecuted, detained or arrested because of opinions expressed in the exercise of his/her duties.

A Member of the National Assembly may only be prosecuted, arrested or detained with the permission of the National Assembly or by the Standing Committee of the National Assembly between sessions, except in case of flagrant delicto offences. In that case, the competent authority shall immediately report to the National Assembly or to the Standing Committee and request permission.

The decision of the Standing Committee of the National Assembly shall be submitted to the National Assembly at its next session, for approval by a two thirds majority vote of all Members of the National Assembly.

In any case, the detention or prosecution of a Member of the National Assembly shall be suspended if the National Assembly requires that the detention or prosecution be suspended by a three quarter majority vote of all Members of the National Assembly.

Article 81:

The National Assembly shall have an autonomous budget for the conduct of its functions.

The Members of the National Assembly shall receive remuneration.

Article 82 - New (As amended March 2006):

The National Assembly shall hold its initial session no later than sixty days after the election, and as convened by the King.

Before starting its work, the National Assembly shall confirm the validity of each Member's mandate and vote separately to choose its President, Vice-Presidents and all members of various Commissions of the National Assembly, by an absolute majority vote of all Members of the National Assembly.

The National Assembly shall adopt its internal regulations by an absolute majority vote of all Members of the National Assembly.

All National Assembly Members shall, before taking office, take the Oath of Allegiance as contained in Annex 5 of this Constitution.

Article 83:

The National Assembly holds ordinary sessions twice a year.

Each session shall last at least three months. At the request of the King, or the Prime Minister,

or at least one third of the National Assembly Members, the National Assembly Standing Committee shall convene in an extraordinary session of the National Assembly.

The agenda and the date of the extraordinary session shall be disseminated to the population.

Article 84:

Between National Assembly sessions, the Standing Committee of the National Assembly shall manage the work of the National Assembly.

The Standing Committee of the National Assembly consists of the President of the National Assembly, the Vice-Presidents and all Chairpersons of the National Assembly Commissions.

Article 85:

The National Assembly sessions shall be held in the Royal Capital of Cambodia in the Assembly Hall unless, due to special circumstances, stipulated otherwise in the summons.

Except where so stipulated and unless held at the place and date as stipulated, any meeting of the National Assembly shall be considered completely illegal, null and void.

Article 86:

Under some circumstances when the country is in a state of emergency, the National Assembly shall meet every day. The National Assembly has the right to declare the above special circumstances terminated whenever the situation permits.

If the National Assembly is not able to meet because of circumstances such as the occupation of the country by foreign forces, the declaration of the state of emergency is automatically extended.

During the state of emergency, the National Assembly shall not be dissolved.

Article 87:

The President of the National Assembly shall chair the assembly sessions, receive draft bills and resolutions approved by the National Assembly, ensure the implementation of the Internal Regulations and organize the international relations of the National Assembly.

If the President of the National Assembly is unable to perform his/her duties due to illness, or due to fulfilling of the functions of Acting Head of State or as a Regent, or due to being on a mission abroad, a Vice-President shall replace him.

If the President or a Vice-President resigns or dies, the National Assembly shall elect a new President or Vice-President.

Article 88 - New (Two)
(As amended March 2006):

National Assembly sessions shall be held in public.

At the request of the President or of at least one tenth of its Members, or of the King or of the Prime Minister, the National Assembly shall hold closed sessions.

Sessions of the National Assembly shall be considered valid, only if:

- A. There is a quorum of more than two thirds of all National Assembly Members, for any votes which require a two-thirds majority of all Members.
- B. There is a quorum of more than a half of all National Assembly Members for any votes which require an absolute majority of all Members.

Article 89:

Upon the request of at least one tenth of its Members, the National Assembly shall invite high ranking officials to clarify important special issues to the National Assembly.

Article 90 - New (Two)
(As amended March 2006):

The National Assembly is an organ that has a legislative power and performs its duties as provided for in the Constitution and laws in force.

The National Assembly shall approve the national budget, State planning, lending, borrowing, financial contracts, and the imposition, modification or abolition of taxes.

The National Assembly shall approve administration accounts.

The National Assembly shall adopt a law on general amnesty.

The National Assembly shall approve or repeal international treaties and conventions.

The National Assembly shall adopt a law on the proclamation of war.

The adoptions and approvals referred to in the previous clauses shall be agreed by an absolute majority vote of all Members of the National Assembly.

The National Assembly shall pass a vote of confidence in the Royal Government by an absolute majority vote of all Members.

New Article 91- New
(As amended March 1999):

The Senators, the Members of the National Assembly and the Prime Minister shall have the right to initiate legislation.

Members of the National Assembly shall have the right to propose amendments to the laws but proposed amendments cannot be accepted if they might have the effect of reducing public income or increasing the burden on the people.

Article 92:

Any decision of the National Assembly that contradicts the principles of preserving national independence, sovereignty, territorial integrity of the Kingdom of Cambodia and affects the political unity or the administration of the nation, shall be annulled. The Constitutional Council is the only organ which may annul the decision.

Article 93 - New (As amended March 1999):

Any law approved by the National Assembly, reviewed by the Senate and signed by the King for promulgation, shall come into force in Phnom Penh ten days after the date of promulgation and throughout the rest of the country twenty days after the date of promulgation. If the law is stipulated as urgent, it shall come into force throughout the country immediately after promulgation.

Laws that are signed by the King for promulgation shall be published in the Royal Gazette and announced to the public throughout the country in accordance with the time-frame set out above.

Article 94:

The National Assembly may establish such commissions as it considers necessary. The organization and functioning of the National Assembly shall be determined by the Internal Regulations of the National Assembly.

Article 95:

If a Member of the National Assembly dies, resigns, or is dismissed more than six months before the end of the term of the National Assembly, a replacement shall be appointed in accordance with the Internal Regulations of the National Assembly and the Electoral Law.

Article 96:

Members of the National Assembly shall have the right to propose questions to the Royal Government. The questions shall be submitted in writing through the President of the National Assembly.

The replies shall be given by one or several ministers depending on whether the subject of the question relates to the responsibilities of one or several ministers. If the question concerns the overall policy of the Royal Government, the Prime Minister shall reply in person.

The replies by the ministers or by the Prime Minister may be given orally or in writing.

The replies shall be provided within seven days after the day the question is received.

In the case of an oral reply, the President of the National Assembly shall decide whether to hold an open debate or not. If there is no open debate, the reply by the minister(s) or the Prime Minister shall be considered final.

If there is an open debate, the questioner(s), other speakers and relevant ministers, or the Prime Minister may exchange views within a time-frame, not exceeding one session.

The National Assembly shall allow one day a week for providing answers to questions.

There shall be no vote during any question-and-answer session.

Article 97:

The commissions of the National Assembly may invite any minister to clarify issues in fields under his/her responsibility.

Article 98 - New (As amended March 2006):

The National Assembly may dismiss any members of the Council of Ministers, or the Royal Government, by a motion of censure passed by an absolute majority vote of all Members of the National Assembly.

The National Assembly may deliberate on a motion of censure only if it has been requested by at least 30 Members of the National Assembly.

CHAPTER VIII THE SENATE

Article 99 - New (As amended March 1999):

The Senate is a body that has legislative power and performs its duties as determined in the Constitution and laws in force.

The Senate consists of members whose number shall not exceed half of the number of Members of the National Assembly.

Some Senators shall be nominated and some shall be elected non-universally.

A Senator can be re-nominated and re-elected. Candidates for election to the Senate shall be Khmer citizens of either sex, have the right to vote, be at least 40 years of age and have Khmer nationality at birth.

Article 100 - New (As amended March 1999):

The King shall appoint two Senators. The National Assembly shall elect two Senators by majority vote.

Other Senators shall be elected through a nonuniversal election.

Article 101 - New (As amended March 1999):

The preparation, procedures and process of the nomination and election of the Senators, as well as the definition of the electors, electorates and constituencies shall be determined by law.

Article 102 - New (As amended March 1999):

The term of the Senate is six years and ends on the day when the new Senate takes office.

In time of war or other special circumstances when an election cannot be held, the Senate may extend its term for one year at a time, at the request of the King.

The declaration of extension of its term must be approved by at least a two-thirds majority vote of all Senators.

Under the circumstances as described above, the Senate shall meet every day. The Senate has the right to declare the above special circumstances terminated whenever the situation permits.

If the Senate is not able to meet because of circumstances such as the occupation of the country by foreign forces, the declaration of the state of emergency shall be automatically extended.

Article 103 - New (As amended March 1999):

A Senator may not hold any active public function, be a Member of the National Assembly or be a member of other institutions provided for in the Constitution.

Article 104 - New (As amended March 1999):

Senators shall enjoy parliamentary immunity.

No Senator shall be prosecuted, detained or arrested because of opinions expressed in the exercise of his/her duties. A Senator may only be prosecuted, arrested or detained with the permission of the Senate, or by the Standing Committee of the Senate between sessions, except in case of a flagrant delicto offence. In that case,

a competent authority shall immediately report to the Senate or to the Standing Committee of the Senate and request permission.

The decision made by the Standing Committee of the Senate shall be submitted to the Senate at its next session for approval by a two-thirds majority vote of all Senators.

In any case, detention or prosecution of a Senator shall be suspended if the Senate requires that the detention or prosecution be suspended by a three-quarter majority vote of all Senators.

Article 105 - New (As amended March 1999):

The Senate shall have an autonomous budget for the conduct of its functions.

Senators shall receive remuneration.

Article 106 - New (As amended March 2006):

The Senate shall hold its initial session no later than sixty days after the election, and as convened by the King.

Before starting its work, the Senate shall confirm the validity of each Senator's mandate and vote separately to choose its President, Vice-Presidents and all members of various Commissions of the Senate, by an absolute majority vote of all Senators.

All Senators shall, before taking office, take the Oath of Allegiance as contained in Annex 7 of this Constitution.

Article 107 - New (As amended March 1999):

The Senate holds ordinary sessions twice a year. Each session shall last at least three months. If requested by the King, or the Prime Minister, or at least one-third of all Senators, the Senate shall convene in an extraordinary session.

Article 108 - New (As amended March 1999):

Between the Senate sessions, the Standing Committee of the Senate shall manage the work of the Senate.

The Standing Committee of the Senate consists of the President of the Senate, the Vice- Presidents and all Chairpersons of the Senate Commissions.

Article 109 - New (As amended March 1999):

The Senate sessions shall be held in the Royal capital of Cambodia in the Senate Hall unless, due to special circumstances, stipulated otherwise in the summons.

Except where so stipulated and unless held at the place and date as stipulated, any meeting of

the Senate shall be considered completely illegal, null and void.

Article 110 - New (As amended March 1999):

The President of the Senate shall chair the Senate sessions, receive draft bills and resolutions approved by the Senate, ensure the implementation of the Internal Regulations and organize the international relations of the Senate.

If the President is unable to perform his/her duties due to illness or due to fulfilling the functions of Acting Head of State or as a Regent, or due to being on a mission abroad, a Vice-President shall replace him.

If the President or a Vice-President resigns or dies, the Senate shall elect a new President or Vice- President.

Article 111 - New (Two) (As amended March 2006):

The Senate sessions shall be held in public.

At the request of the President or of at least one-tenth of its Members, or of the King, or of the Prime Minister, or of the National Assembly President, the Senate shall hold closed sessions. Sessions of the Senate shall be considered valid, only if:

- A. There is a quorum of more than two-thirds of all Senators, for any votes which require a two-thirds majority of all Senators.
- B. There is a quorum of more than a half of all Senators, for any votes which require a relative majority vote or an absolute majority of all Senators.

The number of votes required for approval by the National Assembly, as stipulated in this Constitution, shall apply to the Senate as well.

Article 112 - New (As amended March 1999):

The Senate has a duty to coordinate the work between the National Assembly and the Government.

Article 113 - New (As amended March 1999):

The Senate shall, within a period of not more than one month after a law or other matter is submitted to it, examine and make recommendations on draft laws or proposed laws that have been adopted by the National Assembly and other matters that the National Assembly submits to the Senate. In an emergency this period shall be reduced to five days.

If the Senate makes recommendations and approves the law, or doesn't make any recommendation, within the time limit stipulated above, the law adopted by the National Assembly shall be promulgated.

If the Senate requests a modification of the draft law or the proposed law, the National Assembly shall immediately consider the draft law or the proposed law for a second time. The National Assembly shall examine and decide on only the provisions or points that have been proposed for modification by the Senate, by either rejecting the whole proposed modification or adopting some parts of it.

The process of sending the draft law or proposed law back and forth between the Senate and the National Assembly shall be completed within one month. This period shall be reduced to ten days in the case of the national budget and finance laws, and to two days for an urgent law.

If the National Assembly does not return the draft law to the Senate within the above specified period or extends the specified period for its examination, the period for examination by the National Assembly and the Senate shall be extended equally.

If the Senate rejects the draft law or the proposed law, the National Assembly may not examine this draft or proposed law for a second time within a period of one month. This period shall be reduced to fifteen days in the case of examination for approval on national budget and finance, and to four days if urgent.

When examining a draft law or proposed law for a second time, the National Assembly shall decide by an open vote and by an absolute majority of its Members.

The draft or the proposed laws adopted by the above method shall then be promulgated.

Article 114 - New (As amended March 2006):
The Senate may establish such commissions as it considers necessary. The organization and functioning of the Senate shall be determined by the Internal Regulations of the Senate. The Internal Regulations shall be adopted by an absolute majority vote of all Senators.

Article 115 - New (As amended March 1999):
If a Senator dies, resigns, or is dismissed more than six months before the end of the term of the Senate, a replacement shall be appointed or elected in accordance with the Internal Regulations of the Senate and the Law on Nomination and Election of Senators.

CHAPTER IX THE CONGRESS OF NATIONAL ASSEMBLY AND SENATE

Article 116 - New (As amended March 1999):
If necessary, the National Assembly and the Senate may convene as a Congress in order to resolve important national issues.

Article 117 - New (As amended March 1999):
The important national issues referred to in Article 116 - new, as well as the organization and functioning of the Congress shall be determined by law.

CHAPTER X THE ROYAL GOVERNMENT

Article 118- New (Previously Article 99):
The Council of Ministers is the Royal Government of the Kingdom of Cambodia.

The Council of Ministers shall be led by one Prime Minister assisted by Deputy Prime Ministers, and by Senior Ministers, Ministers and Secretaries of State as members.

Article 119 - New (Previously Article 100):
Upon the request of the President and with the agreement of both Vice-Presidents of the National Assembly, the King shall designate a dignitary among the Members of the National Assembly of the party holding the largest number of seats in the National Assembly to form the Royal Government. This dignitary and Members of the National Assembly and members of political parties represented in the National Assembly who are proposed for positions within the Royal Government present themselves to the National Assembly to ask for a vote of confidence. After the National Assembly passes a vote of confidence in the proposed Royal Government, the King shall issue a Royal decree appointing the entire Council of Ministers.

Before taking office, the Council of Ministers shall take the Oath of Allegiance stipulated in Annex 6.

Article 120 - New (Previously Article 101):
Membership of the Royal Government is incompatible with professional activities in trade or industry and with the holding of any position in the public service.

Article 121 - New (Previously Article 102):
Members of the Royal Government shall be collectively responsible to the National Assembly for the overall policy of the Royal Government.

Each member of the Royal Government shall be

individually responsible to the Prime Minister and the National Assembly for his/her own conduct.

Article 122 - New (Previously Article 103):
Members of the Royal Government shall not use the orders, written or oral, of anyone as grounds to exonerate themselves from their responsibility.

Article 123 - New (Previously Article 104):
The Council of Ministers shall meet every week in plenary session or in a working session.
The Prime Minister shall chair the plenary sessions.

The Prime Minister may assign a Deputy Prime Minister to preside over the working sessions.

Minutes of the Council of Ministers' sessions shall be delivered to the King for His information.

Article 124 - New (Previously Article 105):
The Prime Minister shall have the right to delegate his powers to a Deputy Prime Minister or to any member of the Royal Government.

Article 125 - New (Previously Article 106):
If the post of Prime Minister is permanently vacant, a new Council of Ministers shall be appointed under the procedure stipulated in this Constitution. If the vacancy is temporary, an acting Prime Minister shall be provisionally appointed.

Article 126 - New (Previously Article 107):
Any Member of the Royal Government shall be punished for any felonies or misdemeanors that he/she commits while performing his/her duty.

In such cases and when he/she has made serious mistakes while performing his/her duty, the National Assembly may decide to file charges against him/her in a competent court.

The National Assembly shall decide on such matters in a secret vote by an absolute majority of all Members of the National Assembly.

Article 127 - New (Previously Article 108):
The organization and functioning of the Council of Ministers shall be determined by law.

CHAPTER XI THE JUDICIARY

Article 128 - New (Previously Article 109):
The Judiciary is an independent power.

The Judiciary shall be impartial and protect the rights and freedom of citizens.

The Judiciary shall consider all legal cases including administrative cases.

This power shall be vested in the Supreme Court and in all courts of all sectors and levels.

Article 129 - New (Previously Article 110):
Trials shall be conducted in the name of the Khmer people in accordance with the legal procedures and laws in force.

Only judges shall have the right to adjudicate. A judge shall fulfill this duty wholeheartedly and conscientiously, with strict respect for the laws.

Article 130 - New (Previously Article 111):
Judicial power shall not be granted to any legislative or executive body.

Article 131 - New (Previously Article 112):
Only Prosecutors shall have the right to file criminal actions.

Article 132 - New (Previously Article 113):
The King is the guarantor of the independence of the Judiciary. The Supreme Council of the Magistracy shall assist the King in this matter.

Article 133 - New (Previously Article 114):
Judges shall not be dismissed. However, the Supreme Council of the Magistracy shall take disciplinary actions against any judge who makes mistake(s).

Article 134 - New (Previously Article 115):
The Supreme Council of the Magistracy shall be established by an organic law that determines its composition and functions.

The Supreme Council of the Magistracy shall be chaired by the King. The King may appoint his representative to chair the Supreme Council of the Magistracy.

The Supreme Council of the Magistracy shall make requests to the King on the appointment of judges and prosecutors to all courts.

The Supreme Council of the Magistracy shall, when deciding on disciplinary actions against judges or prosecutors, meet under the chairmanship of the President of the Supreme Court or the General Prosecutor of the Supreme Court depending on whether the case relates to judges or prosecutors.

Article 135-New (Previously Article 116):
The qualifications, duties, roles and obligations of judges and prosecutors and the organization of judicial bodies shall be defined in separate laws.

CHAPTER XII THE CONSTITUTIONAL COUNCIL

Article 136 - New (previously Article 117, as amended March 1999):

The Constitutional Council shall guarantee the observance and respect of the Constitution, interpret the Constitution and laws adopted by the National Assembly and reviewed by the Senate.

The Constitutional Council shall have the right to examine and decide on disputes concerning the election of Members of the National Assembly and the election of Senators.

Article 137 - New (Previously Article 118):

The Constitutional Council consists of nine members who are appointed for a term of nine-years. One third of the members of the Constitutional Council shall be replaced every three years. Three members shall be appointed by the King, three by the National Assembly and three by the Supreme Council of the Magistracy. The Chairperson shall be elected by the members of the Constitutional Council. The Chairperson shall have a deciding vote if voting is tied.

Article 138 - New (Previously Article 119):

Members of the Constitutional Council shall be selected from among dignitaries with a higher-education degree in law, administration, diplomacy or economics and who have considerable work experience.

Article 139 - New (previously Article 120 and as amended March 1999):

A member of the Constitutional Council must not be a Senator, a Member of the National Assembly, a member of the Royal Government, a sitting Judge, a public servant, the president or vice-president of a political party or the president or vice-president of a union.

Article 140 - New (previously Article 121 and as amended March 1999):

The King, the Prime Minister, the President of the National Assembly, one tenth of the members of the National Assembly, the President of the Senate, or one quarter of the Senators may send laws adopted by the National Assembly to the Constitutional Council for review before promulgation.

The Internal Regulations of the National Assembly, the Internal Regulations of the Senate and organic laws must be sent to the Constitutional Council for review before promulgation. The Constitutional Council shall decide within 30 days

whether the laws, the Internal Regulations of the National Assembly or the Internal Regulations of the Senate are constitutional.

Article 141 - New (previously Article 122 and as amended March 1999):

After any law is promulgated, the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one quarter of the Senators, one tenth of Members of the National Assembly, or the Courts, may request the Constitutional Council to review the constitutionality of that law.

People shall have the right to appeal against the constitutionality of any law through Members of the National Assembly, or the President of the National Assembly, or Senators, or the President of the Senate as stipulated in the above paragraph.

Article 142 - New (Previously Article 123):

Any provision of any article declared by the Constitutional Council to be unconstitutional shall not be promulgated or implemented.

Decisions of the Constitutional Council are final.

Article 143 - New (Previously Article 124):

The King shall consult with the Constitutional Council on all proposals to amend the Constitution.

Article 144 - New (Previously Article 125):

An organic law shall specify the organization and functioning of the Constitutional Council.

CHAPTER XIII THE ADMINISTRATION

Article 145 - New (as amended in January 2008):

The territory of the Kingdom of Cambodia is divided into the capital city, provinces, municipalities, districts (srok/khan) and communes (khum/sangkat).

Article 146 - New (as amended in January 2008):

The capital city, provinces, municipalities, districts (srok/khan) and communes (khum/sangkat) shall be governed in accordance with organic law.

CHAPTER XIV THE NATIONAL CONGRESS

Article 147 - New (Previously Article 128):

The National Congress enables the people to be directly informed on various matters of national interest and to raise issues and requests for the authorities of the State to solve.

Khmer citizens of either sex shall have the right to participate in the National Congress.

Article 148 - New (Previously Article 129):

The National Congress shall meet once a year in early December when convoked by the Prime Minister.

The National Congress shall proceed under the chairmanship of the King.

Article 149 - New (Previously Article 130):

The National Congress makes recommendations to the Senate, the National Assembly and the authorities of the State for consideration.

The organization and functioning of the National Congress shall be determined by law.

CHAPTER XV

EFFECTS, REVISIONS AND AMENDMENTS OF THE CONSTITUTION

Article 150 - New (Previously Article 131):

This Constitution is the Supreme Law of the Kingdom of Cambodia.

Laws and decisions made by State institutions must be in strict conformity with the Constitution.

Article 151 - New (Previously Article 132):

Any initiative to revise or amend the Constitution shall be the prerogative of the King, the Prime Minister and the President of the National Assembly at the request of one quarter of the Members of the National Assembly.

Revisions or amendments of the Constitution shall be enacted by a Constitutional law passed by the National Assembly with a two thirds majority vote of all Members of the National Assembly.

Article 152 - New (Previously Article 133):

Revisions or amendments of the Constitution shall be prohibited when the country is in a state of emergency as stipulated in Article 86.

Article 153 - New (Previously Article 134):

Revisions or amendments affecting the system of liberal multi-party democracy and the regime of Constitutional Monarchy shall be prohibited.

CHAPTER XVI

TRANSITIONAL PROVISIONS

Article 154 - New (Previously Article 135):

This Constitution, after its adoption, shall be declared by the King of Cambodia to be in force with immediate effect.

Article 155 - New (Previously Article 136):

After this Constitution comes into force, the Constituent Assembly shall become the National Assembly.

The Internal Regulations of the National Assembly shall come into force after adoption by the National Assembly.

If the National Assembly is not yet functional, the President, the First and Second Vice- President of the Constituent Assembly shall participate in the performance of duties in the Council of the Throne if so required by the situation in the country.

Article 156 - New (Previously Article 137 and as amended March 1999):

After this Constitution comes into force, the King shall be elected in accordance with the conditions stipulated in Articles 13-New and 14.

Article 157 - New (Previously Article 138 and as amended March 1999):

The first term of the Senate shall be five years and shall end when the new Senate takes office.

For the first term of the Senate:

- The total number of Senators shall be sixty-one.
- The King shall appoint two Senators, as well as the President, the first Vice-President and the second Vice-President of the Senate.
- The other Senators shall be appointed by the King upon request by the President of the Senate and the President of the National Assembly from among members of political parties which have seats in the National Assembly.

The Congress of the National Assembly and the Senate shall be chaired by the Presidents of these institutions.

Article 158-New (Previously Article 139):

Laws and regulations in Cambodia that guarantee and protect State properties, rights and freedom and legal private properties of persons, and which are in conformity with national interests shall continue to remain in force until amended or repealed by new laws and regulations, except those provisions that are contrary to the spirit of this Constitution.

Additional Provisions to the Constitution To Ensure the Regular Progress of the National Institutions

Article 1

This Constitutional Law aims, in accordance with the basic principles of a liberal multi-party democracy, to facilitate the efficient functioning of national institutions in unusual circumstances requiring urgent action.

Article 2

At the commencement of each term, the National Assembly, presided over by the oldest Member of the National Assembly may, before starting its work and after deciding on the validity of the mandate of each Member,

adopt any constitutional text or any law in order to achieve the goal as stipulated in Article 1.

After any such amendments or laws have been adopted by the National Assembly, the oldest Member of the National Assembly shall immediately take all steps according to the specified procedures to have those amendments promulgated and come into force.

Article 3

If the objectives of the procedures stipulated in Articles 82 and 119-New of the Constitution cannot be achieved, the National Assembly at the request of the party that wins the most seats in the National Assembly, shall proceed with a package vote to elect a President and Vice-Presidents of the National Assembly, as well as Chairpersons and Vice-Chairpersons of the Commissions of the National Assembly and simultaneously hold a vote of confidence in the Royal Government.

Article 4

The list of candidates for package vote on the election and vote of confidence is prepared as follows:

- The list of candidates for President and Vice-Presidents of the National Assembly, as well as the Chairpersons and Vice-Chairpersons of the Commissions of the National Assembly shall be prepared and proposed by the political parties that agree to form a coalition government, and shall be sent to the oldest Member of the National Assembly.
- Upon the request by the political party that won the most seats in the National Assembly, made through the oldest Member of the National Assembly, the King shall appoint a dignitary from among National Assembly Members of the winning party to propose the Royal Government.
- The appointed dignitary shall prepare and send to the oldest Member of the National Assembly a list of proposed members of the Royal Government.

- The oldest Member of the National Assembly shall combine as a single package the list of candidates for the President and Vice-Presidents of the National Assembly, the Chairpersons and Vice-Chairpersons of the Commissions of the National Assembly, as well as the candidates for Prime Minister and all members of the Royal Government, for presentation to the National Assembly for approval in a single vote.

Article 5

The package voting shall be conditions of the constitution are pronounced urgent and shall come into force from the beginning of this current legislature and onward.

This law is adopted by the National Assembly on July 8, 2004 at the first session of the third legislature and concurred by the Senate on July 12, 2004 at the ninth session of the first legislature.

Phnom Penh, July 13, 2004
Acting Head of State

Nhek Bun Chhay

EAST TIMOR



CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF EAST TIMOR

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PREAMBLE

Following the liberation of the Timorese People from colonisation and illegal occupation of the Maubere Motherland by foreign powers, the independence of East Timor, proclaimed on the 28th of November 1975 by Frente Revolucionária do Timor-Leste Independente (FRETILIN), is recognised internationally on the 20th of May 2002

The preparation and adoption of the Constitution of the Democratic Republic of East Timor is the culmination of the historical resistance of the Timorese People intensified following the invasion of the 7th of December 1975

The struggle waged against the enemy, initially under the leadership of FRETILIN, gave way to more comprehensive forms of political participation, particularly in the wake of the

establishment of the National Council of the Maubere Resistance (CNRM) in 1987 and the National Council of Timorese Resistance (CNRT) in 1998

The Resistance was divided into three fronts.

The armed front was carried out by the glorious Forças Armadas de Libertação Nacional de Timor-Leste (FALINTIL) whose historical undertaking is to be praised.

The action of the clandestine front, astutely unleashed in hostile territory, involved the sacrifice of thousands of lives of women and men, especially the youth, who fought with abnegation for freedom and independence.

The diplomatic front, harmoniously carried out all over the world, enabled the paving of the way for definitive liberation.

In its cultural and humane perspective, the Catholic Church in East Timor has always been able to take on the suffering of all the People with dignity, placing itself on their side in the defence of their most fundamental rights.

Ultimately, the present Constitution represents a heart-felt tribute to all martyrs of the Motherland.

Thus, the Members of the Constituent Assembly, in their capacity as legitimate representatives of the People elected on the 30th of August 2001, Based on the results of the referendum of the 30th of August 1999 organised under the auspices of the United Nations which confirmed the self-determined will for independence;

Fully conscious of the need to build a democratic and institutional culture proper appropriate to a State based on the rule of law where respect for the Constitution, for the laws and for democratically elected institutions constitute its unquestionable foundation; Interpreting the profound sentiments, the aspirations and the faith in God of the People of East Timor;

Solemnly reaffirm their determination to fight all forms of tyranny, oppression, social, cultural or religious domination and segregation, to defend national independence, to respect and guarantee human rights and the fundamental rights of the citizen, to ensure the principle of the separation of powers in the organisation of the State, and to establish the essential rules of multi-party democracy, with a view to building a just and prosperous nation and developing a society of solidarity and fraternity.

The Constituent Assembly, meeting in plenary session on the 22nd of March 2002, approves and decrees the following Constitution of the Democratic Republic of East Timor:

PART I FUNDAMENTAL PRINCIPLES

Section 1 (The Republic)

1. The Democratic Republic of East Timor is a democratic, sovereign, independent and unitary State based on the rule of law, the will of the people and the respect for the dignity of the human person.
2. The 28th of November 1975 is the Day of Proclamation of Independence of the Democratic Republic of East Timor.

Section 2 (Sovereignty and constitutionality)

1. Sovereignty rests with the people, who shall exercise it in the manner and form laid down in the Constitution.
2. The State shall be subject to the Constitution and to the law.

3. The validity of the laws and other actions of the State and local Government depends upon their compliance with the Constitution.
4. The State shall recognise and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing specifically with customary law.

Section 3 (Citizenship)

1. There shall be original citizenship and acquired citizenship in the Democratic Republic of East Timor.
2. The following citizens shall be considered original citizens of East Timor, as long as they are born in the national territory:
 - (a) Children of father or mother born in East Timor;
 - (b) Children of incognito parents, stateless parents or parents of unknown nationality;
 - (c) Children of a foreign father or mother who, being over seventeen years old, declare their will to become East Timorese nationals.
3. Irrespective of being born in a foreign country, children of a Timorese father or mother shall be considered original citizens of East Timor.
 - (a) Children of an East Timorese father or mother living overseas;
 - (b) Children of an East Timorese father or mother serving the State outside the country;
4. Acquisition, loss and reacquisition of citizenship, as well as its registration and proof, shall be regulated by law.

Section 4 (Territory)

1. The territory of the Democratic Republic of East Timor comprises the land surface, the maritime zone and the air space demarcated by the national boundaries that historically comprise the eastern part of Timor Island, the enclave of Oecussi, the island of Ataúro and the islet of Jaco.
2. The extent and limits of territorial waters and the exclusive economic zone, and the rights of East Timor to the adjacent seabed and continental shelf shall be laid down in the law.
3. The State shall not alienate any part of the East Timorese territory or the rights of sovereignty over the land, without prejudice to rectification of borders.

Section 5 (Decentralisation)

1. On matters of territorial organisation, the State shall respect the principle of decentralisation of public administration.
2. The law shall determine and establish the characteristics of the different territorial levels and the administrative competencies of the respective organs.

3. Oecussi Ambeno and Ataúro shall enjoy special administrative and economic treatment.

Section 6 (Objectives of the State)

The fundamental objectives of the State shall be:

- (a) To defend and guarantee the sovereignty of the country;
- (b) To guarantee and promote fundamental rights and freedoms of the citizens and the respect for the principles of the democratic State based on the rule of law;
- (c) To defend and guarantee political democracy and participation of the people in the resolution of national problems;
- (d) To guarantee the development of the economy and the progress of science and technology;
- (e) To promote the building of a society based on social justice, by establishing material and spiritual welfare of the citizens;
- (f) To protect the environment and to preserve natural resources;
- (g) To assert and value the personality and the cultural heritage of the East Timorese people;
- (h) To promote the establishment and the development of relations of friendship and co-operation among all Peoples and States;
- (i) To promote the harmonious and integrated development of the sectors and regions and the fair distribution of the national product;
- (j) To create, promote and guarantee the effective equality of opportunities between women and men.

Section 7 (Universal Suffrage and multi-party system)

1. The people shall exercise the political power through universal, free, equal, direct, secret and periodic suffrage and through other forms laid down in the Constitution.
2. The State shall value the contribution of political parties for the organised expression of the popular will and for the democratic participation of the citizen in the governance of the country.

Section 8 (International Relations)

1. On matters of international relations, the Democratic Republic of East Timor shall govern itself by the principles of national independence, the right of the Peoples to self-determination and independence, the permanent sovereignty of the peoples over their wealth and natural resources, the protection of human rights, the mutual respect for sovereignty, territorial integrity and equality among States and the non-interference in domestic affairs of other States.
2. The Democratic Republic of East Timor shall establish relations of friendship and

co-operation with all other peoples, aiming at the peaceful settlement of conflicts, the general, simultaneous and controlled disarmament, the establishment of a system of collective security and establishment of a new international economic order capable of ensuring peace and justice in the relations among peoples.

3. The Democratic Republic of East Timor shall maintain privileged ties with the countries whose official language is Portuguese.
4. The Democratic Republic of East Timor shall maintain special ties of friendship and co-operation with its neighbouring countries and the countries of the region.

Section 9 (International law)

1. The legal system of East Timor shall adopt the general or customary principles of international law.
2. Rules provided for in international conventions, treaties and agreements shall apply in the internal legal system of East Timor following their approval, ratification or accession by the respective competent organs and after publication in the official gazette.
3. All rules that are contrary to the provisions of international conventions, treaties and agreements applied in the internal legal system of East Timor shall be invalid.

Section 10 (Solidarity)

1. The Democratic Republic of East Timor shall extend its solidarity to the struggle of all peoples for national liberation.
2. The Democratic Republic of East Timor shall grant political asylum, in accordance with the law, to foreigners persecuted as a result of their struggle for national and social liberation, defence of human rights, democracy and peace.

Section 11 (Valorisation of Resistance)

1. The Democratic Republic of East Timor acknowledges and values the historical resistance of the Maubere People against foreign domination and the contribution of all those who fought for national independence.
2. The State acknowledges and values the participation of the Catholic Church in the process of national liberation of East Timor.
3. The State shall ensure special protection to the wardisabled, orphans and other dependants of those who dedicated their lives to the struggle for independence and national sovereignty, and shall protect all those who participated in the resistance against the foreign occupation, in accordance with the law.
4. The law shall define the mechanisms for rendering tribute to the national heroes.

Section 12 (State and religious denominations)

1. The State shall recognise and respect the different religious denominations, which are free in their organisation and in the exercise of their own activities, to take place in due observance of the Constitution and the law.
2. The State shall promote the cooperation with the different religious denominations that contribute to the well-being of the people of East Timor.

Section 13 (Official languages and national languages)

1. Tetum and Portuguese shall be the official languages in the Democratic Republic of East Timor.
2. Tetum and the other national languages shall be valued and developed by the State.

Section 14 (National symbols)

1. The national symbols of the Democratic Republic of East Timor shall be the flag, the emblem and the national anthem.
2. The emblem and the national anthem shall be approved by law.

Section 15 (National Flag)

1. The National Flag is rectangular and is formed by two isosceles triangles, the bases of which are overlapping. One triangle is black and its height is equal to onethird of the length overlapped to the yellow triangle, whose height is equal to half the length of the Flag. In the centre of the black triangle there is a white star of five ends, meaning the light that guides. The white star has one of its ends turned towards the left side end of the flag. The remaining part of the flag is red.
2. The colours mean: yellow – the traces of colonialism; black – the obscurantism that needs to be overcome; red – the struggle for national liberation; white – peace.

**PART II
FUNDAMENTAL RIGHTS, DUTIES,
FREEDOMS AND GUARANTEES**

**TITLE I
GENERAL PRINCIPLES**

Section 16 (Universality and Equality)

1. All citizens are equal before the law, shall exercise the same rights and shall be subject to the same duties.
2. No one shall be discriminated against on grounds of colour, race, marital status, gender, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.

Section 17 (Equality between women and men)

Women and men shall have the same rights and duties in all areas of family, political, economic, social and cultural life.

Section 18 (Child protection)

1. Children shall be entitled to special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.
2. Children shall enjoy all rights that are universally recognised, as well as all those that are enshrined in international conventions commonly ratified or approved by the State.
3. Every child born inside or outside wedlock shall enjoy the same rights and social protection.

Section 19 (Youth)

1. The State shall promote and encourage youth initiatives towards the consolidation of national unity, reconstruction, defence and development of the country.
2. The State shall promote education, health and vocational training for the youth as may be practicable.

Section 20 (Senior Citizens)

1. Every senior citizen has the right to special protection by the State.
2. The old age policy entails measures of economic, social and cultural nature designed to provide the elderly with opportunities for personal achievement through active and dignified participation in the community.

Section 21 (Disabled citizens)

1. A disabled citizen shall enjoy the same rights and shall be subject to the same duties as all other citizens, except for the rights and duties which he or she is unable to exercise or fulfil due to his or her disability.
2. The State shall promote the protection of disabled citizens as may be practicable and in accordance with the law.

Section 22 (East Timorese citizens overseas)

East Timorese citizens who are or live overseas shall enjoy protection by the State for the exercise of their rights and shall be subject to duties not incompatible with their absence from the country.

Section 23 (Interpretation of fundamental rights)

Fundamental rights enshrined in the Constitution shall not exclude any other rights provided for by the law and shall be interpreted in accordance with the Universal Declaration of Human Rights.

Section 24 (Restrictive laws)

1. Restriction of rights, freedoms and guarantees can only be imposed by law in order to safeguard other constitutionally protected rights or interests and in cases clearly provided for by the Constitution.
2. Laws restricting rights, freedoms and guarantees have necessarily a general and abstract nature and may not reduce the extent and scope of the essential contents of constitutional provisions and shall not have a retroactive effect.

Section 25 (State of exception)

1. Suspension of the exercise of fundamental rights, freedoms and guarantees shall only take place if a state of siege or a state of emergency has been declared as provided for by the Constitution.
2. A state of siege or a state of emergency shall only be declared in case of effective or impending aggression by a foreign force, of serious disturbance or threat of serious disturbance to the democratic constitutional order, or of public disaster.
3. A declaration of a state of siege or a state of emergency shall be substantiated, specifying rights, freedoms and guarantees the exercise of which is to be suspended.
4. A suspension shall not last for more than thirty days, without prejudice of possible justified renewal, when strictly necessary, for equal periods of time.
5. In no case shall a declaration of a state of siege affect the right to life, physical integrity, citizenship, nonretroactivity of the criminal law, defence in a criminal case and freedom of conscience and religion, the right not to be subjected to torture, slavery or servitude, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and the guarantee of non-discrimination.
6. Authorities shall restore constitutional normality as soon as possible.

Section 26 (Access to courts)

Access to courts is guaranteed to all for the defence of their legally protected rights and interests.

Justice shall not be denied for insufficient economic means.

Section 27 (Ombudsman)

1. The Ombudsman shall be an independent organ in charge of examining and seeking to settle citizens' complaints against public bodies, certifying the conformity of the acts with the law, preventing and initiating the whole process to remedy injustice.

2. Citizens may present complaints concerning acts or omissions on the part of public bodies to the Ombudsman, who shall undertake a review, without power of decision, and shall forward recommendations to the competent organs as deemed necessary.
3. The Ombudsman shall be appointed by the National Parliament through absolute majority votes of its members for a term of office of four years.
4. The activity the Ombudsman shall be independent from any means of grace and legal remedies as laid down in the Constitution and the law.
5. Administrative organs and public servants shall have the duty to collaborate with the Ombudsman.

Section 28 (Right to resistance and self-defence)

1. Every citizen has the right to disobey and to resist illegal orders or orders that affect their fundamental rights, freedoms and guarantees.
2. The right to self-defence is guaranteed to all, in accordance with the law.

TITLE II
PERSONAL RIGHTS, FREEDOMS AND
GUARANTEES

Section 29 (Right to life)

1. Human life is inviolable.
2. The State shall recognise and guarantee the right to life.
3. There shall be no death penalty in the Democratic Republic of East Timor.

Section 30 (Right to personal freedom, security and integrity)

1. Every one has the right to personal freedom, security and integrity.
2. No one shall be arrested or detained, except under the terms clearly provided for by applicable law, and the order of arrest or detention should always be presented for consideration by the competent judge within the legal timeframe.
3. Every individual who loses his or her freedom shall be immediately informed, in a clear and precise manner, of the reasons for his or her arrest or detention as well as of his or her rights, and allowed to contact a lawyer, directly or through a relative or a trusted person.
4. No one shall be subjected to torture and cruel, inhuman or degrading treatment.

Section 31 (Application of criminal law)

1. No one shall be subjected to trial, except in accordance with the law.
2. No one shall be tried and convicted for an act that does not qualify in the law as a criminal offence at the moment it was committed, nor endure security measures the provisions of which are not clearly established in previous law.
3. Penalties or security measures not clearly provided for by law at the moment the criminal offence was committed shall not be enforced.
4. No one shall be tried and convicted for the same criminal offence more than once.
5. Criminal law shall not be enforced retroactively, except if the new law is in favour of the accused.
6. Anyone who has been unjustly convicted has the right to a fair compensation in accordance with the law.

Section 32 (Limits on sentences and security measures)

1. There shall be no life imprisonment nor sentences or security measures lasting for unlimited or indefinite period of time in the Democratic Republic of East Timor.
2. In case of danger as a result of mental illness, security measures may be extended successively by judicial decision.
3. Criminal liability is not transmissible.
4. Persons who are subjected, on conviction, to a sentence or a security measure involving loss of freedom remain entitled to their fundamental rights, subject to the limitations that necessarily derive from that conviction and from the requirements for its enforcement.

Section 33 (Habeas corpus)

1. Everyone who illegally loses his or her freedom has the right to apply for habeas corpus.
2. An application for habeas corpus shall be made by the detainee or by any other person in the exercise of his or her civil rights, in accordance with the law.
3. The court shall rule on the application for habeas corpus within 8 days at a hearing in the presence of both parties.

Section 34 (Guarantees in criminal proceedings)

1. Anyone charged with an offence is presumed innocent until convicted.
2. An accused person has the right to select, and be assisted by, a lawyer at all stages of the proceedings and the law shall determine the circumstances for which the presence of the lawyer is mandatory.

3. Every individual is guaranteed the inviolable right of hearing and defence in criminal proceedings.
4. Evidence is of no effect if obtained by torture, coercion, infringement of the physical or moral integrity of the individual, or wrongful interference with private life, the home, correspondence or other forms of communication.

Section 35 (Extradition and expulsion)

1. Extradition shall only take place following a court decision.
2. Extradition on political grounds is prohibited.
3. Extradition in respect of offences punishable, under the law of the requesting State, by death penalty or life imprisonment or whenever there are grounds to assume that the person to be extradited may be subjected to torture and inhuman, degrading and cruel treatment, shall not be permitted.
4. An East Timorese national shall not be expelled or expatriated from the national territory.

Section 36 (Right to honour and privacy)

Every individual has the right to honour, good name and reputation, protection of his or her public image and privacy of his or her personal and family life.

Section 37 (Inviolability of home and correspondence)

1. Any person's home and the privacy of his or her correspondence and other means of private communication are inviolable, except in cases provided for by law as a result of criminal proceedings.
2. A person's home shall not be entered against his or her will, except under the written order of a competent judicial authority and in the cases and manner prescribed by law.
3. Entry into any person's home at night against his or her will is clearly prohibited, except in case of serious threat to life or physical integrity of somebody inside the home.

Section 38 (Protection of personal data)

1. Every citizen has the right to access personal data stored in a computer system or entered into mechanical or manual records regarding him or her, and he or she shall have the right to demand the purpose of such data.
2. The law shall determine the concept of personal data, as well as the conditions applicable to the processing thereof.
3. The processing of personal data on private life, political and philosophical convictions, religious faith, party or trade union membership and ethnical origin, without the consent of the interested person, is prohibited.

Section 39 (Family, marriage and maternity)

1. The State shall protect the family as the society's basic unit and a condition for the harmonious development of the individual.
2. Every one has the right to establish and live in a family.
3. Marriage shall be based upon free consent by the parties and on terms of full equality of rights between spouses, in accordance with the law.
4. Maternity shall be dignified and protected, and special protection shall be guaranteed to all women during pregnancy and after delivery and working women shall have the right to be exempted from the workplace for an adequate period before and after delivery, without loss of remuneration or any other benefits, in accordance with the law.

Section 40 (Freedom of speech and information)

1. Every person has the right to freedom of speech and the right to inform and be informed impartially.
2. The exercise of freedom of speech and information shall not be limited by any sort of censorship.
3. The exercise of rights and freedoms referred to in this Section shall be regulated by law based on the imperative of respect for the Constitution and the dignity of the human person.

Section 41 (Freedom of the press and mass media)

1. Freedom of the press and other mass media is guaranteed.
2. Freedom of the press shall comprise, namely, the freedom of speech and creativity for journalists, the access to information sources, editorial freedom, protection of independence and professional confidentiality, and the right to create newspapers, publications and other means of broadcasting.
3. The monopoly on the mass media shall be prohibited.
4. The State shall guarantee the freedom and independence of the public mass media from political and economic powers.
5. The State shall guarantee the existence of a public radio and television service that is impartial in order to, inter alia, protect and disseminate the culture and the traditional values of the Democratic Republic of East Timor and guarantee opportunities for the expression of different lines of opinion.
6. Radio and television stations shall operate only under a licence, in accordance with the law.

Section 42 (Freedom to assemble and demonstrate)

1. Everyone is guaranteed the freedom to assemble peacefully and unarmed, without a need for prior authorisation.
2. Everyone is recognised the right to demonstrate in accordance with the law.

Section 43 (Freedom of association)

1. Everyone is guaranteed freedom of association provided that the association is not intended to promote violence and is in accordance with the law.
2. No one shall be compelled to join an association or to remain in it against his or her will.
3. The establishment of armed, military or paramilitary associations, including organisations of a racist or xenophobic nature or that promote terrorism, shall be prohibited.

Section 44 (Freedom of movement)

1. Every person has the right to move freely and to settle anywhere in the national territory.
2. Every citizen is guaranteed the right to emigrate freely and to return to the country.

Section 45 (Freedom of conscience, religion and worship)

1. Every person is guaranteed the freedom of conscience, religion and worship and the religious denominations are separated from the State.
2. No one shall be persecuted or discriminated against on the basis of his or her religious convictions.
3. The right to be a conscientious objector shall be guaranteed in accordance with the law.
4. Freedom to teach any religion in the framework of the respective religious denomination is guaranteed.

Section 46 (Right to political participation)

1. Every citizen has the right to participate in the political life and in the public affairs of the country, either directly or through democratically elected representatives.
2. Every citizen has the right to establish and to participate in political parties.
3. The establishment and organisation of political parties shall be regulated by law.

Section 47 (Right to vote)

1. Every citizen over the age of seventeen has the right to vote and to be elected.
2. The exercise of the right to vote is personal and constitutes a civic duty.

Section 48 (Right to petition)

Every citizen has the right to submit, individually or jointly with others, petitions, complaints and claims to organs of sovereignty or any authority for the purpose of defending his or her rights, the Constitution, the law or general interests.

Section 49 (Defence of Sovereignty)

1. Every citizen has the right and the duty to contribute towards the defence of independence, sovereignty and territorial integrity of the country.
2. Serving in the army shall take place in accordance with the law.

TITLE III

ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND DUTIES

Section 50 (Right to work)

1. Every citizen, regardless of gender, has the right and the duty to work and to choose freely his or her profession.
2. The worker has the right to labour safety and hygiene, remuneration, rest and vacation.
3. Dismissal without just cause or on political, religious and ideological grounds is prohibited.
4. Compulsory work, without prejudice to the cases provided for under penal legislation, is prohibited.
5. The State shall promote the establishment of cooperatives of production and shall lend support to household businesses as sources of employment.

Section 51 (Right to strike and prohibition of lockout)

1. Every worker has the right to resort to strike, the exercise of which shall be regulated by law.
2. The law shall determine the conditions under which services are provided, during a strike, that are necessary for the safety and maintenance of equipment and facilities, as well as minimum services that are necessary to meet essential social needs.
3. Lockout is prohibited.

Section 52 (Trade union freedom)

1. Every worker has the right to form or join trade unions and professional associations in defence of his or her rights and interests.
2. Trade union freedom is sub-divided, namely, into freedom of establishment, freedom of membership and freedom of organisation and internal regulation.
3. Trade unions and trade union associations shall be independent of the State and the employers.

Section 53 (Consumer rights)

1. Consumers have the right to goods and services of good quality, to truthful information and protection of their health, safety and economic interests, and to reparation for damages.
2. Advertising shall be regulated by law, and all forms of concealed, indirect or misleading advertising are prohibited.

Section 54 (Right to private property)

1. Every individual has the right to private property and can transfer it during his or her lifetime or on death, in accordance with the law.
2. Private property should not be used to the detriment of its social purpose.
3. Requisitioning and expropriation of property for public purposes shall only take place following fair compensation in accordance with the law.
4. Only national citizens have the right to ownership of land.

Section 55 (Obligations of the taxpayer)

Every citizen with a certified income has the duty to pay tax in order to contribute to public revenues, in accordance with the law.

Section 56 (Social security and assistance)

1. Every citizen is entitled to social assistance and security in accordance with the law.
2. The State shall promote, in accordance with its national resources, the establishment of a social security system.
3. The State shall support and supervise the activity and functioning of institutions of social solidarity and other non-profit institutions of recognised public interest, in accordance with the law.

Section 57 (Health)

1. Everyone has the right to health and medical care, and the duty to protect and promote them.
2. The State shall promote the establishment of a national health service that is universal and general. The national health service shall be free of charge in accordance with the possibilities of the State and in conformity with the law.
3. The national health service shall have, as much as possible, a decentralised participatory management.

Section 58 (Housing)

Everyone has the right to a house, both for himself or herself and for his or her family, of adequate size that meets satisfactory standards of hygiene and comfort and preserves personal intimacy and family privacy.

Section 59 (Education and culture)

1. The State shall recognise and guarantee that every citizen has the right to education and culture, and it is incumbent upon it to promote the establishment of a public system of universal and compulsory basic education that is free of charge in accordance with its ability and in conformity with the law.
2. Everyone has the right to equal opportunities for education and vocational training.
3. The State shall recognise and supervise private and cooperative education.
4. The State should ensure the access of every citizen, in accordance to their abilities, to the highest levels of education, scientific research and artistic creativity.
5. Everyone has the right to cultural enjoyment and creativity and the duty to preserve, protect and value cultural heritage.

Section 60 (Intellectual Property)

The State shall guarantee and protect the creation, production and commercialisation of literary, scientific and artistic work, including the legal protection of copyrights.

Section 61 (Environment)

1. Everyone has the right to a humane, healthy, and ecologically balanced environment and the duty to protect it and improve it for the benefit of the future generations.
2. The State shall recognise the need to preserve and rationalise natural resources.
3. The State should promote actions aimed at protecting the environment and safeguarding the sustainable development of the economy.

PART III**ORGANIZATION OF POLITICAL POWER TITLE I GENERAL PRINCIPLES****Section 62 (Source and exercise of political power)**

Political power lies with the people and is exercised in accordance with the terms of the Constitution.

Section 63 (Participation by citizens in political life)

1. Direct and active participation by men and women in political life is a requirement of, and a fundamental instrument for consolidating, the democratic system.
2. The law shall promote equality in the exercise of civil and political rights and non-discrimination on the basis of gender for access to political positions.

Section 64 (Principle of Renewal)

No one shall hold any political office for life, or for indefinite periods of time.

Section 65 (Elections)

1. Elected organs of sovereignty and of local government shall be chosen by free, direct, secret, personal and regular universal suffrage.
2. Registration of voters shall be compulsory and officially initiated, single and universal, to be up-dated for each election.
3. Electoral campaigns shall be governed in accordance with the following principles:
 - (a) Freedom to canvass;
 - (b) Equality of opportunity and treatment for all candidacies;
 - (c) Impartiality towards candidacies on the part of public bodies;
 - (d) Transparency and supervision of electoral expenses.
4. Conversion of the votes into mandates shall observe the principle of proportional representation;
5. The electoral process shall be regulated by law.
6. Supervision of voters' registration and electoral acts shall be incumbent upon an independent organ, the competences, composition, organization and functioning of which shall be established by law.

Article 66 (Referendum)

1. Voters who are registered in the national territory may be called upon to express their opinions in a referendum on issues of relevant national interest.
2. A referendum shall be called by the President of the Republic, following a proposal by one third, and deliberation approved by a two thirds majority, of the Members of the National Parliament, or following a well-founded proposal by the Government.
3. Matters falling under the exclusive competence of the Parliament, the Government and the Courts as defined by the Constitution shall not be the subject of a referendum.
4. A referendum shall only be binding where the number of voters is higher than half of the registered electors.
5. The process of a referendum shall be defined by law.

Section 67 (Organs of Sovereignty)

The organs of sovereignty shall comprise the President of the Republic, the National Parliament, the Government and the Courts.

Section 68 (Incompatibilities)

1. The holding of the offices of President of the

Republic, Speaker of the National Parliament, President of the Supreme Court of Justice, President of the High Administrative, Tax and Audit Court, Prosecutor-General and member of Government shall be incompatible with one another.

2. The law shall define other incompatibilities.

Section 69 (Principle of separation of powers)

Organs of sovereignty, in their reciprocal relationship and exercise of their functions, shall observe the principle of separation and interdependence of powers established in the Constitution.

Section 70 (Political parties and the right of opposition)

1. Political parties shall participate in organs of political power in accordance with their democratic representation based on direct and universal suffrage.
2. The right of political parties to democratic opposition, as well as the right to be informed regularly and directly on the progress of the main issues of public interest, shall be recognised.

Section 71 (Administrative organisation)

1. The central government should be represented at the different administrative levels of the country.
2. Oecussi Ambeno shall be governed by a special administrative policy and economic regime.
3. Ataúro shall enjoy an appropriate economic status.
4. The political and administrative organisation of the territory of the Democratic Republic of East Timor shall be defined by law.

Section 72 (Local government)

1. Local government is constituted by corporate bodies vested with representative organs, with the objective of organising the participation by citizens in solving the problems of their own community and promoting local development without prejudice to the participation by the State.
2. The organisation, competence, functioning and composition of the organs of local government shall be defined by law.

Section 73 (Publication of legislation and decisions)

1. Legislation and decisions shall be published by the organs of sovereignty in the official gazette.
2. Failure to publish any of the legislation or decisions specified in item 1 above or decisions

of a general nature taken by the organs of sovereignty or local government shall render them null and void.

3. The form of publication of other legislation and decisions, and the consequences of the failure to do so, shall be determined by law.

TITLE II

PRESIDENT OF THE REPUBLIC

CHAPTER I

STATUS, ELECTION AND APPOINTMENT

Section 74 (Definition)

1. The President of the Republic is the Head of State and the symbol and guarantor of national independence and unity of the State and of the smooth functioning of democratic institutions.
2. The President of the Republic is the Supreme Commander of the Defence Force.

Section 75 (Eligibility)

1. To stand as presidential candidates, East Timorese citizens should meet each of the following requirements cumulatively:
 - (a) original citizenship;
 - (b) at least 35 (Thirty -five) years of age;
 - (c) to be in possession of his or her full faculties;
 - (d) to be proposed by a minimum of five thousand voters.
2. The President of the Republic has a term of office of 5 years and shall cease his or her functions with the swearing-in of the new President-elect.
3. The President of the Republic's term of office may be renewed only once.

Section 76 (Election)

1. The President of the Republic shall be elected by universal, free, direct, secret, and personal suffrage.
2. The election of the President of the Republic shall be conducted through the system based on the majority of validly expressed votes, excluding blank votes.
3. Where no candidate gets more than half of the votes, a second round shall take place on the 30th day following the first voting.
4. Only the two candidates obtaining the highest number of votes shall be eligible to stand in a runoff election, provided they have not withdrawn their candidacies.

Section 77 (Inauguration and swearing-in)

1. The President of the Republic shall be sworn in by the Speaker of the National Parliament and shall be inaugurated in public ceremony before the members of the National Parliament and the representatives of the other organs of sovereignty.

2. The inauguration shall take place on the last day of the term of office of the outgoing President or, in case of election due to vacancy, on the eighth day following the publication of the electoral results.
3. At the swearing-in ceremony, the President of the Republic shall take the following oath:
"I swear to God, to the people and on my honour that I will fulfil with loyalty the functions that have been invested in me, will abide by and enforce the Constitution and the laws and will dedicate all my energies and knowledge to the defence and consolidation of independence and national unity."

Section 78 (Incompatibilities)

The President of the Republic shall not hold any other political position or public office at the national level, and under no circumstances shall he or she undertake private assignments.

Section 79 (Criminal liability and Constitutional Obligations)

1. The President of the Republic shall enjoy immunity in the exercise of his or her functions.
2. The President of the Republic shall be answerable before the Supreme Court of Justice for crimes committed in the exercise of his or her functions and for clear and serious violation of his or her constitutional obligations.
3. It is the incumbent upon the National Parliament to initiate the criminal proceedings, following a proposal made by one-fifth, and deliberation approved by a two-third majority, of its Members.
4. The Plenary of the Supreme Court of Justice shall issue a judgment within a maximum of 30 days.
5. Conviction shall result in forfeiture of office and disqualification from re-election.
6. For crimes not committed in the exercise of his or her functions, the President of the Republic shall also be answerable before the Supreme Court of Justice, and forfeiture of office shall only occur in case of sentence to prison.
7. In the cases provided for under the previous item, immunity shall be withdrawn at the initiative of the National Parliament in accordance with provisions of item 3 of this Section.

Section 80 (Absence)

1. The President of the Republic shall not be absent from the national territory without the previous consent of the National Parliament or of its Standing Committee, if Parliament is in recession.
2. Failure to observe provision of item 1 above

shall imply forfeiture of the office, as provided for by the previous Section.

3. The President of the Republic's private visits not exceeding fifteen days shall not require the consent of the National Parliament. Nonetheless, the President of the Republic should notify the National Parliament of such visits in advance.

Section 81 (Resignation of Office)

1. The President of the Republic may resign from office by message addressed to the National Parliament.
2. Resignation shall take effect once the message is made known to the National Parliament without prejudice to its subsequent publication in the official gazette.
3. Where the President of the Republic resigns from office, he or she shall not be eligible to stand for presidential elections immediately after resignation nor in the regular elections to be held after five years.

Section 82 (Death, resignation or permanent disability)

1. In case of death, resignation or permanent disability of the President of the Republic, his or her functions shall be taken over on an interim basis by the Speaker of the National Parliament, who shall be sworn in by the Speaker a.i. of the National Parliament before the Members of the National Parliament and representatives of the organs of sovereignty.
2. Permanent disability shall be declared by the Supreme Court of Justice, which shall also have the responsibility to confirm the death of the President of the Republic and the vacancy of office resulting therefrom.
3. The election of a new President of the Republic in case of death, resignation or permanent disability should take place within the subsequent ninety days, after certification or declaration of death, resignation or permanent disability.
4. The President of the Republic shall be elected for a new term of office.
5. In case of refusal by the President-elected to take office or in case of his or her death or permanent disability, the provisions of this Section shall apply.

Section 83 (Exceptional Cases)

1. Where death, resignation or permanent disability occur in case of imminent exceptional situations of war or protracted emergency, or of an insurmountable difficulty of a technical or material nature, to be defined by law, preventing the holding of a presidential election by universal suffrage as provided for by

Section 76, the new President of the Republic shall be elected by the National Parliament from among its members within the ninety subsequent days.

2. In the cases referred to in the previous item, the Presidentelect shall serve for the remainder of the interrupted term and he or she may run for the new election.

Section 84 (Replacement and interim office)

1. During temporary impediment of the President of the Republic, the presidential functions shall be taken over by the Speaker of National Parliament or, in case of impediment of the latter, by his or her replacement.
2. The parliamentary mandate of the Speaker of the National Parliament or of his or her replacement shall be automatically suspended over the period of time in which he or she holds the office of President of the Republic on an interim basis.
3. The parliamentary functions of the replacing or interim President of the Republic shall be temporarily taken over in accordance with the Rules of Procedures of the National Parliament.

**CHAPTER II
COMPETENCIES**

Section 85 (Competencies)

It is exclusively incumbent upon the President of the Republic:

- (a) To promulgate statutes and order the publication of resolutions by the National Parliament approving agreements and ratifying international treaties and conventions;
- (b) Exercise competencies inherent in the functions of Supreme Commander of the Defence Force;
- (c) To exercise the right of veto regarding any statutes within 30 days from the date of their receipt;
- (d) To appoint and swear in the Prime Minister designated by the party or alliance of parties with parliamentary majority after consultation with political parties sitting in the National Parliament;
- (e) To request the Supreme Court of Justice to undertake preventive appraisal and abstract review of the constitutionality of the rules, as well as verification of unconstitutionality by omission.
- (f) To submit relevant issues of national interest to a referendum as laid down in Section 66;
- (g) To declare the state of siege or the state of emergency following authorisation of the National Parliament, after consultation with the Council of State, the Government and the Supreme Council of Defence and Security;

- (h) To declare war and make peace following a Government proposal, after consultation with the Council of State and the Supreme Council of Defence and Security, under authorisation of the National Parliament;
- (i) To grant pardons and commute sentences after consultation with the Government;
- (j) To award honorary titles, decorations and merits in accordance with the law.

Section 86 (Competencies with regard to other organs)

It is incumbent upon the President of the Republic, with regard to other organs:

- (a) To chair the Supreme Council of Defence and Security;
- (b) To chair the Council of State;
- (c) To set dates for presidential and legislative elections in accordance with the Law;
- (d) To request the convening of extraordinary sessions of the National Parliament, whenever imperative reasons of national interest so justify;
- (e) To address messages to the National Parliament and the country;
- (f) To dissolve the National Parliament in case of a serious institutional crisis preventing the formation of a government or the approval of the State Budget and lasting more than sixty days, after consultation with political parties sitting in the Parliament and with the Council of State, on pain of rendering the dissolution null and void, taking into consideration provisions of Section 100;
- (g) To dismiss the Government and remove the Prime Minister from office after the National Parliament has rejected his or her programme for two consecutive times.
- (h) To appoint, swear in and remove Government Members from office, following a proposal by the Prime-Minister, in accordance with item 2, Section 106;
- (i) To appoint two members for the Supreme Council of Defence and Security;
- (j) To appoint the President of the Supreme Court of Justice and swear in the President of the High Administrative, Tax and Audit Court;
- (k) To appoint the Prosecutor General for a term of four years;
- (l) To appoint and dismiss the Deputy Prosecutor General in accordance with item 6, Section 133;
- (m) To appoint and dismiss, following proposal by the Government, the General Chief of Staff of the Defence Force, the Deputy General Chief of Staff of the Defence Force, and the Chiefs of Staff of the Defence Force, after consultation with the General Chief of Staff regarding the latter two cases;
- (n) To appoint five Members for the Council of State;

- (o) To appoint one member for the Superior Council for the Judiciary and for the Superior Council for the Public Prosecution.

Section 87 (Competencies with regard to International Relations)

It is incumbent upon the President of the Republic, in the field of international relations:

- (a) To declare war in case of effective or imminent aggression and make peace, following proposal by the Government, after consultation with the Supreme Council for Defence and Security and following authorisation of the National Parliament or of its Standing Committee.
- (b) To appoint and dismiss ambassadors, permanent representatives and special envoys, following proposal by the Government;
- (c) To receive credential letters and accredit foreign diplomatic representatives;
- (d) Conduct, in consultation with the Government, any negotiation process towards the completion of international agreements in the field of defence and security.

Section 88 (Promulgation and veto)

1. Within thirty days after receiving any statute from the National Parliament for the purpose of its promulgation as law, the President of the Republic shall either promulgate the statute or exercise the right of veto, in which case he or she, based on substantive grounds, shall send a message to the National Parliament requesting a new appraisal of the statute.
2. If, within ninety days, the National Parliament confirms its vote by an absolute majority of its Members in full exercise of their functions, the President of the Republic shall promulgate the statute within eight days after receiving it.
3. However, a majority of two-thirds of the Members present shall be required to ratify statutes on matters provided for in Section 95 where that majority exceeds an absolute majority of the Members in full exercise of their functions.
4. Within forty days after receiving any statute from the Government for the purpose of its promulgation as law, the President of the Republic shall either promulgate the instrument or exercise the right of veto by way of a written communication to the Government containing the reasons for the veto.

Section 89 (Powers of an interim President of the Republic)

An interim President of the Republic does not have any of the powers specified in following items (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) of Section 86

CHAPTER III COUNCIL OF STATE

Section 90 (Council of State)

1. The Council of State is the political advisory body of the President of the Republic and shall be headed by him or herself.
2. The Council of State shall comprise:
 - (a) Former Presidents of the Republic who were not removed from office;
 - (b) The Speaker of the National Parliament;
 - (c) The Prime Minister;
 - (d) Five citizens elected by the National Parliament in accordance with the principle of proportional representation and for the period corresponding to the legislative term, provided that they are not members of the organs of sovereignty.
 - (e) Five citizens designated by the President of the Republic for the period corresponding to the term of office of the President, provided that they are not members of the organs of sovereignty.

Section 91 (Competence, organisation and functioning of the Council of State)

1. It is incumbent upon the Council of State to:
 - (a) Express its opinion on the dissolution of the National Parliament;
 - (b) Express its opinion on the dismissal of the Government;
 - (c) Express its opinion on the declaration of war and the making of peace;
 - (d) Express its opinion on any other cases set out in the Constitution and advise the President of the Republic in the exercise of his or her functions, as requested by the President;
 - (e) To draft its Rules of Procedures;
2. The meetings of the Council of State shall not be open to the public.
3. The organisation and functioning of the Council of State shall be established by law.

TITLE III NATIONAL PARLIAMENT CHAPTER I STATUS AND ELECTION

Section 92 (Definition)

The National Parliament is the organ of sovereignty of the Democratic Republic of East Timor that represents all Timorese citizens and is vested with legislative supervisory and political decision making powers.

Section 93 (Election and composition)

1. The National Parliament shall be elected by universal, free, direct, equal, secret and personal suffrage.

2. The National Parliament shall be made up of a minimum of fifty-two and a maximum of sixty-five Members.
3. The law shall establish the rules relating to constituencies, eligibility conditions, nominations and electoral procedures.
4. Members of the National Parliament shall have a term of office of five years.

Section 94 (Immunities)

1. The Members of National Parliament shall not be held liable for civil, criminal or disciplinary proceedings in regard to votes and opinions expressed by them while performing their functions.
2. Parliamentary immunities may be withdrawn in accordance with the Rules of Procedures of the National Parliament.

CHAPTER II COMPETENCE

Section 95 (Competence of the National Parliament)

1. It is incumbent upon the National Parliament to make laws on basic issues of the country's domestic and foreign policy.
2. It is exclusively incumbent upon the National Parliament to make laws on:
 - (a) The borders of the Democratic Republic of East Timor, in accordance with Section 4;
 - (b) The limits of the territorial waters, of the exclusive economic area and of the rights of East Timor to the adjacent area and the continental shelf;
 - (c) National symbols, in accordance with item 2 of Section 14;
 - (d) Citizenship;
 - (e) Rights, freedoms and guarantees;
 - (f) The status and capacity of the person, family law and inheritance law;
 - (g) Territorial division;
 - (h) The electoral law and the referendum system;
 - (i) Political parties and associations;
 - (j) The status of Members of the National Parliament;
 - (k) The status of office holders in the organs of State;
 - (l) The bases for the education system;
 - (m) The bases for the health and social security system;
 - (n) The suspension of constitutional guarantees and the declaration of the state of siege and the state of emergency;
 - (o) The Defence and Security policy;
 - (p) The tax policy;
 - (q) The budget system.
3. It is also incumbent upon the National Parliament:

- (a) To ratify the appointment of the President of the Supreme Court of Justice and of the High Administrative, Tax and Audit Court;
- (b) To deliberate on progress reports submitted by the Government;
- (c) To elect one member for the Superior Council for the Judiciary and the Superior Council for the Public Prosecution;
- (d) To deliberate on the State Plan and Budget and the execution report thereof;
- (e) To monitor the execution of the State budget;
- (f) To approve and denounce agreements and ratify international treaties and conventions;
- (g) To grant amnesty;
- (h) To give consent to trips by the President of the Republic on State visits;
- (i) To approve revisions of the Constitution by a majority of two-thirds of the Members of Parliament;
- (j) To authorise and confirm the declaration of the state of siege or the state of emergency;
- (k) To propose to the President of the Republic the submission to referendum of issues of national interest.

4. It is also incumbent upon the National Parliament:
 - (a) To elect its Speaker and other members of the Chair;
 - (b) To elect five members for the Council of State;
 - (c) To prepare and approve its Rules of Procedure;
 - (d) To set up the Standing Committee and establish the other parliamentary Committees.

Section 96 (Legislative authorisation)

1. The National Parliament may authorise the Government to make laws on the following matters:
 - (a) Definition of crimes, sentences, security measures and their respective prerequisites;
 - (b) Definition of civil and criminal procedure;
 - (c) Organisation of the Judiciary and status of magistrates;
 - (d) General rules and regulations for the public service, the status of the civil servants and the responsibility of the State;
 - (e) General bases for the organisation of public administration;
 - (f) Monetary system;
 - (g) Banking and financial system;
 - (h) Definition of the bases for a policy on environment protection and sustainable development;

- (i) General rules and regulations for radio and television broadcasting and other mass media;
 - (j) Civic or military service;
 - (k) General rules and regulations for requisition and expropriation for public purposes;
 - (l) Means and ways of intervention, expropriation, nationalisation and privatisation of means of production and land on grounds of public interest, as well as criteria for the establishment of compensations in such cases.
2. Laws authorizing legislation shall define the subject, sense, scope and duration of the authorisation, which may be renewed.
 3. Laws on legislative authorisation shall not be used more than once and shall lapse with the dismissal of the Government, with the end of the legislative term or with the dissolution of the National Parliament.

Section 97 (Legislative initiative)

1. The power to initiate laws lies with:
 2. The Members of Parliament;
 3. The parliamentary groups;
 4. The Government.
5. There shall be no submission of bills, draft legislation or amendments involving, in any given fiscal year, any increase in State expenditure or any reduction in State revenues provided for in the Budget or Rectifying Budgets.
6. Bills and draft legislation that have been rejected shall not be re-introduced in the same legislative session in which they have been tabled.
7. Bills and draft legislation that have not been voted on shall not need to be re-introduced in the ensuing legislative session, except in case of end of the legislative term.
8. Draft legislation shall lapse with the dismissal of the Government.

Section 98 (Parliamentary appraisal of statutes)

1. Statutes other than those approved under the exclusive legislative powers of the Government may be submitted to the National Parliament for appraisal, for purposes of terminating their validity or for amendment, following a petition of one-fifth of the Members of Parliament and within thirty days following their publication. This timeframe shall exclude the days when the functioning of the National Parliament is suspended.
2. The National Parliament may suspend, in part or in full, the force of a statute until it is appraised.
3. The suspension shall lapse after the National Parliament has held 10 plenary meetings

without taking a final decision.

4. Where termination of validity is approved, the statute shall cease to be in force from the date of the publication of the resolution in the Official Gazette, and it shall not be published again in the same legislative session.
5. The parliamentary appraisal of a statute shall lapse if, after such a statute has been submitted for appraisal, the National Parliament takes no decision on it, or, having decided to make amendments, it does not approve a law to that effect before the corresponding legislative session ends, provided fifteen plenary meetings have been held.

CHAPTER III ORGANISATION AND FUNCTIONING

Section 99 (Legislative term)

1. The legislative term shall comprise five legislative sessions, and each legislative session shall have the duration of one year.
2. The regular period of functioning of the National Parliament shall be defined by the Rules of Procedure.
3. The National Parliament convenes on a regular basis following notice by its Speaker.
4. The National Parliament convenes on an extraordinary basis whenever so deliberated by the Standing Committee, at the request of one third of Members or following notice of the President of the Republic with a view to addressing specific issues.
5. In case of dissolution, the elected National Parliament shall commence a new legislative term, the length of which shall be increased by the time needed to complete the legislative session in progress at the date of the election.

Section 100 (Dissolution)

1. The National Parliament shall not be dissolved during the 6 months immediately following its election, during the last half-year of the term of office of the President of the Republic or during a state of siege or a state of emergency, on pain of rendering the act of dissolution null and void.
2. The dissolution of the National Parliament does not affect the continuance in office of its Members until the first meeting of the National Parliament after the ensuing election.

Section 101 (Attendance by Members of the Government)

1. Members of the Government have the right to attend plenary sessions of the National Parliament and may take the floor as provided for in the rules of procedures.
2. Sittings shall be fixed at which members of the Government shall be present to answer

questions from Members of Parliament in accordance with the Rules of Procedure.

3. The National Parliament or its Committees may request members of the Governments to take part in their proceedings.

CHAPTER IV STANDING COMMITTEE

Section 102 (Standing Committee)

1. The Standing Committee shall sit when the National Parliament is dissolved or in recession and in the other cases provided for in the Constitution;
2. The Standing Committee shall be presided over by the Speaker of the National Parliament and shall be comprised of Deputy Speakers and Parliament Members designated by the parties sitting in the Parliament in accordance with their respective representation.
3. It is incumbent upon the Standing Committee:
 - (a) To follow-up the activities of the Government and the Public Administration;
 - (b) To co-ordinate the activities of the Committees of the National Parliament;
 - (c) To take steps for the convening of Parliament whenever deemed necessary;
 - (d) To prepare and organise sessions of the National Parliament;
 - (e) To give its consent regarding trips by the President of the Republic in accordance with Section 80;
 - (f) To lead relations between the National Parliament and similar parliaments and institutions of other countries;
 - (g) To authorise the declaration of the state of siege or the state of emergency.

TITLE IV GOVERNMENT CHAPTER I DEFINITION AND STRUCTURE

Section 103 (Definition)

The Government is the organ of sovereignty responsible for conducting and executing the general policy of the country and is the supreme organ of Public Administration.

Section 104 (Composition)

1. The Government shall comprise the Prime Minister, the Ministers and the Secretaries of State.
2. The Government may include one or more Deputy Prime Ministers and Deputy Ministers.
3. The number, titles and competencies of ministries and secretariats of State shall be laid down in a Government statute.

Section 105 (Council of Ministers)

1. The Council of Ministers shall comprise the Prime Minister, the Deputy Prime Ministers, if any, and the Ministers.
2. The Council of Ministers shall be convened and chaired by the Prime Minister.
3. The Deputy Ministers, if any, and the Secretaries of State may be required to attend meetings of the Council of Ministers, without a right to vote.

CHAPTER II FORMATION AND RESPONSIBILITY

Section 106 (Appointment)

1. The Prime Minister shall be designated by the political party or alliance of political parties with parliamentary majority and shall be appointed by the President of the Republic, after consultation with the political parties sitting in the National Parliament.
2. The remaining members of the Government shall be appointed by the President of the Republic following proposal by the Prime Minister.

Section 107 (Responsibility of the Government)

The Government shall be accountable to the President of the Republic and to the National Parliament for conducting and executing the domestic and foreign policy in accordance with the Constitution and the law.

Section 108 (The Programme of the Government)

1. Once appointed, the Government should develop its programme, which should include the objectives and tasks proposed, the actions to be taken and the main political guidelines to be followed in the fields of government activity.
2. Once approved by the Council of Ministers, the Prime Minister shall, within a maximum of thirty days after appointment of the Government, submit the Programme of Government to the National Parliament for consideration.

Section 109 (Consideration of the Programme of Government)

1. The Programme of the Government shall be submitted to the National Parliament for consideration. Where the National Parliament is not in session, its convening for this purpose shall be mandatory.
2. Debate on the programme of the Government shall not exceed five days and, prior to its closing, any parliamentary group may propose its rejection or the Government may request the approval of a vote of confidence.

3. Rejection of the programme of the Government shall require an absolute majority of the Members in full exercise of their functions.

Section 110 (Request for vote of confidence)

The Government may request the National Parliament to take a vote of confidence on a statement of general policy or on any relevant matter of national interest.

Section 111 (Vote of no confidence)

1. The National Parliament may, following proposal by one-quarter of the Members in full exercise of their functions, pass a vote of no confidence on the Government with respect to the implementation of its programme or any relevant matter of national interest.
2. Where a vote of no confidence is not passed, its signatories shall not move another vote of no confidence during the same legislative session.

Section 112 (Dismissal of the Government)

1. The dismissal of the Government shall occur when:
 - (a) A new legislative term begins;
 - (b) The President of the Republic accepts the resignation of the Prime Minister;
 - (c) The Prime Minister dies or is suffering from a permanent physical disability;
 - (d) Its programme is rejected for the second consecutive time;
 - (e) A vote of confidence is not passed;
 - (f) A vote of no confidence is passed by an absolute majority of the Members in full exercise of their functions;
2. The President of the Republic shall only dismiss the Prime Minister in accordance with the cases provided for in the previous item and when it is deemed necessary to ensure the regular functioning of the democratic institutions, after consultation with the Council of State.

Section 113 (Criminal liability of the members of Government)

1. Where a member of the Government is charged with a criminal offence punishable with a sentence of imprisonment for more than two years, he or she shall be suspended from his or her functions so that the proceedings can be pursued.
2. Where a member of the Government is charged with a criminal offence punishable with a sentence of imprisonment for a maximum of two years, the National Parliament shall decide whether or not that member of the Government shall be suspended so that the proceedings can be pursued.

Section 114 (Immunities for members of the Government)

No member of the Government may be detained or imprisoned without the permission of the National Parliament, except for a felonious crime punishable with a maximum sentence of imprisonment for more than two years and in flagrante delicto.

CHAPTER III COMPETENCIES

Section 115 (Competence of the Government)

1. It is incumbent upon the Government:
 - (a) To define and implement the general policy of the country, following its approval by the National Parliament;
 - (b) To guarantee the exercise of the fundamental rights and freedoms of the citizens;
 - (c) To ensure public order and social discipline;
 - (d) To prepare the State Plan and the State Budget and execute them following their approval by the National Parliament;
 - (e) To regulate economic and social sector activities;
 - (f) To prepare and negotiate treaties and agreements and enter into, approve, accede and denounce international agreements which do not fall under the competence of the National Parliament or of the President of the Republic;
 - (g) To define and implement the foreign policy of the country;
 - (h) To ensure the representation of the Democratic Republic of East Timor in the international relations;
 - (i) To lead the social and economic sectors of the State;
 - (j) To lead the labour and social security policy;
 - (k) To guarantee the defence and consolidation of the public domain and the property of the State;
 - (l) To lead and co-ordinate the activities of the ministries as well as the activities of the remaining institutions answerable to the Council of Ministers;
 - (m) To promote the development of the co-operative sector and the support for household production;
 - (n) To support private enterprise initiatives;
 - (o) To take actions and make all the arrangements necessary to promote economic and social development and to meet the needs of the Timorese people;
 - (p) To exercise any other competencies as provided by the Constitution and the law.
2. It is also incumbent upon the Government in relation with other organs:

- (a) To submit bills and draft resolutions to the National Parliament;
 - (b) To propose to the President of the Republic the declaration of war or the making of peace;
 - (c) To propose to the President of the Republic the declaration of the state of siege or the state of emergency;
 - (d) To propose to the President of the Republic the submission to referendum of relevant issues of national interest;
 - (e) To propose to the President of the Republic the appointment of ambassadors, permanent representatives and special envoys;
3. The Government has exclusive legislative powers on matters concerning its own organisation and functioning, as well as on the direct and indirect management of the State.

Section 116 (Competencies of the Council of Ministers)

It is incumbent upon the Council of Ministers:

- (a) To define the general guidelines of the government policy as well as those for its implementation;
- (b) To deliberate on a request for a vote of confidence from the National Parliament;
- (c) To approve bills and draft resolutions;
- (d) To approve statutes, as well as international agreements that are not required to be submitted to the National Parliament;
- (e) To approve actions by the Government that involve an increase or decrease in public revenues or expenditures;
- (f) To approve plans.

Section 117 (Competencies of members of the Government)

1. It is incumbent upon the Prime Minister:
 - (a) To be the Head of Government;
 - (b) To chair the Council of Ministers;
 - (c) To lead and guide the general policy of the Government and co-ordinate the activities of all Ministers, without prejudice to the direct responsibility of each Minister for his or her respective governmental department.
 - (d) To keep the President of the Republic informed on matters of domestic and foreign policy of the Government;
 - (e) To perform other duties conferred by the Constitution and the law.
2. It is incumbent upon the Ministers:
 - (a) To implement the policy defined for their respective Ministries;
 - (b) To ensure relations between the Government and the other organs of the State in the area of responsibility of their respective Ministries.

3. Government statutes shall be signed by the Prime Minister and the Ministers in charge of the respective subject matter.

TITLE V COURTS CHAPTER I COURTS AND THE JUDICIARY

Section 118 (Jurisdiction)

1. Courts are organs of sovereignty with competencies to administer justice in the name of the people.
2. In performing their functions, the courts shall be entitled to the assistance of other authorities.
3. Court decisions shall be binding and shall prevail over the decisions of any other authority.

Section 119 (Independence)

Courts are independent and subject only to the Constitution and the law.

Section 120 (Review of unconstitutionality)

The courts shall not apply rules that contravene the Constitution or the principles contained therein.

Section 121 (Judges)

1. Jurisdiction lies exclusively with the judges installed in accordance with the law.
2. In performing their functions, judges are independent and owe obedience only to the Constitution, the law and to their own conscience.
3. Judges have security of tenure and, unless otherwise provided for by law, may not be transferred, suspended, retired or removed from office.
4. To guarantee their independence, judges may not be held liable for their judgments and decisions, except in the circumstances provided for by law.
5. The law shall regulate the judicial organisation and the status of the judges of the courts of law.

Section 122 (Exclusivity)

Judges in office may not perform any other functions, whether public or private, other than teaching or legal research, in accordance with the law.

Section 123 (Categories of courts)

1. There shall be the following categories of courts in the Democratic Republic of East Timor:
 - (a) The Supreme Court of Justice and other courts of law;
 - (b) The High Administrative, Tax and Audit Court and other administrative courts of first instance;
 - (c) Military Courts.

1. Courts of exception shall be prohibited and there shall be no special courts to judge certain categories of criminal offence.
2. There may be Maritime Courts and Arbitration Courts.
3. The law shall determine the establishment, organisation and functioning of the courts provided for in the preceding items.
4. The law may institutionalise means and ways for the non-judicial resolution of disputes.

Section 124 (Supreme Court of Justice)

1. The Supreme Court of Justice is the highest court of law and the guarantor of a uniform enforcement of the law, and has jurisdiction throughout the national territory.
2. It is also incumbent on the Supreme Court of Justice to administer justice on matters of legal, constitutional and electoral nature.
3. The President of the Supreme Court of Justice shall be appointed by the President of the Republic from among judges of the Supreme Court of Justice for a term of office of four years.

Section 125 (Functioning and Composition)

1. The Supreme Court of Justice shall operate:
 - (a) In sections, like a court of first instance, in the cases provided for in the law;
 - (b) In plenary, like a court of second and single instance, in the cases expressly provided for in the law;
2. The Supreme Court of Justice shall consist of career judges, magistrates of the Public Prosecution or jurists of recognised merit in number to be established by law, as follows:
 - (a) One elected by the National Parliament;
 - (b) And all the others designated by the Superior Council for the Judiciary.

Section 126 (Electoral and Constitutional Competence)

1. It is incumbent upon the Supreme Court of Justice, on legal and constitutional matters:
 - (a) To review and declare the unconstitutionality and illegality of normative and legislative acts by the organs of the State;
 - (b) To provide an anticipatory verification of the legality and constitutionality of the statutes and referenda;
 - (c) To verify cases of unconstitutionality by omission;
 - (d) To rule, as a venue of appeal, on the suppression of norms considered unconstitutional by the courts of instance;
 - (e) To verify the legality regarding the establishment of political parties and their coalitions and order their registration or dissolution, in accordance with the Constitution and the law;

- (f) To exercise all other competencies provided for by the Constitution or the law.
2. It is incumbent upon the Supreme Court of Justice, in the specific field of elections:
 - (a) To verify the legal requirements for candidates for the office of President of the Republic;
 - (b) To certify at last instance the regularity and validity of the acts of the electoral process, in accordance with the respective law;
 - (c) To validate and proclaim the results of the electoral process.

Section 127 (Eligibility)

1. Only career judges or magistrates of the Public Prosecution or jurists of recognised merit of East Timorese nationality may become members of the Supreme Court of Justice.
2. In addition to the requirements referred to in the preceding item, the law may define other requirements.

Section 128 (Superior Council for the Judiciary)

1. The Superior Council for the Judiciary is the organ of management and discipline of the judges of the courts and it is incumbent upon it to appoint, assign, transfer and promote the judges.
2. The Superior Council for the Judiciary shall be presided over by the President of the Supreme Court of Justice and shall have the following members:
 - (a) One designated by the President of the Republic;
 - (b) One elected by the National Parliament;
 - (c) One designated by the Government;
 - (d) One elected by the judges of the courts of law from among their peers;
3. The law shall regulate the competence, organisation and functioning of the Superior Council for the Judiciary.

Section 129 (High Administrative, Tax and Audit Court)

1. The High Administrative, Tax and Audit Court is the highest body in the hierarchy of the administrative, tax and audit courts, without prejudice to the competence of the Supreme Court of Justice.
2. The President of the High Administrative, Tax and Audit Court is elected from among and by respective judges for a term of office of four years.
3. It is incumbent upon the High Administrative, Tax and Audit Court as a single instance to monitor the lawfulness of public expenditure and to audit State accounts.

4. It is incumbent upon the High Administrative, Tax and Audit Court and the administrative and tax courts of first instance:
 - (a) To judge actions aiming at resolving disputes arising from legal, fiscal and administrative relations;
 - (b) To judge contentious appeals against decisions made by State organs, their respective office holders and agents;
 - (c) To perform all the other functions as established by law.

Section 130 (Military Courts)

1. It is incumbent upon military courts to judge in first instance crimes of military nature.
2. The competence, organisation, composition and functioning of military courts shall be established by law.

Section 131 (Court Hearings)

Court hearings shall be public, unless the court hearing a matter rules otherwise through a well-founded order to safeguard personal dignity or public morality and national security, or guarantee its own smooth operation.

CHAPTER II PUBLIC PROSECUTORS

Section 132 (Functions and Status)

1. Public Prosecutors have the responsibility for representing the State, prosecuting, ensuring the defence of the underage, absentees and the disabled, defending the democratic legality, and promoting the enforcement of the law.
2. Public Prosecutors shall be a body of judicial officers, hierarchically graded, and shall be accountable to the Prosecutor General .
3. In performing their duties, Public Prosecutors shall be subject to legality, objectivity and impartiality criteria, and obedience toward directives and orders as established by law.
4. Public Prosecutors shall be governed by their own statutes, and shall only be suspended, retired or dismissed under the circumstances provided for in the law.
5. It is incumbent upon the Office of the Prosecutor General to appoint, assign, transfer and promote public prosecutors and exercise disciplinary actions.

Section 133 (Office of the Prosecutor General)

1. The Office of the Prosecutor General is the highest authority in public prosecution, and its composition and competencies shall be defined by law.
2. The Office of the Prosecutor General shall be headed by the Prosecutor General, who, in

his or her absence or inability to act, shall be replaced in accordance with the law.

3. The Prosecutor General shall be appointed by the President of the Republic for a term of office of six years, in accordance with the terms established by law.
4. The Prosecutor General shall be accountable to the Head of State and shall submit annual reports to the National Parliament.
5. The Prosecutor General shall request the Supreme Court of Justice to make a generally binding declaration of unconstitutionality of any law ruled unconstitutional in three concrete cases.
6. Deputy Prosecutor General shall be appointed, dismissed or removed from office by the President of the Republic after consultation with the Superior Council for the Public Prosecution.

Section 134 (Superior Council for the Public Prosecution)

1. The Superior Council for the Public Prosecution is an integral part of the office of the Prosecutor General.
2. The Superior Council for the Public Prosecution shall be headed by the Prosecutor General and shall comprise the following members:
 - (a) One designated by the President of the Republic;
 - (b) One elected by the National Parliament;
 - (c) One designated by the Government;
 - (d) One elected by the magistrates of the Public Prosecution from among their peers.
3. The law shall regulate the competence, organisation and functioning of the Superior Council for the Public Prosecution.

CHAPTER III LAWYERS

Section 135 (Lawyers)

1. Legal and judicial aid is of social interest, and lawyers and defenders shall be governed by this principle.
2. The primary role of lawyers and defenders is to contribute to the good administration of justice and the safeguard of the rights and legitimate interests of the citizens.
3. The activity of lawyers shall be regulated by law.

Section 136 (Guarantees in the activity of lawyers)

1. The State shall, in accordance with the law, guarantee the inviolability of documents related to legal proceedings. No search, seizure, listing or other judicial measures shall be permitted without the presence of the

competent magistrate and, whenever possible, of the lawyer concerned.

2. Lawyers have the right to contact their clients personally with guarantees of confidentiality, especially where the clients are under detention or arrest in military or civil prison centres.

TITLE VI PUBLIC ADMINISTRATION

Section 137 (Public Administration general principles)

1. Public Administration shall aim at meeting public interest, in the respect for the legitimate rights and interests of citizens and constitutional institutions.
2. The Public Administration shall be structured to prevent excessive bureaucracy, provide more accessible services to the people and ensure the contribution of individuals interested in its efficient management.
3. The law shall establish the rights and guarantees of the citizens, namely against acts likely to affect their legitimate rights and interests.

PART IV ECONOMIC AND FINANCIAL ORGANISATION

TITLE I GENERAL PRINCIPLES

Section 138 (Economic organisation)

The economic organisation of East Timor shall be based on the combination of community forms with free initiative and business management, as well as on the co-existence of the public sector, the private sector and the co-operative and social sector of ownership of means of production.

Section 139 (Natural resources)

1. The resources of the soil, the subsoil, the territorial waters, the continental shelf and the exclusive economic zone, which are essential to the economy, shall be owned by the State and shall be used in a fair and equitable manner in accordance with national interests.
2. The conditions for the exploitation of the natural resources referred to in item 1 above should lend themselves to the establishment of mandatory financial reserves, in accordance with the law.
3. The exploitation of the natural resources shall preserve the ecological balance and prevent destruction of ecosystems.

Section 140 (Investments)

The State shall promote national investment and establish conditions to attract foreign investment, taking into consideration the national interests, in accordance with the law.

Section 141 (Land)

Ownership, use and development of land as one

of the factors for economic production shall be regulated by law.

TITLE II FINANCIAL AND TAX SYSTEM

Section 142 (Financial system)

The structure of the financial system shall be determined by the law in such a way as to guarantee the formation, collection and security of savings, and that the financial resources necessary for economic and social development are provided.

Section 143 (Central Bank)

1. The State shall establish a national central bank jointly responsible for the definition and implementation of the monetary and financial policy.
2. The Central Bank functions and its relationship with the National Parliament and the Government shall be established by law, safeguarding the management autonomy of the financial institution.
3. The Central Bank shall have exclusive competence for issuing the national currency.

Section 144 (Tax System)

1. The State shall establish a tax system aimed at meeting the financial requirements of the State and the fair distribution of national income and wealth.
2. Taxes shall be established by law, which shall determine obligation, tax benefits and the guarantees of taxpayers.

Section 145 (State Budget)

1. The State Budget shall be prepared by the Government and approved by the National Parliament.
2. The Budget law shall provide, based on efficiency and effectiveness, a breakdown of the revenues and expenditures of the State, as well as preclude the existence of secret appropriations and funds.
3. The execution of the Budget shall be monitored by the High Administrative, Tax and Audit Court and by the National Parliament.

PART V NATIONAL DEFENCE AND SECURITY

Section 146 (Defence Force)

1. The East Timor defence force, FALINTIL-ETDF, composed exclusively by national citizens, has the responsibility of providing military defence for the Democratic Republic of East Timor and shall have a single system of organisation for the whole national territory.

2. FALINTIL-ETDF shall guarantee national independence, territorial integrity and the freedom and security of the populations against any aggression or external threat, in respect for the constitutional order.
3. FALINTIL-ETDF shall be non-partisan and shall owe obedience to the competent organs of sovereignty in accordance with the Constitution and the laws, and shall not intervene in political matters.

Section 147 (Police and security forces)

1. The police shall defend the democratic legality and guarantee the internal security of the citizens, and shall be strictly non-partisan.
2. Prevention of crime shall be undertaken with due respect for human rights.
3. The law shall determine the rules and regulations for the police and other security forces.

Section 148 (Superior Council for Defence and Security)

1. The Superior Council for Defence and Security is the consultative organ of the President of the Republic on matters relating to defence and sovereignty.
2. The Superior Council for Defence and Security shall be headed by the President of the Republic and shall include civilian and military entities, the number of civilian entities being higher than the number of military entities.
3. The composition, organisation and functioning of the Superior Council for Defence and Security shall be defined by law.

PART VI GUARANTEE AND REVISION OF THE CONSTITUTION

TITLE I GUARANTEE OF THE CONSTITUTION

Section 149 (Anticipatory review of constitutionality)

1. The President of the Republic may request the Supreme Court of Justice to undertake an anticipatory review of the constitutionality of any statute submitted to him or her for promulgation.
2. The preventive review of the constitutionality may be requested within twenty days from the date on which the statute is received, and the Supreme Court of Justice shall hand down its ruling within twenty-five days, a time limit that may be reduced by the President of the Republic for reasons of emergency.
3. If the Supreme Court of Justice rules that the statute is unconstitutional, the President of the Republic shall submit a copy of the ruling to the Government or the National Parliament

and request the reformulation of the statute in accordance with the decision of the Supreme Court of Justice.

4. The veto for unconstitutionality of a statute from the National Parliament that has been submitted for promulgation can be circumvented under section 88, with the necessary amendments.

Section 150 (Abstract review of constitutionality) Declaration of unconstitutionality may be requested by:

- (a) The President of the Republic;
- (b) The Speaker of the National Parliament;
- (c) The Prosecutor General, based on the refusal by the courts, in three concrete cases, to apply a statute deemed unconstitutional;
- (d) The Prime Minister;
- (e) One fifth of the Members of the National Parliament;
- (f) The Ombudsman.

Section 151 (Unconstitutionality by omission)

The President of the Republic, the Prosecutor General and the Ombudsman may request the Supreme Court of Justice to review the unconstitutionality by omission of any legislative measures deemed necessary to enable the implementation of the constitutional provisions.

Section 152 (Appeals on constitutionality)

1. The Supreme Court of Justice has jurisdiction to hear appeals against any of the following court decisions:
 - (a) Decisions refusing to apply a legal rule on the grounds of unconstitutionality;
 - (b) Decisions applying a legal rule the constitutionality of which was challenged during the proceedings.
2. An appeal under paragraph 1 b) may be brought only by the party who raised the question of unconstitutionality.
3. The regime for filing appeals shall be regulated by law.

Section 153 (Decisions of the Supreme Court of Justice)

Decisions of the Supreme Court of Justice shall not be appealable and shall be published in the official gazette. They shall have a general binding effect on processes of abstract and concrete monitoring, when dealing with unconstitutionality.

TITLE II CONSTITUTIONAL REVISION

Section 154 (Initiative and time of revision)

1. It is incumbent upon Members of Parliament and the Parliamentary Groups to initiate constitutional revision.
2. The National Parliament may revise the Constitution after six years have elapsed since the last date on which a law revising the Constitution was published.
3. The period of six years for the first constitutional review shall commence on the day the present Constitution enters into force.
4. The National Parliament, regardless of any time frame, may take on powers to revise the Constitution by a majority of four-fifths of the Members of Parliament in full exercise of their functions.
5. Proposals for revision should be submitted to the National Parliament one hundred and twenty days prior to the date of commencement of debate.
6. After submission of a proposal for constitutional revision under the terms of item 5 above, any other proposal shall be submitted within 30 days.

Section 155 (Approval and promulgation)

1. Amendments to the Constitution shall be approved by a majority of two-thirds of the Members of Parliament in full exercise of their functions.
2. The new text of the Constitution shall be published. The President of the Republic shall not refuse to promulgate a revision law.

Section 156 (Limits on matters of revision)

1. Laws revising the Constitution shall respect:
 - (a) National independence and the unity of the State;
 - (b) The rights, freedoms and guarantees of citizens;
 - (c) The republican form of government;
 - (d) The separation of powers;
 - (e) The independence of the courts;
 - (f) The multi-party system and the right of democratic opposition;
 - (g) The free, universal, direct, secret and regular suffrage of the office holders of the organs of sovereignty, as well as the system of proportional representation;
 - (h) The principle of administrative deconcentration and decentralisation;
 - (i) The National Flag;
 - (j) The date of proclamation of national independence.
2. Paragraphs (c) and (i) may be reviewed through a national referendum, in accordance with the law.

Section 157 (Limits on time of revision)

No action may be taken to revise the Constitution during a state of siege or a state of emergency.

PART VII FINAL AND TRANSITIONAL PROVISIONS

Section 158 (Treaties, agreements and alliances)

1. Confirmation, accession and ratification of bilateral and multilateral conventions, treaties, agreements or alliances that took place before the entry into force of the present Constitution shall be decided upon by the respective competent bodies on a case-by-case basis.
2. The Democratic Republic of East Timor shall not be bound by any treaty, agreement or alliance entered into prior to the entry into force of the Constitution which is not confirmed or ratified or adhered to, pursuant to item 1 above.
3. The Democratic Republic of East Timor shall not recognise any acts or contracts concerning the natural resources referred to in item 1 of Section 139 entered into or undertaken prior to the entry into force of the Constitution which are not confirmed by the competent bodies after the Constitution enters into force.

Section 159 (Working Languages)

Indonesian and English shall be working languages within civil service side by side with official languages as long as deemed necessary.

Section 160 (Serious Crimes)

Acts committed between the 25th of April 1974 and the 31st of December 1999 that can be considered crimes against humanity of genocide or of war shall be liable to criminal proceedings with the national or international courts.

Section 161 (Illegal appropriation of assets)

Illegal appropriation of mobile and fixed assets that took place before the entry into force of the present Constitution is considered crime and shall be resolved as provided for in the Constitution and the law.

Section 162 (Reconciliation)

1. It is incumbent upon the Commission for Reception, Truth and Reconciliation to discharge functions conferred to it by UNTAET Regulation No. 2001/10.
2. The competencies, mandate and objectives of the Commission shall be redefined by the Parliament whenever necessary.

Section 163 (Transitional judicial organization)

1. The collective judicial instance existing

in East Timor, composed of national and international judges with competencies to judge serious crimes committed between the 1st of January and the 25th of October 1999, shall remain operational for the time deemed strictly necessary to conclude the cases under investigation.

2. The judicial Organization existing in East Timor on the day the present Constitution enters into force shall remain operational until such a time as the new judicial system is established and starts its functions.

Section 164 (Transitional competence of the Supreme Court of Justice)

1. After the Supreme Court of Justice starts its functions and before the establishment of courts as laid down in Section 129, the respective competence shall be exercised by the Supreme Court of Justice and other courts of justice.
2. Until such a time as the Supreme Court of Justice is established and starts its functions all powers conferred to it by the Constitution shall be exercised by the highest judicial instance of the judicial organization existing in East Timor.

Section 165 (Previous Law)

Laws and regulations in force in East Timor shall continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution or the principles contained therein.

Section 166 (National Anthem)

Until the national anthem is approved by the ordinary law pursuant to item 2 of Section 14 "Pátria, Pátria, Pátria, Timor -Leste a nossa nação " shall be sung in official ceremonies.

Section 167 (Transformation of the Constitutional Assembly)

1. The Constitutional Assembly shall be transformed into a National Parliament with the entering into force of the Constitution of the Republic.
2. In its first term of office, the National Parliament shall be comprised of eighty-eight members on an exceptional basis.
3. The Speaker of the Constituent Assembly shall remain in office until such a time as the National Parliament elects its Speaker as provided for in the Constitution.

Section 168 (Second Transitional Government)

The Government appointed under UNTAET Regulation No. 20012/28 shall remain in office until such a time as the first constitutional Government is appointed and sworn in by the President of the Republic, as provided for in the Constitution.

Section 169 (Presidential Election of 2002)

The President elected under UNTAET Regulation No. 2002/01 shall take on the competencies and fulfil the mandate provided for in the Constitution.

Section 170 (Entry into force of the Constitution)

The Constitution of the Democratic Republic of East Timor shall enter into force on the 20th of May of 2002

INDONESIA



THE 1945 CONSTITUTION OF THE REPUBLIC OF INDONESIA

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THE PREAMBLE TO THE CONSTITUTION

Whereas independence is the inalienable right of all nations, therefore, all colonialism must be abolished in this world as it is not in conformity with humanity and justice; and the moment of rejoicing has arrived in the struggle of the Indonesian independence movement to guide the people safely and well to the gate of the independence of the state of Indonesia which shall be independent, united, sovereign, just and prosperous; by the grace of God Almighty and motivated by the noble desire to live a free national life, the people of Indonesia hereby declare their independence.

Subsequent thereto, to form a government of the state of Indonesia which shall protect all the people of Indonesia and all the independence and the land that has been struggled for, and to improve public welfare, to educate the life of the people and to participate toward the establishment of a world order based on freedom, perpetual peace and social justice, therefore the independence of Indonesia shall be formulated into a constitution of the Republic of Indonesia which shall be built into a sovereign state based on a belief in the One and Only God, just and civilised humanity, the unity of Indonesia, and democratic life led by wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia.

ARTICLES

Chapter I

Form of the State and Sovereignty

Article 1

- (1) The State of Indonesia shall be a unitary state in the form of a republic.
- (2) Sovereignty is in the hands of the people and is implemented according to this Constitution.
- (3) The State of Indonesia shall be a state based on the rule of law.

Chapter II

The People's Consultative Assembly (Majelis Permusyawaratan Rakyat or MPR)

Article 2

- (1) The MPR shall consist of the members of the DPR and the members of the DPD who have been elected through general elections, and shall be regulated further by law.
- (2) The MPR shall convene in a session at least once in every five years in the capital of the state.
- (3) All decisions of the MPR shall be taken by a majority vote.

Article 3

- (1) The MPR has the authority to amend and enact the Constitution.
- (2) The MPR shall inaugurate the President and/or Vice President.
- (3) The MPR may only dismiss the President and/or Vice-President during his/her term of office in accordance with the Constitution.

Chapter III

The Executive Power

Article 4

- (1) The President of the Republic of Indonesia shall hold the power of government in accordance with the Constitution.
- (2) In exercising his/her duties, the President shall be assisted by a Vice-President.

Article 5

- (1) The President shall be entitled to submit bills to the DPR.
- (2) The President may issue Government regulations as required to implement laws.

Article 6

- (1) Any candidate for President or Vice-President shall be a citizen of Indonesia since birth, shall never have acquired another citizenship by his/her own will, shall never have committed an act of treason against the State, and

shall be mentally and physically capable of implementing the duties and obligations of President or Vice-President.

- (2) The requirements to become President or Vice-President shall be further regulated by law.

Article 6A

- (1) The President and Vice-President shall be elected as a single ticket directly by the people.
- (2) Each ticket of candidates for President and Vice-President shall be proposed prior to the holding of general elections by political parties or coalitions of political parties which are participants in the general elections.
- (3) Any ticket of candidates for President and Vice-President which polls a vote of more than fifty percent of the total number of votes during the general election and in addition polls at least twenty percent of the votes in more than half of the total number of provinces in Indonesia shall be declared elected as the President and Vice-President.
- (4) In the event that there is no ticket of candidates for President and Vice-President elected, the two tickets which have received the first and second highest total of votes in the general election shall be submitted directly to election by the people, and the ticket which receives the highest total of votes shall be sworn in as the President and Vice-President.
- (5) The procedure for the holding of the election of the President and Vice-President shall be further regulated by law.

Article 7

The President and Vice President shall hold office for a term of five years and may subsequently be reelected to the same office for one further term only.

Article 7A

The President and/or the Vice-President may be dismissed from his/her position during his/her term of office by the MPR on the proposal of the House of Representatives (Dewan Perwakilan Rakyat or DPR), both if it is proven that he/she has violated the law through an act of treason, corruption, bribery, or other act of a grave criminal nature, or through moral turpitude, and/or that the President and/or Vice-President no longer meets the qualifications to serve as President and/or Vice-President.

Article 7B

- (1) Any proposal for the dismissal of the President and/or the Vice-President may be submitted by the DPR to the MPR only by first submitting a request to the Constitutional Court to investigate, bring to trial, and issue a decision on the opinion of the DPR either that the

President and/or Vice-President has violated the law through an act of treason, corruption, bribery, or other act of a grave criminal nature, or through moral turpitude, and/or that the President and/or Vice-President no longer meets the qualifications to serve as President and/or Vice-President.

- (2) The opinion of the DPR that the President and/or Vice-President has violated the law or no longer or Vice-President is undertaken in the course of implementation of the supervision function of the DPR.
- (3) The submission of the request of the DPR to the Constitutional Court shall only be made with the support of at least 2/3 of the total members of the DPR who are present in a plenary session that is attended by at least 2/3 of the total membership of the DPR.
- (4) The Constitutional Court has the obligation to investigate, bring to trial, and reach the most just decision on the opinion of the DPR at the latest ninety days after the request of the DPR was received by the Constitutional Court.
- (5) If the Constitutional Court decides that the President and/or Vice-President is proved to have violated the law through an act of treason, corruption, bribery, or other act of a grave criminal nature, or through moral turpitude; and/or the President and/or Vice-President is proved no longer to meet the qualifications to serve as President and/or Vice-President, the DPR shall hold a plenary session to submit the proposal to impeach the President and/or Vice-President to the MPR.
- (6) The MPR shall hold a session to decide on the proposal of the DPR at the latest thirty days after its receipt of the proposal.
- (7) The decision of the MPR over the proposal to impeach the President and/or Vice-President shall be taken during a plenary session of the MPR which is attended by at least 3/4 of the total membership and shall require the approval of at least 2/3 of the total of members who are present, after the President and/or Vice-President have been given the opportunity to present his/her explanation to the plenary session of the MPR.

Article 7C

The President may not freeze and/or dissolve the DPR.

Article 8

- (1) In the event that the President dies, resigns, is impeached, or is not capable of implementing his/ her obligations during his/her term, he/ she will be replaced by the Vice-President until the end of his/ her term.
- (2) In the event that the position of Vice-President is vacant, the MPR should hold a session within sixty days at the latest to elect a Vice-

President from two candidates nominated by the President.

- (3) In the event that the President and the Vice President die, resign, are impeached, or are permanently incapable of performing their tasks and duties within their term of office simultaneously, the tasks and duties of the presidency shall be undertaken by a joint administration of the Minister of Foreign Affairs, the Minister of Home Affairs, and the Minister of Defence. At the latest thirty days after that, the MPR shall hold a session to elect a new President and Vice President from the tickets nominated by the political parties or coalitions of political parties whose tickets won first and second place in the last presidential election, who will serve for the remainder of the term of office.

Article 9

- (1) Prior to taking office, the President and Vice President shall swear an oath in accordance with their respective religions or shall make a solemn promise before the MPR or DPR. The oath or promise shall be as follows:

Presidential (Vice-Presidential) Oath:

"I swear before God that, to the best of my ability, I shall fulfil as justly as possible my duties as President (Vice-President) of the Republic of Indonesia, that I shall uphold faithfully the Constitution, conscientiously implement all statutes and regulations, and shall devote myself to the service of Country and Nation."

Presidential (Vice-Presidential) Promise:

"I solemnly promise that, to the best of my ability, I shall fulfil as justly as possible my duties as President (Vice-President) of the Republic of Indonesia, that I shall uphold faithfully the Constitution, conscientiously implement all statutes and regulations, and shall devote myself to the service of Country and Nation."

- (2) In the event that the MPR or DPR is unable to convene a sitting, the President and Vice-President shall swear an oath in accordance with their respective religions or shall make a solemn promise before the leadership of the MPR witnessed by the leadership of the Supreme Court.

Article 10

The President is the Supreme Commander of the Army, the Navy and the Air Force.

Article 11

- (1) The President with the approval of the DPR may declare war, make peace and conclude treaties with other countries.

- (2) The President in making other international agreements that will produce an extensive and fundamental impact on the lives of the people which is linked to the state financial burden, and/or that will requires an amendment to or the enactment of a law, shall obtain the approval of the DPR.

- (3) Further provisions regarding international agreements shall be regulated by law.

Article 12

The President may declare a state of emergency. The conditions for such a declaration and the subsequent measures regarding a state of emergency shall be regulated by law.

Article 13

- (1) The President shall appoint ambassadors and consuls.
- (2) In the appointment of ambassadors, the President shall have regard to the opinion of the DPR.
- (3) The President shall receive the accreditation of ambassadors of foreign nations and shall in so doing have regard to the opinion of the DPR.

Article 14

- (1) The President may grant clemency and restoration of rights and shall in so doing have regard to the opinion of the Supreme Court.
- (2) The President may grant amnesty and the dropping of charges and shall in so doing have regard to the opinion of the DPR.

Article 15

The President may grant titles, decorations and other honours as provided by law.

Article 16

The President shall establish an advisory council with the duty of giving advice and considered opinion to the President, which shall be further regulated by law.

Chapter IV

Supreme Advisory Council

Deleted.

Chapter V

Ministers of State

Article 17

- (1) The President shall be assisted by Ministers of State.
- (2) Ministers of State shall be appointed and dismissed by the President.
- (3) Each Minister of State shall be responsible for a particular area of Government activity.
- (4) The formation, change, and dissolution of ministries of state shall be regulated by law.

Chapter VI Regional Authorities

Article 18

- (1) The Unitary State of the Republic of Indonesia shall be divided into provinces and those provinces shall be divided into regencies (kabupaten) and municipalities (kota), each of which shall have regional authorities which shall be regulated by law.
- (2) The regional authorities of the provinces, regencies and municipalities shall administer and manage their own affairs according to the principles of regional autonomy and the duty of assistance (tugas pembantuan).
- (3) The authorities of the provinces, regencies and municipalities shall include for each a Regional People's House of Representatives (DPRD) whose members shall be elected through general elections.
- (4) Governors, Regents (bupati) and Mayors (walikota), respectively as head of regional government of the provinces, regencies and municipalities, shall be elected democratically.
- (5) The regional authorities shall exercise wide-ranging autonomy, except in matters specified by law to be the affairs of the central government.
- (6) The regional authorities shall have the authority to adopt regional regulations and other regulations to implement autonomy and the duty of assistance.
- (7) The structure and administrative mechanisms of regional authorities shall be regulated by law.

Article 18A

- (1) The authority relations between the central government and the regional authorities of the provinces, regencies and municipalities, or between a province and its regencies and municipalities, shall be regulated by law having regard to the particularities and diversity of each region.
- (2) The relations between the central government and regional authorities in finances, public services, and the use of natural and other resources shall be regulated and administered with justice and equity according to law.

Article 18B

- (1) The State recognises and respects units of regional authorities that are special and distinct, which shall be regulated by law.
- (2) The State recognises and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.

Chapter VII The People's Representative Council (Dewan Perwakilan Rakyat or DPR)

Article 19

- (1) Members of the DPR shall be elected through a general election.
- (2) The structure of the DPR shall be regulated by law.
- (3) The DPR shall convene in a session at least once a year.

Article 20

- (1) The DPR shall hold the authority to establish laws.
- (2) Each bill shall be discussed by the DPR and the President to reach joint approval.
- (3) If a bill fails to reach joint approval, that bill shall not be reintroduced within the same DPR term of sessions.
- (4) The President signs a jointly approved bill to become a law.
- (5) If the President fails to sign a jointly approved bill within 30 days following such approval, that bill shall legally become a law and must be promulgated.

Article 20A

- (1) The DPR shall hold legislative, budgeting and oversight functions.
- (2) In carrying out its functions, in addition to the rights regulated in other articles of this Constitution, the DPR shall hold the right of interpellation (interpelasi), the right of investigation (angket), and the right to declare an opinion.
- (3) Other than the rights regulated in other articles of this Constitution, every DPR member shall hold the right to submit questions, the right to propose suggestions and opinions, and the right of immunity.
- (4) Further provisions on the rights of the DPR and the rights of DPR members shall be regulated by law.

Article 21

DPR members shall have the right to propose bills.

Article 22

- (1) Should exigencies compel, the President shall have the right to establish government regulations in lieu of laws.
- (2) Such government regulations must obtain the approval of the DPR during its next session.
- (3) Should there be no such approval, these government regulations shall be revoked.

Article 22A

Further provisions regarding the procedures to establish laws shall be regulated by law.

Article 22B

DPR members may be removed from office, according to conditions and procedures which shall be regulated by law.

**Chapter VIIA
The Council of Representatives of the Regions
(Dewan Perwakilan Daerah or DPD)**

Article 22C

- (1) The members of the DPD shall be elected from every province through a general election.
- (2) The total number of members of DPD in every province shall be the same, and the total membership of the DPD shall not exceed a third of the total membership of the DPR.
- (3) The DPD shall hold a session at least once every year.
- (4) The structure and composition of the DPD shall be regulated by law.

Article 22D

- (1) The DPD may propose to the DPR Bills related to regional autonomy, the relationship of central and local government, formation, expansion and merger of regions, management of natural resources and other economic resources, and Bills related to the financial balance between the centre and the regions.
- (2) The DPD shall participate in the discussion of Bills related to regional autonomy; the relationship of central and local government; formation, expansion, and merger of regions; management of natural resources and other economic resources, and financial balance between the centre and the regions; and shall provide consideration to the DPR over Bills on the State Budget and on Bills related to taxation, education, or religion.
- (3) The DPD may oversee the implementation of laws concerning regional autonomy, the formation, expansion and merger of regions, the relationship of central and local government, management of natural resources and other economic resources, implementation of the State Budget, taxation, education, or religion and shall in addition submit the result of such oversight to the DPR in the form of materials for its further consideration.
- (4) The members of the DPD may be removed from office under requirements and procedures that shall be regulated by law.

**Chapter VIIB
General Elections**

Article 22E

- (1) General elections shall be conducted in a direct, general, free, secret, honest, and fair manner once every five years.

- (2) General elections shall be conducted to elect the members of the DPR, DPD, the President and Vice-President, and the Regional People's Representative Council (Dewan Perwakilan Rakyat Daerah or DPRD).
- (3) The participants in the general election for the election of the members of the DPR and the members of the DPRDs are political parties.
- (4) The participants in the general election for the election of the members of the DPD are individuals.
- (5) The general elections shall be organised by a general election commission of a national, permanent, and independent character.
- (6) Further provisions regarding general elections shall be regulated by law.

**Chapter VIII
Finances**

Article 23

- (1) The State Budget as the basis of the management of state funds shall be determined annually by law and shall be implemented in an open and accountable manner in order to best attain the prosperity of the people.
- (2) The Bill on the State Budget shall be submitted by the President for joint consideration with the DPR, which consideration shall take into account the opinions of the DPD.
- (3) In the event that the DPR fails to approve the proposed Bill on the State Budget submitted by the President, the Government shall implement the State Budget of the preceding year.

Article 23A

All taxes and other levies for the needs of the state of a compulsory nature shall be regulated by law.

Article 23B

The forms and denomination of the national currency shall be regulated by law.

Article 23C

Other matters concerning state finances shall be regulated by law.

Article 23D

The state shall have a central bank, the structure, composition, authorities, responsibilities and independence of which shall be regulated by law.

**Chapter VIIIA
Supreme Audit Board (Badan Pemeriksa Keuangan or BPK)**

Article 23E

- (1) To investigate the management and accountability of state finances, there shall be a single Supreme Audit Board which shall be free and independent.

- (2) The result of any investigation of state finances shall be submitted to the DPR, DPD or DPRD in line with their respective authority.
- (3) Action following the result of any such investigation will be taken by representative institutions and/or bodies according to law.

Article 23F

- (1) The members of the BPK shall be chosen by the DPR, which shall have regard to any considerations of the DPD, and will be formally appointed by the President.
- (2) The leadership of the BPK shall be elected by and from the members.

Article 23G

- (1) The BPK shall be based in the capital of the nation, and shall have representation in every province.
- (2) Further provisions regarding the BPK shall be regulated by law.

Article 24

- (1) The judicial power shall be independent and shall possess the power to organise the judicature in order to enforce law and justice.
- (2) The judicial power shall be implemented by a Supreme Court and judicial bodies underneath it in the form of public courts, religious affairs courts, military tribunals, and state administrative courts, and by a Constitutional Court.
- (3) Other institutions whose functions have a relation with the judicial powers shall be regulated by law.

Article 24A

- (1) The Supreme Court shall have the authority to hear a trial at the highest (cassation) level, to review ordinances and regulations made under any law against such law, and shall possess other authorities as provided by law.
- (2) Each justice of the Supreme Court must possess integrity and a personality that is not dishonourable, and shall be fair, professional, and possess legal experience.
- (3) Candidate justices of the Supreme Court shall be proposed by the Judicial Commission to the DPR for approval and shall subsequently be formally appointed to office by the President.
- (4) The Chair and Vice-Chair of the Supreme Court shall be elected by and from the justices of the Supreme Court.
- (5) The structure, status, membership, and judicial procedure of the Supreme Court and its subsidiary bodies of judicature shall be regulated by law.

Article 24B

- (1) There shall be an independent Judicial

Commission which shall possess the authority to propose candidates for appointment as justices of the Supreme Court and shall possess further authority to maintain and ensure the honour, dignity and behaviour of judges.

- (2) The members of the Judicial Commission shall possess legal knowledge and experience and shall be persons of integrity with a personality that is not dishonourable.
- (3) The members of the Judicial Commission shall be appointed and dismissed by the President with the approval of the DPR.
- (4) The structure, composition and membership of the Judicial Commission shall be regulated by law.

Article 24C

- (1) The Constitutional Court shall possess the authority to try a case at the first and final level and shall have the final power of decision in reviewing laws against the Constitution, determining disputes over the authorities of state institutions whose powers are given by this Constitution, deciding over the dissolution of a political party, and deciding disputes over the results of general elections.
- (2) The Constitutional Court shall possess the authority to issue a decision over an opinion of the DPR concerning alleged violations by the President and / or Vice-President of this Constitution.
- (3) The Constitutional Court shall be composed of nine persons who shall be constitutional justices and who shall be confirmed in office by the President, of whom three shall be nominated by the Supreme Court, three nominated by the DPR, and three nominated by the President.
- (4) The Chair and Vice-Chair of the Constitutional Court are elected by and from the constitutional justices.
- (5) Each constitutional justice must possess integrity and a personality that is not dishonourable, and shall be fair, shall be a states person who has a command of the Constitution and the public institutions, and shall not hold any position as a state official.
- (6) The appointment and dismissal of constitutional justices, the judicial procedure, and other provisions concerning the Constitutional Court shall be regulated by law.

Article 25

The appointment and dismissal of judges shall be regulated by law.

Chapter IXA State Territory

Article 25A

The Unitary State of the Republic of Indonesia is

an archipelagic state, the boundaries and rights of whose territory shall be established by law.

**Chapter X
Citizens and Residents**

Article 26

- (1) Citizens shall consist of indigenous Indonesian peoples and persons of foreign origin who have been legalised as citizens in accordance with law.
- (2) Residents shall consist of Indonesian citizens and foreign nationals living in Indonesia.
- (3) Matters concerning citizens and residents shall be regulated by law.

Article 27

- (1) All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions.
- (2) Every citizen shall have the right to work and to earn a humane livelihood.
- (3) Each citizen shall have the right and duty to participate in the effort of defending the state.

**Chapter XA
Human Rights**

Article 28

The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by law.

Article 28A

Every person shall have the right to live and to defend his/ her life and existence.

Article 28B

- (1) Every person shall have the right to establish a family and to procreate based upon lawful marriage.
- (2) Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination.

Article 28C

- (1) Every person shall have the right to develop him/ herself through the fulfilment of his/her basic needs, the right to get education and to benefit from science and technology, arts and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race.
- (2) Every person shall have the right to improve him/herself through collective struggle for his/ her rights to develop his/her society, nation and state.

Article 28D

- (1) Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.
- (2) Every person shall have the right to work and to receive fair and proper remuneration and treatment in employment.
- (3) Every citizen shall have the right to obtain equal opportunities in government.
- (4) Every person shall have the right to citizenship status.

Article 28E

- (1) Every person shall be free to choose and to practice the religion of his/her choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.
- (2) Every person shall have the right to the freedom to believe his/her faith (kepercayaan), and to express his/her views and thoughts, in accordance with his/her conscience.
- (3) Every person shall have the right to the freedom to associate, to assemble and to express opinions.

Article 28F

Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.

Article 28G

- (1) Every person shall have the right to protection of his/ herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.
- (2) Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country.

Article 28H

- (1) Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care.
- (2) Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness.
- (3) Every person shall have the right to social security in order to develop oneself fully as a dignified human being.

- (4) Every person shall have the right to own personal property, and such property may not be unjustly held possession of by any party.

Article 28I

- (1) The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.
- (2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.
- (3) The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilisations.
- (4) The protection, advancement, upholding and fulfilment of human rights are the responsibility of the state, especially the government.
- (5) For the purpose of upholding and protecting human rights in accordance with the principle of a democratic and law-based state, the implementation of human rights shall be guaranteed, regulated and set forth in laws and regulations.

Article 28J

- (1) Every person shall have the duty to respect the human rights of others in the orderly life of the community, nation and state.
- (2) In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society.

Chapter XI Religion

Article 29

- (1) The State shall be based upon the belief in the One and Only God.
- (2) The State guarantees all persons the freedom of worship, each according to his/her own religion or belief.

Chapter XII State Defence and Security

Article 30

- (1) Every citizen shall have the right and duty to participate in the defence and security of the state.
- (2) The defence and security of the state shall be conducted through the total people's defence and security system, with the Indonesian National Military (TNI) and the Indonesian National Police (POLRI) as the main force, and the people as the supporting force.
- (3) TNI, consisting of the Army, Navy and Air Force, as an instrument of the state has the duty to defend, protect, and maintain the integrity and sovereignty of the state.
- (4) POLRI, as an instrument of the state that maintains public order and security, has the duty to protect, guard, and serve the people, and to uphold the law.
- (5) The structure and status of TNI and POLRI, the authority relationships between TNI and POLRI in performing their respective duties, the conditions concerning the participation of citizens in the defence and security of the state, and other matters related to defence and security, shall be regulated by law.

Chapter XIII Education

Article 31

- (1) Every citizen has the right to receive education.
- (2) Every citizen has the obligation to undertake basic education, and the government has the obligation to fund this.
- (3) The government shall manage and organise one system of national education, which shall increase the level of spiritual belief, devoutness and moral character in the context of developing the life of the nation and shall be regulated by law.
- (4) The state shall prioritise the budget for education to a minimum of 20% of the State Budget and of the Regional Budgets to fulfil the needs of implementation of national education.
- (5) The government shall advance science and technology with the highest respect for religious values and national unity for the advancement of civilisation and prosperity of humankind.

Article 32

- (1) The state shall advance the national culture of Indonesia among the civilisations of the world by assuring the freedom of society to preserve and to develop cultural values.
- (2) The state shall respect and preserve local languages as national cultural treasures.

**Chapter XIV
The National Economy and Social Welfare**

Article 33

- (1) The economy shall be organized as a common endeavour based upon the principles of the family system.
- (2) Sectors of production which are important for the country and affect the life of the people shall be under the powers of the State.
- (3) The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people.
- (4) The organisation of the national economy shall be conducted on the basis of economic democracy upholding the principles of togetherness, efficiency with justice, continuity, environmental perspective, self-sufficiency, and keeping a balance in the progress and unity of the national economy.
- (5) Further provisions relating to the implementation of this article shall be regulated by law.

Article 34

- (1) Impoverished persons and abandoned children shall be taken care of by the State.
- (2) The state shall develop a system of social security for all of the people and shall empower the inadequate and underprivileged in society in accordance with human dignity.
- (3) The state shall have the obligation to provide sufficient medical and public service facilities.
- (4) Further provisions in relation to the implementation of this Article shall be regulated by law.

**Chapter XV
National Flag, Language, Coat of Arms and Anthem**

Article 35

The national flag of Indonesia shall be the Red and White (Sang Merah Putih).

Article 36

The national language shall be Indonesian (Bahasa Indonesia).

Article 36A

The national coat of arms shall be the Pancasila eagle (Garuda Pancasila) with the motto Unity in Diversity (Bhinneka Tunggal Ika).

Article 36B

The national anthem shall be Indonesia Raya.

Article 36C

Further provisions regarding the national flag, language, coat of arms and anthem shall be regulated by law.

**Chapter XVI
Constitutional Amendments**

Article 37

- (1) A proposal to amend the Articles of this Constitution may be included in the agenda of an MPR session if it is submitted by at least 1/3 of the total MPR membership.
- (2) Any proposal to amend the Articles of this Constitution shall be introduced in writing and must clearly state the articles to be amended and the reasons for the amendment.
- (3) To amend the Articles of this Constitution, the session of the MPR requires at least 2/3 of the total membership of the MPR to be present.
- (4) Any decision to amend the Articles of this Constitution shall be made with the agreement of at least fifty per cent plus one member of the total membership of the MPR.
- (5) Provisions relating to the form of the unitary state of the Republic of Indonesia may not be amended.

Transitional Provisions

Article I

All existing state institutions shall remain in place in order to implement the provisions of this Constitution as long as new state institutions are not yet established in conformity with this Constitution.

Article II

All existing laws and regulations shall remain in effect as long as new laws and regulations have not yet taken effect under this Constitution.

Article III

The Constitutional Court shall be established at the latest by 17 August 2003, and the Supreme Court shall undertake its functions before it is established.

Additional Provisions

Article I

The MPR is tasked to undertake a review of the content and the legal status of the Decrees (TAP) of the MPRS and the MPR for decision by the MPR at its session in 200(3)

Article II

With the enactment of this Amendment to the Constitution, the Constitution of the State of the Republic of Indonesia shall consist of the Preamble and the Articles.

***Source: Coordinating Ministry of Economic Affairs, Republic of Indonesia*

LAOS



CONSTITUTION OF THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

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Lao People’s Democratic Republic
Peace Independence Democracy Unity Prosperity

National Assembly No. 25/NA

RESOLUTION of the NATIONAL ASSEMBLY
of the LAO PEOPLE’S DEMOCRATIC REPUBLIC
on the ADOPTION OF THE AMENDED
CONSTITUTION OF THE LAO PEOPLE’S
DEMOCRATIC REPUBLIC

Pursuant to the Article 40 of the Constitution and Article 2 clause 1 of the Law on the National Assembly of the Lao People’s Democratic Republic;

After extended and in-depth consideration and discussions on the content of the amendment of the Constitution of the Lao People’s Democratic Republic at the 3rd ordinary session of the National Assembly (Vth Legislature), during the afternoon session of May 6, 2003.

The Session Resolved:

Article 1: Unanimously votes to adopt the Amended Constitution of the Lao People’s Democratic Republic.
Article 2: This Resolution is effective from the day it is signed.

Vientiane, dated May 6, 2003
President of the National Assembly
(Seal and Signature)

Saman Vignaket
(National Seal)

Lao People’s Democratic Republic
Peace Independence Democracy Unity Prosperity

No. 32/PDR

EXECUTIVE DECREE of the PRESIDENT
of the LAO PEOPLE’S DEMOCRATIC REPUBLIC
on the PROMULGATION OF THE AMENDED
CONSTITUTION OF THE LAO PEOPLE’S
DEMOCRATIC REPUBLIC

- Pursuant to Chapter V, Article 53, clause 1 of the Constitution of the Lao People’s Democratic Republic;
- Based on the Resolution of the 3rd ordinary session of the National Assembly, Vth Congress on the adoption of the Constitution of the Lao People’s Democratic Republic No. 25/NA, dated May 6, 2003.
- Based on the recommendation of the Standing Committee of the National Assembly No. 18/SC dated 9 May 2003.

The President of the Lao People’s Democratic Republic issues the Decree:

Article 1: The promulgation of the Amended Constitution of the Lao People’s Democratic Republic.
Article 2: This Decree is effective from the day it is signed.

Vientiane, dated May 28, 2003
The President of the Lao PDR
(Seal and Signature)

Khamtay Siphandone
(National Seal)

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

CONSTITUTION OF THE LAO PEOPLE'S
DEMOCRATIC REPUBLIC

PREAMBLE

It has been thousands of years, for the ancestors of the Lao Nation together with the multi-ethnic Lao people have fought for their existence and development on this beloved land. Since the middle of fourteenth century, our ancestors, especially, Chao Fa Ngum had lead our people to proclaim and build Lane Xang country to be a unified and prosperous.

Since the eighteen century A.D, the Lao land had been repeatedly gazed at and invaded by outside powers. Our people had enhanced the heroic and unyielding traditions of their ancestors and continually and persistently fought to gain independence and freedom.

Since 1930 under the right leadership of the former Indochinese Communist Party and the present Lao People's Revolutionary Party, the multi-ethnic Lao people have carried out difficult, arduous struggles, bravery with full of great sacrifices until they managed to crush the yokes of domination and oppression of the colonialists and feudalism regime, completely liberated the country and established the Lao People's Democratic Republic on 2 December 1975; thus opening a new era – an era of genuine independence for the country and freedom for the people.

After the country has been liberated, our people have been together implementing the two strategic tasks, such as defending and building the country, especially the carrying out of the new radically changing tasks in order to explore and strengthen the entire national centralized power in to the building and maintaining of the people's democratic regime, build fundamental factors moving forward to socialism regime.

Now, at this new period, the social life requires that the state must have a Constitution. This Constitution is the Constitution of the People's Democratic Regime in our country, which recognizes the great achievements gained by our people in the cause of struggles for national liberation and construction and defines the political, the socio-economic, national defense security, foreign affairs regime, and defines the fundamental rights and obligations of citizens, and the organizational state apparatus system in the new period. This is the first time in the history of our nation the rights to mastery of the people have been defined in the fundamental law of the nation.

This Constitution is the fruit of the best intellectual thoughts and the participation of the people's discussions throughout the country, which reflects the long-standing aspirations and strong determination of the national community to strive together to fulfill the objective of building Laos a country of peace, independence, democracy, unity and prosperity.

CHAPTER I THE POLITICAL REGIME

Article 1

The Lao People's Democratic Republic is an independent country with sovereignty and territorial integrity covering both territorial waters and airspace. It is a unified country belonging to all multi-ethnic people and is indivisible.

Article 2

The state of the Lao People's Democratic Republic is a People's Democratic State. All powers are of the people, by the people and for the interests of the multi-ethnic people of all strata in society with the workers, farmers and intellectuals as key components.

Article 3

The rights of the multi-ethnic people to be the masters of the country are exercised and ensured through the functioning of the political system with the Lao People's Revolutionary Party as its leading nucleus.

Article 4 (New)

People establish a representative organization of their rights-powers and interests, which is named as "The National Assembly".

The election of members of the National Assembly shall be carried out through the principles of universal, equal and direct suffrage, and secret balloting.

Voters have the right to propose the dismissal of their own representatives if they are found to behave unfit to their honor and to lose the people's confidence.

Article 5

The National Assembly and all other state organizations are established and functioned in accordance with the principle of democratic centralism.

Article 6

The state protects the freedom and democratic rights of the people, which cannot be violated by anyone. All state organizations and functionaries

must popularize and propagate all policies, regulations and laws among the people and, together with the people, organize their implementations in order to guarantee the legitimate rights and interests of the people. All of bureaucratized and harassing acts that can be physically harmful to the people and detrimental to their honor, lives, consciences and property are prohibited.

Article 7

The Lao Front for National Constitution, the Lao Federation of Trade Union, the Lao People’s Revolutionary Youth Union, the Lao Women’s Union and other social organizations are the organs to unite and mobilize all strata of the multi-ethnic people for taking part in the tasks of national defense and construction; develop the rights to mastership of the people and protect the legitimate rights and interests of members of their respective organizations.

Article 8

The state pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the rights to protect, preserve, and promote the fine customs and cultures of their own tribes and of the nation.

All acts of creating division and discrimination among ethnic groups are prohibited.

The state implements every measure to gradually develop and upgrade the levels of socio-economy of all ethnic groups.

Article 9 (New)

The state respects and protects all lawful activities of the Buddhists and of other religious followers, mobilizes and encourages the Buddhist monks and novices as well as the priests of religions to participate in the activities which are beneficial to the country and people. [The state] prohibits all acts, which are creating division of religions and classes of people.

Article 10 (New)

The state manages the society by the provisions of the Constitution and laws. Party, state organizations, Lao Front for National Construction, mass organizations, social organizations and all citizens must strictly obey and behave in accordance with the Constitution and laws.

Article 11 (New)

The state implements the policy of national defense security with the participation of all people in all aspects;

improves and builds a strong national defense security forces, which have loyalty to the country and people, have capacity to carry out the duty to protect the revolution gained, the people’s lives, properties, and workings; [and] contributes into the national development tasks to be a wealthy and strong nation.

Article 12

The Lao People’s Democratic Republic pursues the foreign policy of peace, independence, friendship and cooperation; and promotes the relations and cooperation with all countries on the basis of the principles of peaceful coexistence; respect for each other’s independence, sovereignty and territorial integrity; non-interference in each other’s internal affairs; equality and mutual interests.

The Lao People’s Democratic Republic supports the struggle of the world people for peace, national independence, democracy, and social progress.

**CHAPTER II
THE SOCIO - ECONOMIC REGIME**

Article 13 (New)

The National Economy of the Lao People’s Democratic Republic is a long term sustainable multisectoral economy, which all shall have been promoted in order to expand the production strength, to broaden the production, businesses and services, to transform the natural economy into a goods economy, carry out the industrialization and modernization; linkage with regional and the world economies, in order to stabilize and increasingly develop the national economy, improve the material and spiritual living conditions of the people.

All of the economic sectors are equal before the laws and operate in accordance with the mechanism of market economy, competing with and helping each other to expend the production, businesses under the state adjustment toward direction of socialism.

Article 14 (New)

The state encourages all domestic economic sectors to invest in production, business and services, contribute into the industrialization and modernization, to make the national economy strongly grows.

Article 15 (New)

The state promotes foreign investments in the Lao People’s Democratic Republic, creates environments to facilitate the importing of capital, technology and advance management into the line of production, businesses and services.

Legitimate properties, capitals of foreign investors in the Lao People's Democratic Republic will not be confiscated, seized, or transferred to the state properties.

Article 16

The state protects and expands various forms of the state, collectives, individuals, privates' ownership of both domestic and foreigner who invest in the Lao People's Democratic Republic.

Article 17 (New)

The state protects the right to ownership (rights to possess, rights to use, rights to benefit from fruits-products, the rights to dispose of) and the rights to inherit properties of organizations and individuals. As for the land, which is under the ownership of the national community, the state ensures the rights to use, the rights to transfer, and the rights to inherit it in accordance with the laws.

Article 18 (New)

The state manages the economy in line with the mechanism of market economy with the adjustment by the state, implementing the principle of promoting the centralized unified management of the central branches with combination of the division of managerial responsibility for localities in accordance with the laws.

Article 19

All organizations and citizens must protect the environment and natural resources: land, underground, forests, fauna, water sources and atmosphere.

Article 20 (New)

The Lao People's Democratic Republic implements the broadening policy on economic co-operation with foreign countries by using the multi-directional, multi-parties, multi-forms of economic relations on the principle of respecting for each other's independence, sovereignty, equality, and mutual benefits.

Article 21 (New)

The state regards the importance of the economic development in connection with the socio-cultural development by giving the priority to the human resource development.

Article 22 (New)

The state pays attention to developing education, implements the mandatory primary education in order to build the Lao people to be the good citizens, with moral-revolutionary ethics, with knowledge and skills.

The state and throughout the society pay attention to develop the national education with quality, create opportunities and conditions for people to widely receive education especially for those who live in remote areas, ethnics, women, children and the one who have lack of opportunity.

The state promotes and encourages private sectors to invest in the national education development in accordance with the laws.

Article 23 (New)

The state promotes the conservation of the unique culture and fine tradition of the nation and of the ethnics in combination with adopting the progressive culture of the world with selection.

The state promotes the promotes cultural, art, literature activities, creative thought, manages and protects the cultural, historic and natural heritage, maintains, restores the antiques and the shrines. The state pays attention to improve and expend the public media in order to serve the protection and development of the nation.

[The state] prohibits all of cultural activities or using the media to cause damages to the national interests. Destroying the fine tradition or dignity of the Lao people.

Article 24 (New)

The state pays attention to promote the intellectual and creative thought in the research and application of science technology, protects intellectual properties in combination of the improvement and creation of scientists in order to push forward the industrialization and modernization.

Article 25 (New)

The state pays attention to the improvement and expanding of the public health service in order to take care of people's health.

The state and society pay attention to establish and improve widely the disease prevention and treatment of patient, create conditions for all people to receive health cares especially for those of mothers and children, the poor people and those of living in remote areas in order to make people to be in good health.

The state promotes and encourages private sectors to invest in opening the health service in accordance with the laws.

[The state] prohibits all of illegal health services.

Article 26 (New)

The state and society pay attention to encourage, promote and invest in the public sports-gymnastics, including the fine and traditional sports of ethnics and international sports in order to improve level of sporting skills to a higher level, strengthen the people’s energy and health.

Article 27 (New)

The state and society pay attention to develop labor skills; raise high the labor principles, promotes jobs and carries of the people; protect the legitimate rights and interests of the workers.

Article 28 (New)

The state and society pay attention to implement social welfare in a good manner especially toward those of the national heroes/heroines, competitive combatants, retired officials, disable combatants, families of those who have sacrificed their lives for the revolution and those who have committed good deeds for the nation.

Article 29 (New)

The state, society and families pay attention to implement the development and promotion of women advancement policy, protect the rights and interests of the mothers and children.

Article 30 (New)

The state and society promote, develop and expend the cultural, historic and natural tourism.

[The state] prohibits any kind of tourism activity, which will damage to the healthy and beauty of the national culture or in contradiction with the rules of laws of the Lao People’s Democratic Republic.

**CHAPTER III
NATIONAL DEFENSE SECURITY**

Article 31 (New)

National defense security is the responsibility of the defense security forces, is the obligation of all organizations and all of Lao citizens in protection the independence, sovereignty, entirety territory of the country; to protect people’s lives and properties, secure the stability and the definite solid of the people’s democratic regime.

The national defense security must firmly collaborate with the socio-economic development.

Article 32 (New)

The National defense security forces must pay attention to improve and build up themselves to be greater and stronger, raise high the royalty toward the nation, being the arm forces of the people which have revolutionary reality, strict in

disciplines and have modern model plan, have high capacity in combating; being the main task force in the protection of the national security, peace and social good order.

The state pay attention to equip modern equipment, techniques, technology, vehicles, tools and upgrade knowledge, skills, professions, strategic art of fighting and strategic methodologies of the national defense security force up to a higher level.

Article 33 (New)

The state and society pays attention to implement policy, take care of physical and mental livelihood and implement the back up front toward the defense security forces. Increase the capacity in the performance of duty in the national defense and security of the society.

The defense security forces must pay attentions to lift up the self-reliance spirit, self-sufficient, contribute labor to the establishment of instant logistics affairs in order to secure their duty performance and contribute to the national development.

**CHAPTER IV
FUNDAMENTAL RIGHTS AND
OBLIGATIONS OF THE CITIZEN**

Article 34

Lao citizens are the persons who hold Lao nationality as prescribed by law.

Article 35

Lao citizens irrespective of their sex, social status, education, faith and ethnic groups are all equal before the laws.

Article 36 (New)

Lao citizens eighteen years of age and over have the right to vote and the right to be elected at the age of twenty one and over, except the one who is mad, insane and the persons whose rights to vote and to be elected have been revoked by a court.

Article 37

Citizens of both sexes enjoy equal rights in the political, economic, cultural and social fields and family affairs.

Article 38

Lao citizens have the right to be educated, advancement be risen.

Article 39 (New)

Lao citizens have the right to work and engage in

occupations, which are not against laws. Working people have the right to rest, to receive medical treatment in time of ailment to receive assistance in case of incapacity and disability, in old age, and other cases as prescribed by laws.

Article 40

Lao citizens have the freedom of settlement and movement as prescribed by laws.

Article 41 (New)

Lao citizens have the right to complaint, file petitions and propose comments to relevant state organizations in connection with issues pertaining to the rights and interests of collectives or of their individuals.

Complaints, petitions and comments of citizens must be considered and resolved as prescribed by laws.

Article 42 (New)

The right of Lao citizens in their bodies, dignities and residences are inviolable. Lao citizens cannot be arrested or searched without warrant or approval of the authorized organizations, except in the cases as prescribed by laws.

Article 43

Lao citizens have the right and freedom to believe or not to believe in any religions.

Article 44

Lao citizens have the right and freedom of speech, press and assembly; and have the right to set up associations and to stage demonstrations, which are not contrary to the laws.

Article 45

Lao citizens have the right and freedom to conduct study and to apply advanced sciences, techniques and technologies; to create artistic and literary works and to engage in cultural activities, which are not contrary to the laws.

Article 46

The state protects the legitimate rights and interests of Lao citizens residing abroad.

Article 47

Lao citizens have the obligations to respect the Constitution and laws, and to observe labor discipline, the regulations in carrying out livelihood in society, and the regulations and order of the country.

Article 48

Lao citizens have the obligations to pay taxes and duties in accordance with the laws.

Article 49

Lao citizens have the obligations to defend the country, to maintain the people's security and to fulfill military obligations as prescribed by laws.

Article 50

The aliens and persons having no nationality have the right to enjoy their rights and freedom protected by the provisions of laws of the Lao People's Democratic Republic. They have the right to lodge petitions with courts and other organizations concerned of the Lao People's Democratic Republic and the obligations to respect the Constitution and laws of the Lao People's Democratic Republic.

Article 51

The Lao People's Democratic Republic grants asylum to foreigners who re persecuted for their struggle for freedom, justice, peace and scientific dedication.

CHAPTER V THE NATIONAL ASSEMBLY

Article 52 (New)

The National Assembly is the representative organization of the people's ethnics' rights-powers and interests, it is the state authoritative and legislative organization, which has the right to make decisions on the fundamental issues of the country, supervise and oversee the activities of the administrative, the people's courts and the people's offices of public prosecution.

Article 53 (New)

The National Assembly has the following rights and duties, to:

1. Establish, adopt or amend the Constitution;
2. Consider, adopt, amend, or abolish laws;
3. Determine, amend, or abolish duties and taxes;
4. Consider and adopt the strategic plans of socioeconomic development and budget of the state;
5. Elect or remove the Chairperson, Deputy-Chairperson and the members of the National Assembly Standing Committee;
6. Elect or remove the President of state and the Vice-President of state on the recommendation of the National Assembly Standing Committee;
7. Consider and adopt the appointment or removal of the Prime Minister on the recommendation of the President of State, to consider, adopt the governmental mechanism components, the appointment, the transfer or the removal of the members of the government on the recommendation of the Prime Minister;
8. Elect or remove the President of the People's

Supreme Court and the Prosecutor General of the People’s Supreme Public Prosecution on the recommendation of the President of the state;

9. Decide upon the establishment or dissolution of the ministries, ministry equivalent organizations, provinces and capital, to determine the boundaries of provinces and capital on the recommendation of the Prime Minister;
10. Decide on granting general amnesties;
11. Decide on the ratification or abolition of treaties, agreements signed with foreign countries in accordance with laws.
12. Decide on matters of war or peace;
13. Supervise over the observance of the Constitution and laws;
14. Exercise other rights and execute other duties as prescribed by laws.

Article 54 (New)

Each Legislature of the National Assembly has an office term of five years Members of the National Assembly are elected by the Lao citizens in accordance with the provisions stipulated in the laws.

The election of the new members of the National Assembly must be completed at least sixty days before the expiration of the term of office of the incumbent National Assembly.

In the case of war or any other circumstances, which obstructs the election, the National Assembly may extend its term of office but it must carry out the election of the new members of the National Assembly not later than six months after the situation returns to normal.

In a necessary circumstances, the National Assembly shall carry out the election of the new members of the National Assembly before the expiration of its term of office but it must be approved by at least two third of the members of the National Assembly who attend the session.

Article 55

The National Assembly elects its own Standing Committee, which consists of the President, Vice-President and a number of members.

The President and Vice-President of the National Assembly are also President and Vice-President of the National Assembly Standing Committee.

Article 56 (New)

The National Assembly Standing Committee is a permanent duty organization of the National Assembly, performs duties on behalf of the

National Assembly during the recess of the National Assembly.

The National Assembly Standing Committee has the following rights and duties, to:

1. Prepare for the National Assembly sessions and to ensure the implementation by the National Assembly of the program of activity it has set forth;
2. Construe [interpret] and explain the provisions of the constitution and laws;
3. Supervise and oversee the activities of the administrative organizations, people’s courts and people’s offices of public prosecution during the recess of the National Assembly;
4. Appoint, transfer or remove judges of the people’s court at all levels and the judges of the military courts;
5. Summon the National Assembly into sessions;
6. Exercise other rights and execute other duties as prescribed by laws.

Article 57

The National Assembly convenes its ordinary session twice a year at the summoning of the National Assembly Standing Committee.

The National Assembly Standing Committee may convene an extraordinary session of the National Assembly if it deems necessary.

Article 58

The National Assembly session shall be convened only with the presence of more than one-half of the total number of the National Assembly members.

The resolutions of the National Assembly shall be valid only when they are voted for by more than one-half of the total number of the National Assembly members present at the session, except in the cases prescribed in Articles 54, 56 and Article 97 of the Constitution.

Article 59 (New)

The organizations and persons that have the rights to propose the creating of draft laws are as follows:

1. The President of state;
2. The National Assembly Standing Committee;
3. The Government;
4. The People’s Supreme Court;
5. The People’s Supreme Public Prosecution;
6. The Lao Front for National Construction and mass organizations at the central level.

Article 60

Laws already adopted by the National Assembly must be promulgated by the President of state at

least not exceeded thirty days after their adoption. During this period, the President of state has the right to request the National Assembly to reconsider over such laws. If the National Assembly affirms to adhere to its previous decision in reconsidering such laws, the President of state must promulgate them within fifteen days.

Article 61

The questions related to the destiny of the country and the vital interests of the people must be submitted for approval of the National Assembly or the National Assembly Standing Committee during the recess of the National Assembly.

Article 62 (New)

The National Assembly establishes its own committees to consider draft laws, draft state acts submitted to the National Assembly Standing Committee and the President of state; as well as to assist the National Assembly and the National Assembly Standing Committee in exercising the rights of supervision of the functioning of the administrative organizations, the people's courts and the people's offices of public prosecution.

Article 63 (New)

Members of the National Assembly have the right to interpellate the members of the government, the President of the People's Supreme Court and the People's Supreme Prosecutor General. Persons who were interpellated must give verbal or written answers at the National Assembly session.

Article 64

Members of the National Assembly shall not be prosecuted in court or detained without the consent of the National Assembly or the National Assembly Standing Committee during the recess of the National Assembly.

In cases involving gross and urgent offenses, the organizations detaining members of the National Assembly must immediately report to the National Assembly or to the National Assembly Standing Committee during the recess of the National Assembly for consideration of the decisions. Investigations interrogations shall not cause the absence of prosecuted members from the National Assembly session.

CHAPTER VI THE PRESIDENT OF STATE

Article 65

The President of state is the Head of state of the Lao People's Democratic Republic and the representative of the multi-ethnic Lao people both at home and abroad.

Article 66 (New)

The President of state is elected by the National Assembly with at least gaining of votes at least two third of the total numbers of the National Assembly members attending the session.

The President of state has a term of office equivalent to that of the National Assembly.

Article 67 (New)

The President of the state has the following rights and duties, to:

1. Promulgate the Constitution and laws already adopted by the National Assembly;
2. Issue state decrees and state acts;
3. Propose the appointment or removal of Prime Minister to the National Assembly for consideration of approval;
4. Appoint or remove the Prime Minister, appoint, transfer or remove the members of the government after the National Assembly has already approved;
5. Appoint or remove the Vice-President of the People's Supreme Court as on the recommendation of the President of the People's Supreme Court, appoint or remove the Deputy Prosecutor General of the People's Supreme Public Prosecution as on the recommendation of the Prosecutor General of the People's Supreme Public Prosecution;
6. Appoint, transfer or remove the governors of provinces and the mayor of a capital as on the recommendation of the Prime Minister;
7. Be the Head of the people's armed forces;
8. Decide to promote or demote the ranks of the Generals in the national defense - security forces as on the recommendation of the Prime Minister;
9. Summon and preside over a meeting of the government;
10. Decide on the conferment of the national gold medals, orders of Merit, medals of victory and highest honorific titles of the state;
11. Decide on granting pardons;
12. Decide on general or partial military conscription and to declare the state of emergency all over the country or in any particular locality;
13. Declare on the ratification or abolition of all treaties and agreements signed with foreign countries;
14. Appoint and recall plenipotentiary representatives of the Lao People's Democratic Republic to or from foreign countries, and accept the plenipotentiary representatives of foreign countries accredited to the Lao People's Democratic Republic;
15. Exercise other rights and execute other duties as stipulated in the laws.

Article 68 (New)

The President of state has a Vice-President who is elected by the National Assembly with the votes of more than one-half of the total number of the National Assembly members attending the session.

The Vice-President of state performs his/ her duties as assigned of the President of state and acts on behalf of the President during his absence.

**CHAPTER VII
THE GOVERNMENT**

Article 69

The government is the administrative organization of the state.

The government manages in a unified manner the implementation of duties of state in all fields: political, economic, cultural, social, national defense and security, and foreign affairs.

Article 70 (New)

The government has the following rights and duties, to:

1. Implement the Constitution, laws and resolutions of the National Assembly as well as state decrees and acts of the President of state;
2. Submit draft laws to the National Assembly; draft decrees and acts to the President of state;
3. Map out the strategic plans on the socio-economic development and annual state budgets and submit them to the National Assembly for consideration and approval;
4. Report its activities to the National Assembly, to the Standing Committee of the National Assembly (during the recess of the National Assembly) and report to the Precedent of state;
5. Issue decrees, decisions on the management of state, socio-economic, scientific and technical fields, national defense and security and foreign affairs;
6. Organize, guide and supervise the functioning of the managerial organizations of all branches and of local administrative organizations;
7. Organize and supervise the activities of the national defense and security forces;
8. Sign treaties and agreements with foreign countries and guide their implementation;
9. Suspend or revoke decisions, instructions of the ministries, the ministry equivalent organizations, organizations attached to the government, and local administrative organizations if they run counter to laws;
10. Exercise other rights and execute other duties as stipulated by law.

Article 71 (New)

The government consists of the Prime Minister, Deputy Prime Ministers, ministers and chairmen of the ministry equivalent committees.

The term of office of the government is equivalent to that of the National Assembly.

Article 72 (New)

The Prime Minister is appointed or removed by the President of state after the National Assembly has already approved.

Article 73 (New)

The Prime Minister is the Head of the government and represents the government to guide and supervise the works of the government; guides the works of ministries, the Ministry equivalent organizations, agencies and other organizations attached to the government; guides the works of the provinces and the capital.

The Prime Minister appoints, transfers or removes deputy ministers and deputy Chairman of the ministry equivalent committees, heads of agencies and other organizations, deputy governors, deputy mayors, promotes in ranks or demotes of colonel of the defense security forces and other positions described by laws.

The Deputy Prime Ministers are the assistants of the Prime Minister and be responsible for any works as assigned by the Prime Minister. During the Prime Minister' is engaged, the assigned Deputy Prime Minister shall be acting on his / her behalf.

Article 74 (New)

The government or one of the members of the government may will be passed a vote of no confidence by the National Assembly if the National Assembly Standing Committee or at least one-fourth of the total number of the National Assembly members raises the question.

Within twenty-four hours after the National Assembly has passed the vote of no confidence in the government, the President of state has the right to bring the National Assembly for reconsideration. The second consideration must be held within the forty-eight hours interval from the first consideration. If the new vote of no confidence in the government is passed the government or that members of the government must resign.

CHAPTER VIII THE LOCAL ADMINISTRATION

Article 75 (New)

The Lao People's Democratic Republic divides the local administration into three levels such as: provincial level, district level and village level.

Provincial level consists of provinces and cities.

District level consists of districts and towns.

Village level consists of villages.

Provinces have governors, cities have mayors, districts have district chiefs, towns have chiefs of the towns, and villages have village chiefs.

Governors have deputy governors, mayors of cities have deputy mayors, district chiefs have deputy district chiefs, towns have assistant chiefs of the towns, and village chiefs have deputy chiefs of villages as their assistants.

Article 76 (New)

The governors, the mayors and the district chiefs have the following rights and duties, to:

1. Ensure the implementation of the Constitution and laws, and to organize the strict implementation of decisions and instructions issued by the higher levels;
2. Guide and supervise the functioning of all branches of work at all levels under the scope of their responsibility;
3. Suspend the implementation or abolish the decisions of all branches of work at their own or lower levels, which contradict the regulations and laws;
4. Administrate the population, consider and resolve the complaints, petitions and proposals of the people under the scope of their rights and power as stipulated by laws;
5. Exercise other rights and execute other duties as stipulated by laws.

Article 77 (New)

The chiefs of the towns have the rights and duties in the field of planning, implementation and manage urban developments, widely provide public services, with good orders, clean, and beautiful within the boundary of the urban areas as stipulated in the urban planning, exercise other rights and execute other duties as stipulated by laws and regulations.

Article 78

The village chiefs have the responsibility in organizing the implementation of the state's laws, decisions and instructions, maintaining peace and security of the village; and developing the villages to become firm in all fields.

CHAPTER IX THE PEOPLE'S COURTS AND THE OFFICES OF PUBLIC PROSECUTION

Article 79 (New)

The People's Courts are the judiciary organizations of the state, which comprising of:

The People's Supreme Court,

Appellate courts.

People's Provincial and City Courts,

People's District Courts and

Military Courts.

In case of necessity, there may be the setting up a special sectoral court with the approval of the Standing Committee of the National Assembly.

Article 80 (New)

The People's Supreme Court is the highest judiciary organization of the state.

The People's Supreme Court administratively control over the people's courts at all levels, military courts and scrutinizes the sentences reached by such courts.

Article 81 (New)

The Vice-President of the People's Supreme Court is appointed or removed by the President on the recommendation of the National Assembly Standing Committee.

Judges of the people's supreme court, presidents, vicepresidents, judges of the appellate courts, presidents, vicepresidents, judges of the provincial, capital city, district courts, chiefs and deputy chiefs and judges of the military courts are appointed by the National Assembly Standing Committee on the recommendation of the President of the People's Supreme Court.

Article 82

The People's Courts make judges are to be independent and subject only to the laws.

Article 83

Trials of cases at courts proceedings must be openly conducted except in cases as stipulated by laws. The defendants have the right to defend themselves in the cases they are accused. The boards of legal counselors have the right to in providing legal assistance to the defendants.

Article 84

Representatives of social organizations have the right to take part in court proceedings as provided by laws.

Article 85 (New)

The sentences reached by the people’s courts, which have become definitely final, must be respected by the party, state, Lao Front for National Construction, mass organizations, social organizations and all citizens, the persons and organizations concerned must strictly implement them.

Article 86 (New)

The Offices of Public Prosecution is the monitoring and supervision of the laws enforcement, which consist of:

- The People’s Supreme Office of Public Prosecution,
- The People’s Offices of Public Prosecution at Appellate level,
- The People’s Offices of Public Prosecution at Provincial/City level,
- The People’s Offices of Public Prosecution at District level, The Military Offices of Prosecution.

The People’s Offices of Public Prosecution have the following rights and duties, to:

1. Monitor the unified and correct observance of laws by all ministries, ministerial equivalent, governmental organizations, Lao Front for National Construction, mass organizations, social organizations, local administrative organizations, enterprises, state employees and all citizens;
2. Exercise the right of public prosecution.

Article 87 (New)

The People’s Supreme Public Prosecutor shall supervise the activities of all levels of the people’s offices of public prosecution.

The Deputy Prosecutor General of the People’s Supreme Public Prosecution is appointed or removed by the President of the state on the recommendation of the People’s Supreme Public Prosecutor General.

The Prosecutors and Deputy Prosecutors of the People’s Offices of Public Prosecution at the appellate, provinces, capital, districts levels and the military prosecutors are appointed, transferred or removed by the People’s Supreme Public Prosecutor General.

Article 88 (New)

In carrying out their duties, the People’s Offices of Public Prosecution shall be subject only to the laws and the instructions of the People’s Supreme Public Prosecutor General.

**CHAPTER X
LANGUAGE, SCRIPT, NATIONAL BLEM,
NATIONAL FLAG, NATIONAL ANTHEM,
NATIONAL DAY, CURRENCY AND
CAPITAL CITY**

Article 89

The Lao language and Lao script are the language and script officially used.

Article 90

The National Emblem of the Lao People’s Democratic Republic is a circle depicting in the bottom part onehalf of a cog wheel and red ribbon with the inscription “Lao People’s Democratic Republic”, and decorated with crescent-shaped ears of rice on the two sides and red ribbon stretched between the middle of the rice ears with the inscription “Peace, Independence, Democracy, Unity and Prosperity”. A picture of that Luang Pagoda is located between the tips of the rice ears. A road, a paddy field a forest, and a hydroelectric dam are depicted in the middle of the circle.

Article 91

The National Flag of the Lao People’s Democratic Republic is dark blue with red edges and a white moon. The width of the flag is two-thirds of its length. The area of the red edges on each side is one-half of the dark blue area. The area of the white moon is equal to four-fifths of the dark blue area.

Article 92

The national anthem of the Lao People’s Democratic Republic is named “Xat Lao” song.

Article 93 (New)

The National Day of the Lao People’s Democratic Republic is the declaration day to proclaim the birthday of the Lao People’s Democratic Republic such as: The 2nd day of the month of December the year 1975.

Article 94 (New)

The currency of the Lao People’s Democratic Republic is the kip.

Article 95

The Capital city of the Lao People’s Democratic Republic is Vientiane Capital.

**CHAPTER XI
THE FINAL PROVISION****Article 96 (New)**

The Constitution of the Lao People's Democratic Republic is the fundamental law of the nation. All of the laws must be consistent with the Constitution.

Article 97

Only the National Assembly of the Lao People's Democratic Republic has the right to amend the Constitution.

The amendment to the Constitution requires the votes of approval cast by at least two-thirds of the total number of the National Assembly members.

Article 98 (New)

This Constitution is effective from the date that the President of the State issued the Executive Decree to promulgate it.

Vientiane, May 6, 2003

President of the National Assembly

[Signature and Seal of the President]

Saman Vignaket

MALAYSIA



CONSTITUTION OF MALAYSIA

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PART I
THE STATES, RELIGION AND LAW OF THE FEDERATION
NAME, STATES AND TERRITORIES OF THE FEDERATION

1. (1) The Federation shall be known, in Malay and in English, by the name Malaysia.
- (2) The States of the Federation shall be Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Perak, Perlis, Sabah, Sarawak, Selangor and Terengganu.
- (3) Subject to Clause (4), the territories of each of the States mentioned in Clause (2) are the territories comprised therein immediately before Malaysia Day.

- (4) The territory of the State of Selangor shall exclude the Federal Territory of Kuala Lumpur established under the Constitution (Amendment) (No. 2) Act 1973 [Act A206] and the Federal Territory of Putrajaya established under the Constitution (Amendment) Act 2001 [Act A1095] and the territory of the State of Sabah shall exclude the Federal Territory of Labuan established under the Constitution (Amendment) (No. 2) Act 1984 [Act A585], and all such Federal Territories shall be territories of the Federation.

Art. 1: *The original Article as it stood on Merdeka Day read as follows:*
"1. (1) The Federation shall be known by the name of Persekutuan Tanah Melayu (in English the Federation of Malaya).

(2) The States of the Federation are Johore, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor and Terengganu (formerly known as the Malay States) and Malacca and Penang (formerly known as the Settlements of Malacca and Penang).

(3) The territories of each of the States mentioned in Clause (2) are the territories of that States immediately before Merdeka Day."

Art. 1(2): 1. The present Article without Clause (4) was inserted by Act 26/1963, section 4, in force from 16-09-1963 (i.e. when Malaysia was established). Act 59/1966 section 2, in force from 09-08-1965 (i.e. the date Singapore left Malaysia) amended Clause (2) by deleting therefrom paragraph (c) which read as follows:

"(c) the State of Singapore."

2. The present Clause (2) was substituted by Act A354, section 2, in force from 27-08-1976. This clause before its substitution by Act A354 was amended by Act 26/1963, section 4, in force from 16-09-1963 (i.e. when Malaysia was established) read as follows:

"(2) The States of the Federation shall be-

(a) the States of Malaya, namely, Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Terengganu;

(b) the Borneo States, namely, Sabah and Sarawak; and

(c) the State of Singapore."

Art. 1(3): *The words "Subject to Clause (4)," were inserted before the words "The territories of each of the State" by Act A206, Schedule, in force from 01-02-1974.*

Art. 1(4): 1. The original Clause which was added by Act A206, Schedule, in force from 01-02-1974 (i.e. the date of the establishment of the Federal Territory of Kuala Lumpur) read as follows:

"(4) The territory of the State of Selangor shall exclude the Federal Territory established under the Constitution (Amendment) (No. 2) Act, 1973."

2. Subsequently this Clause was amended by Act A566. Subsection 2(1), in force from 01-02-1974, by inserting after the figures "1973" the words, "and the Federal Territory shall be a territory of the Federation."

Subsection 2(2) of Act A566 also provided w.e.f. 01-02-1974 that-

"Any reference in the Constitution and other written law to the Federation, Malaya, Malaysia, the States of the Federation, the States of Malaya, or West Malaysia, however used, whether or not used in conjunction with or as part of another expression, shall be construed to include a reference to the Federal Territory, unless there is express provision to the contrary or there is something in the subject or context inconsistent with or repugnant to such construction."

3. The above Clause was substituted by Act A585, section 11, in force from 16-04-1984.

4. This Clause was again substituted by Act A1095, section 11, in force from 01-02-2001.

Admission of new territories into the Federation

2. Parliament may by law
 - (a) admit other States to the Federation;
 - (b) alter the boundaries of any State, but a law altering the boundaries of a State shall not be passed without the consent of that State (expressed by a law made by the Legislature of that State) and of the Conference of Rulers.

Religion of the Federation

3. (1) Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.
- (2) In every State other than States not having a Ruler the position of the Ruler as the Head of the religion of Islam in his State in the manner and to the extent acknowledged and declared by the Constitution of that State, and, subject to that Constitution, all rights, privileges, prerogatives and powers enjoyed by him as Head of that religion, are unaffected and unimpaired; but in any acts, observances of ceremonies with respect to which the Conference of Rulers has agreed that they should extend to the Federation as a whole each of the other Rulers shall in his capacity of Head of the religion of Islam authorize the Yang di-Pertuan Agong to represent him.
- (3) The Constitution of the States of Malacca, Penang, Sabah and Sarawak shall each make provision for conferring on the Yang di-Pertuan Agong the position of Head of the religion of Islam in that State.
- (4) Nothing in this Article derogates from any other provision of this Constitution.
- (5) Notwithstanding anything in this Constitution the Yang di-Pertuan Agong shall be the head of the religion of Islam in the Federal

Territories of Kuala Lumpur, Labuan and Putrajaya; and for this purpose Parliament may be law make provisions for regulating Islamic religious affairs and for constituting a Council to advise the Yang di-Pertuan Agong in matters relating to the religion of Islam.

Supreme Law of the Federation

4. (1) This Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.
- (2) The validity of any law shall not be questioned on the ground that-
 - (a) it imposes restrictions on the right mentioned in Article 9(2) but does not relate to the matters mentioned therein; or
 - (b) it imposes such restrictions as are mentioned in Article 10(2) but those restrictions were not deemed necessary or expedient by Parliament for the purposes mentioned in that Article.
- (3) The validity of any law made by Parliament or the Legislature of any State shall not be questioned on the ground that it makes provision with respect to any matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws, except in proceedings for a declaration that the law is invalid on that ground or-
 - (a) if the law was made by Parliament, in proceedings between the Federation and one or more States;
 - (b) if the law was made by the Legislature of a State, in proceedings between the Federation and that State.

Art. 2: See Art. 22, 133(3), 159(4)(bb).

Art. 3(2): 1. The words "States not having a Ruler" in line one were substituted for "Malacca and Penang" by Act 26/1963, subsection 7(1), in force from 16-09-1963.

2. The words "religion of Islam" were substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976.

Art. 3(3): 1. The words "religion of Islam" were substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976.

2. The words "States of Malacca, Penang, Sabah and Sarawak" were substituted for "States of Malacca and Penang" by Act A354, section 3, in force from 27-08-1976.

3. Act 26/1963, subsection 7(2), in force from 16-09-1963, substituted "Penang and Singapore" for "and Penang". Act 59/1966, section 2, in force from 09-08-1965, restored the original version "and Penang".

4. See Art. 5 of the Constitutions of the States of Malacca and Penang.

Art. 3(5): 1. Added by Act A206, Schedule, in force from 01-02-1974 and amended by Act A354, section 45, in force from 27-08-1976, substituted "religion of Islam" for "Muslim religion" and "Islamic" for "Muslim".

2. The words "Territories of Kuala Lumpur and Labuan" were substituted for the word "Territory" by Act A585, Schedule, in force from 16-04-1984.

3. The words "Kuala Lumpur, Labuan and Putrajaya" were substituted for "Kuala Lumpur and Labuan" by Act A1095, section 12, in force from 01-02-2001.

Art. 4(1): See Art. 159A.

Art. 4(3): The words "in proceedings for a declaration that the law is invalid on that ground or" which appear before paragraph (a) were inserted by Act 26/1963, section 40, in force from 16-09-1963.

Art. 4(4): 1. Added by Act 26/1963, section 40, in force from 16-09-1963.

2. The word "Federal" substituted for the word "Supreme" by Act A885, section 2, in force from 24-06-1994.

- (4) Proceedings for a declaration that a law is invalid on the ground mentioned in Clause (3) (not being proceedings falling within paragraph (a) or (b) of the Clause) shall not be commenced without the leave of a judge of the Federal Court; and the Federation shall be entitled to be a party to any such proceedings, and so shall any State that would or might be a party to proceedings brought for the same purpose under paragraph (a) or (b) of the Clause.

PART II FUNDAMENTAL LIBERTIES Liberty of the person

5. (1) No person shall be deprived of his life or personal liberty save in accordance with law.
- (2) Where complaint is made to a High Court or any judge thereof that a person is being unlawfully detained the court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order him to be produced before the court and release him.
- (3) Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.
- (4) Where a person is arrested and not released he shall without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey) be produced before a magistrate and shall not be further detained in custody without the magistrate's authority:

Provided that this Clause shall not apply to the arrest or detention of any person under the existing law relating to restricted residence, and all the provisions of this Clause shall be have been an integral part of this Article as from Merdeka Day: Provided further that in its application to a person, other than a citizen, who is arrested or detained under the law relating to immigration, this Clause shall be read as if there were substituted for the words "without unreasonable delay, and in any case within twenty-four hours (excluding

the time of any necessary journey)" the words "within fourteen days":

And provided further that in the case of an arrest for an offence which is triable by a Syariah court, references in this Clause to a magistrate shall be construed as including references to a judge of a Syariah court.

(5) Clauses (3) and (4) do not apply to an enemy alien. Slavery and forced labour prohibited.

6. (1) No person shall be held in slavery.
- (2) All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes.
- (3) Work or service required from any person as a consequence of a conviction or a finding of guilt in a court of law shall not be taken to be forced labour within the meaning of this Article, provided that such work or service is carried out under the supervision and control of a public authority.
- (4) Where by any written law the whole or any part of the functions of any public authority is to be carried on by another public authority, for the purpose of enabling those functions to be performed the employees of the first mentioned public authority shall be bound to serve the second mentioned public authority, and their service with the second mentioned public authority shall not be taken to be forced labour within the meaning of this Article, and no such employee shall be entitled to demand any right from either the first mentioned or the second mentioned public authority by reason of the transfer of his employment.

Protection against retrospective criminal laws and repeated trials

7. (1) No person shall be punished for an act or omission which was not punishable by law when it was done or made, and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.
- (2) A person who has been acquitted or convicted of an offence shall not be tried again for the same offence except where the conviction

Art. 5(1): See Art. 149(1).

Art. 5(2): The words "a High Court" which appear in line one were substituted for the words "the Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963.

Art. 5(4): Proviso added by Act A354, section 4, in force from 31-08-1957.

Additional provisos added by Act A704, section 2, in force from 10-06-1988.

Art. 6(3): The present Clause was inserted by Act A1130, section 2, in force from 28-09-2001, and replaced the earlier Clause which read as follows:

"(3) Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labour within the meaning of this Article."

Art. 6(4): Added by Act A354, section 5, in force from 27-08-1976.

or acquittal has been quashed and a retrial ordered by a court superior to that by which he was acquitted or convicted.

Equality

8. (1) All persons are equal before the law and entitled to the equal protection of the law.
- (2) Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.
- (3) There shall be no discrimination in favour of any person on the ground that he is a subject of the Ruler of any State.
- (4) No public authority shall discriminate against any person on the ground that he is resident or carrying on business in any part of the Federation outside the jurisdiction of the authority.
- (5) This Article does not invalidate or prohibit-
 - (a) any provision regulating personal law;
 - (b) any provisions or practice restricting office or employment connected with the affairs of any religion or of an institution managed by a group professing any

religion, to persons professing that religion;

- (c) any provision for the protection, well-being or advancement of the aboriginal peoples of the Malay Peninsula (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service;
- (d) any provision prescribing residence in a State or part of a State as a qualification for election or appointment to any authority having jurisdiction only in that State or part, or for voting in such an election;
- (e) any provision of a Constitution of a State, being or corresponding to a provision in force immediately before Merdeka Day;
- (f) any provision restricting enlistment in the Malay Regiment to Malays.

Prohibition of banishment and freedom of movement

9. (1) No citizen shall be banished or excluded from the Federation.
- (2) Subject to Clause (3) and to any law relating to the security of the Federation or any part thereof, public order, public health, or the punishment of offenders, every citizen has the right to move freely throughout the Federation and to reside in any part thereof.

Art. 4(3): *The words "in proceedings for a declaration that the law is invalid on that ground or" which appear before paragraph (a) were inserted by Act 26/1963, section 40, in force from 16-09-1963.*

Art. 4(4): *1. Added by Act 26/1963, section 40, in force from 16-09-1963.*

2. The word "Federal" substituted for the word "Supreme" by Act A885, section 2, in force from 24-06-1994.

Art. 5(1): *See Art. 149(1).*

Art. 5(2): *The words "a High Court" which appear in line one were substituted for the words "the Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963.*

Art. 5(4): *Proviso added by Act A354, section 4, in force from 31-08-1957. Additional provisos added by Act A704, section 2, in force from 10-06-1988.*

Art. 6(3): *The present Clause was inserted by Act A1130, section 2, in force from 28-09-2001, and replaced the earlier Clause which read as follows: "(3) Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labour within the meaning of this Article."*

Art. 6(4): *Added by Act A354, section 5, in force from 27-08-1976.*

Art. 8: *See Art. 12, 161A(5).*

Clause (2): The words "descent, place of birth or gender" were substituted for "descent or place of birth" by Act A1130, section 3, in force from 28-09-2001. Clause (5)(c): The words "Malay Peninsula" were substituted for "Federation" by

Act 26/1963, section 70, in force from 16-09-1963. Clause (5)(f): See section 6, Armed Forces Act 1972 [Act 77].

Art. 9: *See Art. 149 (1).*

Clause (2): 1. The words "Subject to Clause (3) and to any law relating to the security of the Federation or any part thereof" which appear at the commencement were substituted for the words "Subject to any restriction imposed by any law relating to the security of the Federation" by Act 26/1963, subsection 60 (1), in force from 16-09-1963.

2. See Art. 4 (2)(a).

Clause (3): 1. This Clause was added by Act 26/1963, subsection 60(1), in force from 16-09-1963. A proviso which was added at the same time was repealed by Act 59/1966, section 2, in force from 19-09-1966. As it stood on the date of repeal, the proviso read as follows: "Provided that no restriction on the right of movement between the State of Singapore and the States of Malaya shall be imposed by virtue of this Clause except by a law relating to labour or education or to any matter in respect of which, because of the special position of the State of Singapore, it appears to Parliament to be desirable to prevent the enjoyment of rights both in the State of Singapore and in the States of Malaya."

2. This Clause (3) applies to laws passed before Malaysia Day so as to impose restrictions with effect from Malaysia Day-Act 26/1963, subsection 60(2).

- (3) So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence.

Freedom of speech, assembly and association

10. (1) Subject to Clauses (2), (3) and (4)
- (a) every citizen has the right to freedom of speech and expression;
 - (b) all citizens have the right to assemble peaceably and without arms;
 - (c) all citizens have the right to form associations.
- (2) Parliament may by law impose-
- (a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence;
 - (b) on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof or public order;
 - (c) on the right conferred by paragraph (c) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality.
- (3) Restrictions on the right to form associations conferred by paragraph (c)

of Clause (1) may also be imposed by any law relating to labour or education.

- (4) In imposing restrictions in the interest of the security of the Federation or any part thereof or public order under Clause (2)(a), Parliament may pass law prohibiting the questioning of any matter, right, status, position, privilege, sovereignty or prerogative established or protected by the provisions of Part III, Article 152, 153 or 181 otherwise than in relation to the implementation thereof as may be specified in such law.

Freedom of religion

11. (1) Every person has the right to profess and practise his religion and, subject to Clause (4), to propagate it.
- (2) No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.
- (3) Every religious group has the right
- (a) to manage its own religious affairs;
 - (b) to establish and maintain institutions for religious or charitable purposes; and
 - (c) to acquire and own property and hold and administer it in accordance with law.
- (4) State law and in respect of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.
- (5) This Article does not authorize any act contrary to any general law relating to public order, public health or morality.

Art. 9: 3. The proviso of Clause (3) was amended by the addition of "and any such restriction shall apply reciprocally to the State of Malaya and the State of Singapore" at the end of the proviso by Act 19/1964, section 2, in force from 30-07-1964.

Art. 10: See Art. 149 (1).
 Clause (1): The word "Subject to Clauses (2), (3) and (4)" substituted for "Subject to Clauses (2) and (3)" by Act A30, section 2, in force 10-03-1971.
 Clause (2): 1. The word "or any part thereof" which appear in paragraphs (a), (b) and (c) after the word "Federation" were inserted by Act 26/1963, subsection 60(3), in force from 16-09-1963.
 2. See Art. 4 (2)(b).
 Clause (3) was added by Act 26/1963, subsection 60 (4), in force from 16-09-1963, which also amended Clause (1) by substituting the words

"Clauses (2) and (3)" for "Clause (2)" appearing at the commencement of the Clause.

Clause (4) added by Act A30, section 2, in force from 10-03-1971.

Art. 11(4): 1. The words "and in respect of the Federal Territory, federal law" were inserted after "State law" in line one by Act A206, Schedule, in force from 01-02-1974. The words "religion of Islam" substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976.

2. Subsequently the words "Territories of Kuala Lumpur and Labuan" were substituted for the word "Territory" by Act A585, Schedule, in force from 16-04-1984.

3. The words "Kuala Lumpur, Labuan and Putrajaya" were substituted for "Kuala Lumpur and Labuan" by Act A1095, section 13, in force from 01-02-2001.

Rights in respect of education

12. (1) Without prejudice to the generality of Article 8, there shall be no discrimination against any citizen on the grounds only of religion, race, descent or place of birth
- (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees; or
- (b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether within or outside the Federation).
- (2) Every religious group has the right to establish and maintain institutions for the education of children in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law; but it shall be lawful for the Federation or a State to establish or maintain or assist in establishing or maintaining Islamic institutions or provide or assist in providing instruction in the religion of Islam and incur such expenditure as may be necessary for the purpose.
- (3) No person shall be required to receive instruction in or to take part in any

ceremony or act of worship of a religion other than his own.

- (4) For the purposes of Clause (3) the religion of a person under the age of eighteen years shall be decided by his parent or guardian.

Rights to property

13. (1) No person shall be deprived of property save in accordance with law.
- (2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

PART III
CITIZENSHIP

Chapter 1 - Acquisition of Citizenship
Citizenship by operation of law

14. (1) Subject to the provisions of this Part, the following persons are citizens by operation of law, that is to say:
- (a) every person born before Malaysia Day who is a citizen of the Federation by virtue of the provisions contained in Part I of the Second Schedule; and
- (b) every person born on or after Malaysia Day, and having any of the qualifications specified in Part II of the Second Schedule.
- (c) (Repealed).
- (2) (Repealed).
- (3) (Repealed).

Art. 12(2):1. The present Clause (2) was inserted by Act A354, section 6, in force from 27-08-1976, and replaced the earlier Clause which read as follows: "(2) Every religious group has the right to establish and maintain institutions for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law, but federal law or State law may provide for special financial aid for the establishment or maintenance of Muslim institution or the instruction in the Muslim religion of persons professing that religion."

2. The words "or State law" which appear in line four above after "federal law" were inserted by Act 25/1963, subsection 2(1), in force from 31-08-1957 vide subsection 3 (3).

Art. 14: 1. The present Article was inserted by Act 26/1963, section 23, in force from 16-09-1963, but Clauses (1)(c), (2) and (3), which are reproduced below, were repealed by Act 59/1966, section 2, in force from 09-08-1965:

- "(1) (c) every citizen of Singapore.
- (2) Subject to the provisions of this Part, provision with respect to citizenship of Singapore may be made by the constitution of that State, and may be amended by laws passed by the Legislature of that State and approved by Act of Parliament.
- (3) Citizenship of Singapore shall not be severable from citizenship of the Federation, but a Singapore citizen by the loss of either shall lose the other also (subject to the provision made by this Part for the enrolment of a Singapore citizen as a citizen who

is not a Singapore citizen)."

2. The earlier Article, as it stood at the date of repeal, read as follows:

"14. (1) Subject to the following provisions of this Article, the following persons are citizens by operation of law, that is to say:

(a) every person who, immediately before Merdeka Day, was citizen of the Federation by virtue of any of the provisions of the Federation of Malaya Agreement 1948, whether by operation of law or otherwise;

(b) every person born within the Federation on or after Merdeka Day;

(c) every person born outside the Federation on or after Merdeka Day whose father is a citizen at the time of the birth and either was born within the Federation or is at the time of the birth in service under the Government of the Federation or of a State;

(d) every person born outside the Federation on or after Merdeka Day whose father is a citizen at the time of the birth, if the birth is registered at a Malayan Consulate or, in the case of any such person born within any prescribed territory, with the Federal Government, within one year of its occurrence, or within such longer period as the Federal Government may in any particular case allow.

For the purposes of paragraph (d) of this Clause "prescribed territory" means Singapore, Sarawak, Brunei or North Borneo, or any such other territory as the Yang di-Pertuan Agong may by order prescribe for those purposes.

Citizenship by registration (wives and children of citizens)

- 15.(1) Subject to Article 18, any married woman whose husband is a citizen is entitled, upon making application to the Federal Government, to be registered as a citizen if the marriage was subsisting and the husband a citizen at the beginning of October 1962, or if she satisfies the Federal Government-
- (a) that she has resided in the Federation throughout the two years preceding the date of the application and intends to do so permanently; and
 - (b) that she is of good character.
- (2) Subject to Article 18, the Federal Government may cause any person under the age of twenty-one years of whose parents one at least is (or was at death) a citizen to be registered as a citizen upon application made to the Federal Government by his parent or guardian.
- (3) Subject to Article 18, a person under the age of twenty-one years who was born before the beginning of October 1962, and whose father is (or was at his death) a citizen and was also a citizen at the beginning of that month (if then alive), is entitled upon application made to the Federal Government by his parent or guardian, to be registered as a citizen if the Federal Government is satisfied that he is

ordinarily resident in the Federation and is of good character.

- (4) For the purposes of Clause (1) residence before Malaysia Day in the territories comprised in the States of Sabah and Sarawak shall be treated as residence in the Federation.
- (5) The reference in Clause (1) to a married woman is a reference to a woman whose marriage has been registered in accordance with any written law in force in the Federation, including any such law in force before Merdeka Day, or with any written law in force before Malaysia Day in the territories comprised in the States of Sabah and Sarawak: Provided that this Clause shall not apply where the woman applies to be registered as a citizen before the beginning of September 1965, or such later date as may be fixed by order of the Yang di-Pertuan Agong, and is at the date of the application ordinarily resident in the States of Sabah and Sarawak.

Special power to register children

- 15A. Subject to Article 18, the Federal Government may, in such special circumstances as it thinks fit, cause any person under the age of twenty-one years to be registered as a citizen. Citizenship by registration (persons born in the Federation before Merdeka Day)

- Art. 14: (2) A person is not a citizen by virtue of paragraph (b) of Clause (1) if, at the time of his birth-
- (a) his father, not being a citizen of the Federation, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power credited to the Yang di-Pertuan Agong; or
 - (b) in the case of a birth occurring in a place under occupation by the enemy, his father was an enemy alien; or
 - (c) neither of his parents was a citizen of the Federation and neither of them was a permanent resident therein:
- Provided that paragraph (c) of this Clause does not apply-
- (i) to any person born within the Federation before the date on which section 2 of the Constitution (Amendment) Act 1962 come into force;
 - (ii) to any person if, as a result of the application of that paragraph, he would not be a citizen of any country.
- (3) For the purposes of this Article a person born on board a registered ship or aircraft shall be deemed to have been born in the place in which the ship or aircraft was registered, and a person born on board an unregistered ship or aircraft of the Government of any country shall be deemed to have been born in that country.
- (4) For the purposes of paragraph (c) of Clause (2) a person shall be treated as having been at any time a permanent resident in the Federation if, but only if, he was then resident in the Federation and either-

(a) he then had permission, granted without limit of time under any Federal law, to reside there; or

(b) it is certified by the Federal Government that he is to be treated for the purposes of the said paragraph (c) as a permanent resident in the Federation.

(5) A certificate of the Federal Government that a person is or was excluded from the application of paragraph (c) of Clause (2) by paragraph (ii) of the proviso to that Clause shall be conclusive evidence of the matter certified."

- Art. 15:
1. The present Article was inserted by Act 26/1963, section 25, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, amended it-
 - (a) by repealing Clause (6) which read as follows: "(6) In Clause (1) the words "outside Singapore" shall not have effect in the case of a woman whose husband is a citizen by naturalization under Clause (2) of Article 19.;"
 - (b) by deleting the references to Singapore and Singapore citizens in Clauses (1) to (5).
 - Clause (1): See Art. 24(4), 26(2), 28(1)(b), 28A(3).
 - Clause (3): See 2nd Sch. Pt. III, section 18.
 2. The original Article as it stood on Merdeka Day read as follows:

"15. (1) Subject to Article 18, any woman who is married to a citizen is entitled, upon making application to the registering authority, to be registered as a citizen.

16. Subject to Article 18, any person of or over the age of eighteen years who was born in the Federation before Merdeka Day is entitled, upon making application to the Federal Government, to be registered as a citizen if he satisfies the Federal Government
- that he has resided in the Federation during the seven years immediately preceding the date of the application, for periods amounting in the aggregate to not less than five years;
 - that he intends to do so permanently;
 - that he is of good character; and
 - that he has an elementary knowledge of the Malay language. Citizenship by registration (persons resident in States of Sabah and Sarawak on Malaysia Day)
- 16A. Subject to Article 18, any person of or over the age of eighteen years who is on Malaysia Day ordinarily resident in the State of Sabah or Sarawak is entitled, upon making application to the Federal Government before September 1971, to be registered as a citizen

if he satisfies the Federal Government

- that he has resided before Malaysia Day in the territories comprised in those States and after Malaysia Day in the Federation for periods which amount in the aggregate to not less than seven years in the ten years immediately preceding the date of the application, and which include the twelve months immediately preceding that date;
- that he intends to reside permanently in the Federation;
- that he is of good character; and
- except where the application is made before September 1965, and the applicant has attained the age of forty-five years at the date of the application, that he has a sufficient knowledge of the Malay language or the English language or, in the case of an applicant ordinarily resident in Sarawak, the Malay language, the English language or any native language in current use in Sarawak.

Art. 15: (2) Subject to Article 18, any person under the age of twenty-one years whose father is a citizen or, if deceased, was a citizen at the time of his death, is entitled, upon application made to the registration authority by his parent or guardian, to be registered as a citizen if that authority is satisfied that he is ordinarily resident in the Federation and is of good character.

(3) The reference in this Article to a woman who is married is a reference to a woman whose marriage has been registered in accordance with any written law in force in the Federation including any such law in force before Merdeka Day.

Clauses (1) and (2) amended by Act 10/1960, section 2, in force from 01-12-1960, by substituting "Federal Government" for "registration authority" and "the Federal Government" for "that authority". These two Clauses as substituted by Act 14/1962, section 3, in force from 01-10-1962, read as follows:

"15. (1) Subject to Article 18, any woman who is married to a citizen is entitled, upon making application to the Federal Government, to be registered as a citizen if she satisfied the Federal Government-

(a) that she has resided continuously in the Federation for a period of not less than two years immediately preceding the date of the application;

(b) that she intends to reside permanently therein; and

(c) that she is of good character.

(2) Subject to Article 18, the Federal Government may cause any person under the age of twenty-one years, being the child of any citizen, to be registered as a citizen upon application made to the Federal Government by his parent or guardian."

Art. 15(4) & (5):

The words "State of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976. Clauses (3) to (6): See note on previous page.

Art. 15A: Added by Act 14/1962, section 4, in force from 01-10-1962.

Art. 16:1. Act 10/1960, paragraphs 2(a) and (b), in force from 01-12-1960, substituted the words "Federal Government" for "registration authority" and "that authority".

2. Act 25/1963, section 8, in force from 29-08-1963, deleted the words " except where the

application is made within one year after Merdeka Day, " which appeared at the commencement of paragraph (d).

3. Act 26/1963, subsection 29(1), in force from 16-09-1963-

(a) inserted the words "outside Singapore" after "Federation" in paragraph (a). These words were subsequently repealed by Act 59/1966, section 2, in force from 09-08-1965;

(b) substituted the words "to do so permanently" for "to reside permanently therein" in paragraph (b).

Art. 16A: 1. Added by Act 26/1963, section 26, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, deleted the words "outside Singapore" which appeared in paragraphs (a) and (b) after "Federation". The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

2. See Art. 25(1), (1A), (2), 28A(4).

Art. 17: 1. The words "Federal Government" were substituted for the words "registration authority" by Act 10/1960, paragraph 2(a), in force from 01-12-1960.

2. This Article which read as follows, was repealed by Act 14/1962, section 5, in force from 01-07-1963, the repeal to be without prejudice to the operation of the Article as respects any application for registration thereunder made before the coming into operation of the said section 5:

"17. Subject to Article 18, any person of or over the age of eighteen years who was resident in the Federation on Merdeka Day is eligible, subject to the provisions of the Second Schedule, to be registered as a citizen upon making application to the Federal Government if he satisfies the Federal Government-

(a) that he has resided in the Federation, during the twelve years immediately preceding the date of the application, for periods amounting in the aggregate to not less than eight years;

(b) that he intends to reside permanently therein;

(c) that he is of good character; and

(d) except where the application is made within one year after Merdeka Day and the applicant has attained the age of forty-five years at the date of the application, that he has an elementary knowledge of the Malay language."

17. (Repealed).

General provisions as to registration

18. (1) No person of or over the age of eighteen years shall be registered as a citizen under this Constitution until he has taken the oath set out in the First Schedule.
- (2) Except with the approval of the Federal Government, no person who has renounced or has been deprived of citizenship under this Constitution or who has renounced or has been deprived of federal citizenship or citizenship of the Federation before Merdeka Day under the Federation of Malaya Agreement 1948 shall be registered as a citizen under this Constitution.
- (3) A person registered as a citizen under this Constitution shall be a citizen by registration from the day on which he is so registered.
- (4) (Repealed).

Citizenship by naturalization

19. (1) Subject to Clause (9), the Federal Government may, upon application made by any person of or over the age

of twenty-one years who is not a citizen, grant a certificate of naturalization to that person if satisfied

- (a) that
- (i) he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;
- (ii) (Repealed);
- (b) that he is of good character; and
- (c) that he has an adequate knowledge of the Malay language.

- (2) Subject to Clause (9), the Federal Government may, in such special circumstances as it thinks fit, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalization to that person if satisfied

- (a) that he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;
- (b) that he is of good character; and
- (c) that he has an adequate knowledge of the Malay language.

Art. 17: 3. There are references to this repealed Article in Art. 25(1), (1A),(2), 28 (1)(a), 28A(4), 43(7) and in 8th Sch. subsections 2(3), 20(3).

Art. 18: 1. The words "this Constitution" which appear in Clause (1), at the end of Clause (2) and in Clause (3) were introduced by Act 26/1963, subsection 29(2), in force from 16-09-1963, and replaced references to Articles 15 and 16. The Act also inserted the words "or the Constitution of the State of Singapore" after the words "deprived of citizenship under this Constitution" in Clause (2) but they were deleted by Act 59/1966, section 2, in force from 09-08-1965.

2. Clause (4) which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(4) For the purpose of any application for registration under any of the said Articles, a person shall be deemed to be of good character unless, within the period of three years immediately preceding the date of the application-

(a) he has been convicted by a competent court in any country of a criminal offence for which he was sentenced to death; or

(b) he has been detained under a sentence of imprisonment of twelve months or more imposed on him on his conviction of a criminal offence (whether during or before the said period) by such a court, and in either case has not received a free pardon in respect of the offence."

3. See Art. 15(1), (2), (3), 15A, 16, 16A.

Art. 19: 1. The present Article was inserted by Act 26/1963, section 27, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, made the following amendments to it:

(a) Clause (1):

(i) the words "Clause (9)" were substituted for "Clauses (7) and (9)" in line one;

(ii) the words "outside Singapore" which appeared in subparagraph (a)(i) after "Federation" were deleted:

(iii) subparagraph (a)(ii) which read as follows was repealed:

"(ii) he has resided in Singapore for the required periods and intends, if the certificate is granted, to do so permanently;"

(b) Clause (4): the words "outside Singapore" which appeared after "Federation" in line four were deleted and the words "in Singapore before Malaysia Day or with the approval of the Federal Government residence in Singapore after Malaysia Day" were substituted for "before Malaysia Day in Singapore".

The words "the States of Sabah and Sarawak" were substituted for "the Borneo States" by Act A354, section 43, in force from 27-08-1976.

(c) Clauses (6) to (8) which read as follows were repealed:

"(6) A person to whom a certificate of naturalization is granted shall be a Singapore citizen if but only if the certificate is granted by virtue of paragraph (a)(ii) of Clause (1).

(7) A certificate of naturalization as a Singapore citizen shall not be granted without the concurrence of the Government of Singapore.

(8) Any application for naturalization as a citizen of Singapore which has been made but not disposed of before Malaysia Day shall as from that day be treated as if it had been an application duly made for naturalization under this Article, and as if anything done in connection therewith before that day under or of the purposes of the law of Singapore had been duly done under or for the purposes of this Article."

2. The earlier Article read as follows:

"19. Subject to Article 21, the Federal Government may, upon application made by any person of or over the age of twenty-one years, grant a certificate of naturalization to that person if satisfied-

(a) that he has resided in the Federation, during the twelve years preceding the date of the application, for periods amounting in the aggregate to not less than ten years;

- (3) The periods of residence in the Federation or the relevant part of it which are required for the grant of a certificate of naturalization are periods which amount in the aggregate to not less than ten years in the twelve years immediately preceding the date of the application for the certificate, and which include the twelve months immediately preceding that date.
- (4) For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the States of Sabah and Sarawak shall be treated as residence in the Federation; and for the purposes of Clause (2) residence in Singapore before Malaysia Day or with the approval of the Federal Government residence in

Singapore after Malaysia Day shall be treated as residence in the Federation.

- (5) A person to whom a certificate of naturalization is granted shall be a citizen by naturalization from the date on which the certificate is granted.
- (6) (Repealed).
- (7) (Repealed).
- (8) (Repealed).
- (9) No certificate of naturalization shall be granted to any person until he has taken the oath set out in the First Schedule.
- 19A. (Repealed).
20. (Repealed).
21. (Repealed).

Art. 19: (b) that he intends, if the certificate is granted, to reside permanently therein;
(c) that he is of good character;
(d) that he has an adequate knowledge of the Malay language; and
(e) that he has resided continuously in the Federation for a period of not less than one year immediately preceding the date of the application.”.

Art. 19A:1. This Article which read as follows was inserted by Act 26/1963, section 28, in force from 16-09-1963, and was repealed by Act 59/1966, section 2, in force from 09-08-1965:

"19A. (1) The Federal Government may, upon application made by any Singapore citizen of or over the age of twenty-one years, enrol him as a citizen who is not a Singapore citizen, if the Federal Government is satisfied that, had his application been for the grant under Article 19 of a certificate of naturalization as a citizen who is not a Singapore citizen, the conditions of paragraphs (a)(i), (b) and (c) of Clause (1) of that Article for the grant of the certificate would be fulfilled.

(2) In relation to Singapore citizens Articles 15 and 15A shall apply to entitle or allow them to be enrolled as citizens who are not Singapore citizens, in the same way as those Articles apply, in relation to persons who are not citizens, to entitle or allow them to be registered as citizens, except that references to Article 18 shall not apply, nor shall Clause (6) of Article 15.

(3) A citizen enrolled as being or not being a Singapore citizen by virtue of this Article or by virtue of any corresponding provision in the Constitution of the State of Singapore shall be or not be a Singapore citizen accordingly from the day on which he is so enrolled.

(4) Where a person has been enrolled under this Article as a citizen who is not a Singapore citizen, and the Federal Government is satisfied that the enrolment-

(a) was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) was effected by mistake;
the Federal Government may cancel the enrolment:

Provided that Article 27 shall apply in relation to the cancellation as it applies in relation to an order under Article 24, 25 or 26 depriving a person of citizenship.

(5) Where a person's enrolment as a citizen who is not a Singapore citizen is cancelled under

paragraph (a) of Clause (4), and in consequence of that enrolment a child of that person had also been enrolled as such a citizen pursuant to Clause (2) of Article 15 as applied by this Article, the Federal Government may also cancel the child's enrolment unless the child has attained the age of twenty-one.

(6) Where under this Article or under any provision of the Constitution of the State of Singapore a person's enrolment as a citizen of either description is cancelled, that shall not discharge him from liability in respect of anything done or omitted before the cancellation, but except as regards anything so done or omitted he shall revert to his former status as a citizen.”.

2. There is a reference to this repealed Article in 2nd Sch. Part III, subsection 4(3).

Art. 20: 1. (a) This Article which read as follows was repealed by Act 14/1962, section 7, in force from 01-02-1964:

"20. (1) Subject to Article 21, the Federal Government shall, upon application made by any person in accordance with Clause (2), grant a certificate of naturalization to that person if satisfied-

(a) that he has served satisfactorily for a period of not less than three years in full-time service, or for a period of not less than four years in part-time service, in such of the armed forces of the Federation as may be prescribed by the Federal Government for the purposes of this Article; and
(b) that he intends, if the certificate is granted, to reside permanently in the States of Malaya.

(2) An application under this Article may be made either while the applicant is serving in such service as aforesaid or within the period of five years, or such longer period as the Federal Government may in any particular case, allow, after his discharge.

(3) References in this Article to service in the armed forces of the Federation include references to service before Merdeka Day; and in calculating for the purposes of this Article the period of full-time service in such forces of a person who has served both in full-time and in part-time service therein, any two months of part-time service shall be treated as one month of full-time service.”.

(b) The words "States of Malaya" which appear at the end of Clause (1)(b) were inserted by Act 26/1963, subsection 29(3), in force from 16-09-1963, in substitution for the word "Federation".

2. For list of forces prescribed under Article 20(1)(a) see L.N. 261/1958.

Citizenship by incorporation of territory

22. If any new territory is admitted to the Federation after Malaysia Day in pursuance of Article 2, Parliament may by law determine what persons are to be citizens by reason of their connection with that territory and the date or dates from which such persons are to be citizens.

Chapter 2 - Termination of Citizenship

Renunciation of citizenship

23.(1) Any citizen of or over the age of twenty-one years and of sound mind who is also or is about to become a citizen of another country may renounce his citizenship of the Federation by declaration registered by the Federal Government, and shall thereupon cease to be a citizen.

(2) A declaration made under this Article during any war in which the Federation is engaged shall not be registered except with the approval of the Federal Government.

(3) This Article applies to a woman under the age of twentyone years who has been married as it applies to a person of or over that age.

Deprivation of citizenship on acquisition or exercise of foreign citizenship, etc.

24.(1) If the Federal Government is satisfied that any citizen has acquired by registration, naturalization or other voluntary and formal act (other than marriage) the

citizenship of any country outside the Federation, the Federal Government may by order deprive that person of his citizenship.

(2) If the Federal Government is satisfied that any citizen has voluntarily claimed and exercised in any country outside the Federation any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Federal Government may by order deprive that person of his citizenship.

(3) (Repealed).

(3A) Without prejudice to the generality of Clause (2), the exercise of a vote in any political election in a place outside the Federation shall be deemed to be the voluntary claim and exercise of a right available under the law of that place; and for the purposes of Clause (2), a person who, after such date as the Yang di-Pertuan Agong may by order appoint* for the purposes of this Clause

(a) applies to the authorities of a place outside the Federation for the issue or renewal of a passport; or

(b) uses a passport issued by such authorities as a travel document, shall be deemed voluntarily to claim and exercise a right available under the law of that place, being a right accorded exclusively to the citizens of that place.

Art. 21: This Article which read as follows was repealed by Act 26/1963, section 70, in force from 16-09-1963, but continues to have effect for the purposes of repealed Article 20:

"21. (1) A certificate of naturalization shall not be granted to any person until he has taken the oath set out in the First Schedule.

(2) A person to whom a certificate of naturalization is granted shall be a citizen by naturalization from the date on which the certificate is so granted."

Art. 22: Amended by Act 26/1963, section 34, in force from 16-09-1963, by the insertion of the words "after Malaysia Day" after "admitted to the Federation".

Art. 23(1): Act 10/1960, paragraph 2(a), in force from 01-12-1960, substituted the words "Federal Government" for "registration authority" and Act 14/1962, section 8, in force from 31-08-1957, inserted "or is about to become" after "who is also".

Art. 23(2): Act 10/1960, paragraph 2(c), in force from 01-12-1960, deleted, "but except as aforesaid the registration authority shall register any declaration duly made thereunder" which appeared at the end of the Clause.

Art. 24: Act 14/1962, section 9, in force from 01-10-1962, substituted the words "part of the Commonwealth" for "Commonwealth country" and the words "that part of the Commonwealth" for "that country" in Clause (3) and added Clause (3A). Act 26/1963, subsection 33(1), in force from 16-09-1963, deleted the words "at any time after Merdeka Day"

which appeared after "any citizen has" in Clauses (1) and (2).

Art. 24(2): 1. The words "any country outside the Federation" substituted for "a foreign country" by Act A354, section 7, in force from 27-08-1976.

2. See Art. 27 (1), 28A(2).

Clause (1): See Art. 26A, 28(3).

Clause (2): See Art. 28(3).

Clause (4): See Art. 28A(3).

Art. 24(3): The words "part of the Commonwealth" substituted for "Commonwealth country" and the words "that part of the Commonwealth" substituted for "that country" by Act 14//1962, section 9, in force from 01-10-1962. This Clause which read as follows was repealed by Act A354, section 7, in force from 27-08-1976:

"(3) Where provision is in force under the law of any part of the Commonwealth for conferring on citizens of that part of the Commonwealth rights not available to other Commonwealth citizens, Clause (2) shall apply, in relation to those rights, as if that part of the Commonwealth were a foreign country."

Art. 24(3A): Added by Act 14/1962, section 9, in force from 01-10-1962, and amended by Act A354, section 7, in force from 27-08-1976 by deleting "and that Clause as applied by Clause (3)," which appear after the words "generality of Clause (2)", and deleting "and that Clause as applied as aforesaid", which appear after the words "purposes of Clause (2)".

- (4) If the Federal Government is satisfied that any woman who is a citizen by registration under Clause (1) of Article 15 has acquired the citizenship of any country outside the Federation by virtue of her marriage to a person who is not a citizen, the Federal Government may by order deprive her of her citizenship.

Deprivation of citizenship by registration under Article 16A or 17 or by naturalization

25. (1) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalization if satisfied
- (a) that he has shown himself by act or speech to be disloyal or disaffected towards the Federation;
 - (b) that he has, during any war in which the Federation is or was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in that war; or
 - (c) that he has, within the period of five years beginning with the date of the registration or the grant of the certificate, been sentenced in any country to imprisonment for a term of not less than twelve months or to a fine of not less than five thousand ringgit or the equivalent in the currency of that country, and has not received a free pardon in respect of the offence for which he was so sentenced.

- (1A) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalization if satisfied that without the Federal Government's approval, he has accepted, served in, or performed the duties of any office, post or employment under the Government of any country outside the Federation or any political subdivision thereof, or under any agency of such a Government, in any case where an oath, affirmation or declaration of allegiance is required in respect of the office, post or employment: Provided that a person shall not be deprived of citizenship under this Clause by reason of anything done before the beginning of October 1962, in relation to a foreign country, and before the beginning of January 1977, in relation to a Commonwealth country, notwithstanding that he was at the time a citizen.
- (2) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalization if satisfied that he has been ordinarily resident in countries outside the Federation for a continuous period of five years and during that period has neither
- (a) been at any time in the service of the Federation or of an international organization of which the Federal Government was a member; nor
 - (b) registered annually at a consulate of the Federation his intention to retain his citizenship:

Art. 25: 1. See Art. 26B(2), 27(1), 28(2), 28A(2), (4), (5), (6).
 Clause (1): Act 14/1962, Sch., section 3, in force from 01-10-1962, deleted the words "subject to Clause (3)" which appeared at the commencement. Act 26/1963, paragraph 33(2)(a), in force from 16-09-1963, substituted the words "Article 16A or 17" for "Article 17".
 Clause (1)(c): The word "ringgit" substituted for "dollars" by Malaysian Currency (Ringgit) Act 1975 [Act 160], section 2, in force from 29-08-1975.
 Clause (1A): 1. Added by Act 14/1962, subsection 10(2), in force from 01-10-1962. Act 26/1963, paragraphs 33(2)(a) and (b) in force from 16-09-1963, substituted the words "Article 16A or 17" for "Article 17", deleted the words "after the registration or naturalization or the coming into operation of this Clause, whichever is the later," and added the proviso.
 2. Amended by Act A354, section 8, in force from 27-08-1976, by substituting "country outside the Federation" for "foreign country", and inserting after "October, 1962," in the proviso the words "in relation to a foreign country, and before the beginning of January, 1977, in relation to a Commonwealth country".
 Clause 2: Act 14/1962, Sch., section 3, in force from 01-10-1962, deleted the words "Subject to Clause (3)" which appeared at the commencement

and substituted the words "five years (whether beginning before, on or after Merdeka Day)" for "seven years". Act 26/1963, subsection 33(1) and (2), in force from 16-09-1963, substituted the words "Article 16A or 17" for "Article 17", deleted the words "(whether beginning before, on or after Merdeka Day)" which had been inserted by Act 14/1962, and substituted the words "consulate of the Federation" for "Malayan Consulate" in paragraph (b).
 3. The words "countries outside the Federation" substituted for "foreign countries" by Act A354, section 8, in force from 27-08-1976. A new proviso to Clause (2) added by Act A354, section 8, in force from 27-08-1976.
 Paragraph (c): See Sch. 2 Pt. III, subsection 4(1). See Art. 28(3).
 Clause (3): This Clause which read as follows was repealed by Act 14/1962, Sch., section 3, in force from 01-10-1962:
 "(3) No person shall be deprived of citizenship under this Article unless the Federal Government is satisfied that it is not conducive to the public good that that person should continue to be a citizen; and no person shall be deprived of citizenship under Clause (1) if, as the result of the deprivation, he would not be a citizen of any country outside the Federation."

Provided that this Clause shall not apply to any period of residence in any Commonwealth country before the beginning of January 1977.

(3) (Repealed).

Other provisions for deprivation of citizenship by registration or naturalization

26. (1) The Federal Government may by order deprive of his citizenship any citizen by registration or by naturalization if satisfied that the registration or certificate of naturalization

(a) was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) was effected or granted by mistake.

(2) The Federal Government may by order deprive of her citizenship any woman who is a citizen by registration under Clause (1) of Article 15 if satisfied that the marriage by virtue of which she was registered has been dissolved, otherwise than by death, within the period of two years beginning with the date of the marriage.

(3) (Repealed).

(4) (Repealed).

Deprivation of citizenship of child of person losing citizenship

26A. Where a person has renounced his citizenship or been deprived thereof under Clause (1) of Article 24 or paragraph (a) of Clause (1) of Article 26, the Federal Government may by order deprive of his citizenship any child of

that person under the age of twentyone who has been registered as a citizen pursuant to this Constitution and was so registered as being the child of that person or of that person's wife or husband.

General provisions as to loss of citizenship

26B. (1) Renunciation or deprivation of citizenship shall not discharge a person from liability in respect of anything done or omitted before he ceased to be a citizen.

(2) No person shall be deprived of citizenship under Article 25, 26 or 26A unless the Federal Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of citizenship under Article 25, paragraph (b) of Clause (1) of Article 26, or Article 26A if the Federal Government is satisfied that as a result of the deprivation he would not be a citizen of any country.

Procedure for deprivation

27. (1) Before making an order under Article 24, 25 or 26, the Federal Government shall give to the person against whom the order is proposed to be made notice in writing informing him of the ground on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this Article.

(2) If any person to whom such notice is given applies to have the case referred as aforesaid the Federal Government

Art. 26: 1. Act 14/1962, Sch. section 3, in force from 01-10-1962 deleted Clause (3) and amended Clauses (1) and (2) by deleting the words "Subject to Clause (3)" which appeared at the commencement of the Clauses, and by subsection 27(3) made the following provision:

"(3) If within one month after the coming into operation of this section the Minister exercises the power of delegation conferred by section 4 of the said Second Schedule as amended by this section, any order under article 26 of the Constitution made before that exercise of that power (whether made before or after the passing of the Constitution (Amendment) Act 1960) shall be as valid as if the said section 4 had been in force at the time the order was made as it was in force after the coming into operation of this section, and as if the said exercise of the power of delegation had had effect at that time."

2. Act 19/1964, section 3, in force from 30-07-1964, repealed Clause (4). The repealed Clauses (3) and (4) read as follows:

"(3) No person shall be deprived of citizenship under this Article unless the Federal Government is satisfied that it is not conducive to the public good that that person should continue to be a citizen; and no person shall be deprived of citizenship under paragraph (b) of Clause (1) unless the notice required by Article 27 is given within the

period of twelve months beginning with the date of the registration or of the grant of the certificate, as the case may be.

(4) Except as provided by this Article, the registration of a person as a citizen or the grant of a certificate of naturalization to any person shall not be called in question on the ground of mistake."

3. See Art. 26B(2), 27(1), 28A(2), 2nd Sch. Pt. III, subsections 4(1), (3).

Clause (1)(a): See Art. 26A.

Clause (1)(b): See Art. 26B(2).

Clause (2): See Art. 28A(3).

Clauses (3) and (4): See note above.

Art. 26A: 1. Added by Act 14/1962, section 11, in force from 01-10-1962. Act 26/1963, subsection 29(4), in force from 16-09-1963, substituted the words "this Constitution or the Constitution of the State of Singapore, and was so registered as being the child of that person or of that person's wife or husband" for the words "Clause (2) of Article 15", Act 59/1966, section 2, in force from 09-08-1965, deleted the words in italics.

2. See Art. 26B(2), 28A(2).

Art. 26B: Added by Act 14/1962, section 11, in force from 01-10-1962.

Clause (2): See Art. 28A(6).

Art. 27: See Art. 28A(6), 2nd Sch. Pt. III, subsection 4(1), 9.

shall, and in any other case the Federal Government may, refer the case to a committee of inquiry consisting of a chairman (being a person possessing judicial experience) and two other members appointed by that Government for the purpose.

- (3) In the case of any such reference, the committee shall hold an inquiry in such manner as the Federal Government may direct, and submit its report to that Government; and the Federal Government shall have regard to the report in determining whether to make the order.

Application of Chapter 2 to certain citizens by operation of law

28. (1) For the purposes of the foregoing provisions of this Chapter

- (a) any person who before Merdeka Day became a federal citizen or a citizen of the Federation by registration as a citizen or in consequence of his registration as the subject of a Ruler, or by the grant of a certificate of citizenship, under any provision of the Federation of Malaya Agreement 1948, or of any State law shall be treated as a citizen by registration and, if he was not born within the Federation, as a citizen by registration under Article 17;
- (b) a woman who before that day became a federal citizen or a citizen of the Federation by registration as a citizen, or in consequence of her registration as the subject of a Ruler, under any provision of the said Agreement or of any State law authorizing the registration of women married to citizens of the Federation

or to subjects of the Ruler shall be treated as a citizen by registration under Clause (1) of Article 15;

- (c) any person who before that day was naturalized as a federal citizen or a citizen of the Federation under the said Agreement or became a federal citizen or a citizen of the Federation in consequence of his naturalization as the subject of a Ruler under any State law shall (subject to Clause (2)) be treated as a citizen by naturalization,

and references in those provisions to the registration or naturalization of a citizen shall be construed accordingly.

- (2) No person born within the Federation shall be liable by virtue of this Article to be deprived of citizenship under Article 25.
- (3) A person who on Merdeka Day became a citizen by operation of law as having been citizen of the Federation immediately before that day shall not be deprived of citizenship under Clause (1) or (2) of Article 24 by reason of anything done on or before that day; but in the case of any such person Clause (2) of Article 25 shall apply equally in relation to a period of residence in foreign countries beginning before Merdeka Day and in relation to such a period beginning on or after that day.

Deprivation of citizenship of persons becoming citizens on Malaysia Day

28A. (1) (Repealed).

- (2) For the purposes of Articles 24, 25, 26 and 26A a person who on Malaysia Day

Art. 28: See 2nd Sch. Pt. III, subsection 10(2).

See respective State Nationality Enactment 1952.

Art. 28A(1), (4) & (5)-(cont.)

2. Clauses (4) and (5) were added by Act 26/1963, section 30, in force from 16-09-1963.

3. The words "or with Singapore" which appeared after "a Borneo State" and the words "or, as the case may be, in the State of Singapore," which appeared after "the Borneo States" were deleted by Act 59/1966, section 2, in force from 09-08-1965.

4. The words "the State of Sabah or Sarawak" substituted for "a Borneo State" appearing in Clause (4) by Act A514, section 19, in force from 27-08-1976.

5. The words "the States of Sabah and Sarawak" substituted for "the Borneo States" appearing in Clauses (4) and (5) by Act A354, section 43, in force from 27-08-1976.

Clause (6): See 2nd Sch. Pt. III, subsection 4(2).

Clause (7): See 2nd Sch. Part III, subsection 4(2).

Art. 28A(1), (4) & (5):

1. Clause (1) which read as follows was repealed by Act 59/1966, section 2, in force from 09-08-1965:

"(1) For the purposes of Articles 24, 25, 26 and 26A a person who is a citizen by operation of law as having the status of a Singapore citizen shall be treated-

(a) as a citizen by registration, if he acquired that status by registration, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by registration; and

(b) as a citizen by naturalization, if he acquired that status by naturalization, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by naturalization, and references in those Articles to the registration or naturalization of a citizen shall be construed accordingly."

becomes a citizen by operation of law because immediately before that day he has the status of a citizen of the United Kingdom and Colonies shall be treated

- (a) as a citizen by registration if he acquired that status by registration; and
 - (b) as a citizen by naturalization if he acquired that status by or in consequence of naturalization, and references in those Articles to the registration or naturalization of a citizen shall be construed accordingly.
- (3) Where a woman is under this Article to be treated as a citizen by registration, and the status in consequence of which she is to be so treated was acquired by her by virtue of marriage, then for purposes of Clause (4) of Article 24 and Clause (2) of Article 26 she shall be treated as a citizen by registration under Clause (1) of Article 15.
- (4) Where a person born before Malaysia Day is under this Article to be treated as a citizen by registration by virtue of a connection with the State of Sabah or Sarawak and he was not born in the territories comprised in the States of Sabah and Sarawak, Article 25 shall apply to him as if he were a citizen by registration under Article 16A or 17.
- (5) Notwithstanding that a person is under this Article to be treated as a citizen by naturalization, he shall not be deprived of his citizenship under Article 25 if he was born before Malaysia Day in the territories comprised in the States of Sabah and Sarawak and is to be so treated by virtue of a status acquired by or in consequence of naturalization in those territories.
- (6) Without prejudice to the foregoing Clauses, where on Malaysia Day a person becomes a citizen by operation of law in virtue of any status possessed by him immediately before that day, but he was liable in respect of things done before that day to be deprived of that status under the law relating thereto, then the Federal Government may by order deprive him

of his citizenship, if proceedings for that purpose are begun before September 1965; but Clause (2) of Article 26B and, subject to Clause (7), Article 27 shall apply to an order under this Clause as they apply to an order under Article 25.

- (7) Where a person is liable to be deprived of citizenship under Clause (6) and proceedings had before Malaysia Day been begun to deprive him of the status in virtue of which he acquired his citizenship, those proceedings shall be treated as proceedings to deprive him of citizenship under that Clause, and shall be continued as such; but they shall be continued in accordance with the law relating to that status immediately before Malaysia Day, and the functions of the Federal Government in relation thereto shall be delegated to such authority of the State in question as the Federal Government may determine.

CHAPTER 3 - SUPPLEMENTAL

Commonwealth citizenship

29. (1) In accordance with the position of the Federation within the Commonwealth, every person who is a citizen of the Federation enjoys by virtue of that citizenship the status of a Commonwealth citizen in common with the citizens of other Commonwealth countries.
- (2) Any existing law shall, except so far as Parliament otherwise provides, apply in relation to a citizen of the Republic of Ireland who is not also a Commonwealth citizen as it applies in relation to a Commonwealth citizen.

Certificates of citizenship

30. (1) The Federal Government may, on the application of any person with respect to whose citizenship a doubt exists, whether of fact or of law, certify that that person is a citizen.

Art. 30: 1. Act 10/1960, paragraph 2(a), in force from 01-12-1960, substituted the words "Federal Government" for "registration authority" in Clause (1). Act 26/1963, subsection 24(3), in force from 16-09-1963, added Clauses (3) and (4) and amended Clause (2) by substituting the words "Clause (1)" for "this Article". Act 59/1966, section 2, in force from 09-08-1965, deleted the words "and this Clause shall apply to questions arising under the Constitution of the State of Singapore as well as to questions arising under this Constitution" which appeared at the end of Clause (3) and repealed Clause (4) which read as follows:

"(4) Any certificate issued under Clause (1) may state that the person to whom it relates is or is not a Singapore citizen, and Clause (2) shall apply accordingly; and if the Constitution of the State of Singapore provides for the government of the State to issue certificates of Singapore citizenship. Clause (2) shall apply in relation to a certificate issued under that provision as it applies to a certificate issued under Clause (1)."

2. See 2nd Sch. Pt. III, paragraph 16(2)(c). Clause (1): See 2nd Sch. Pt. 111, paragraph 10(1)(c).

(2) A certificate issued under Clause (1) shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that the person to whom it relates was a citizen on the date of the certificate, but without prejudice to any evidence that he was a citizen at an earlier date.

(3) For the purpose of determining whether a person was born a citizen of the Federation, any question whether he was born a citizen of another country shall be decided by the Federal Government, whose certificate thereon (unless proved to have been obtained by means of fraud, false representation or concealment of a material fact) shall be conclusive.

(4) (Repealed).

30A. (Repealed).

30B. (Repealed).

Application of Second Schedule

31. Until Parliament otherwise provides, the supplementary provisions contained in Part III of the Second Schedule shall have effect for the purposes of this Part.

PART IV THE FEDERATION

Chapter 1 - The Supreme Head

Supreme Head of the Federation, and his Consort

32. (1) There shall be a Supreme Head of the Federation, to be called the Yang di-Pertuan

Agong, who shall take precedence over all persons in the Federation and shall not be liable to any proceedings whatsoever in any court except in the Special Court established under Part XV.

(2) The Consort of the Yang di-Pertuan Agong (to be called the Raja Permaisuri Agong) shall take precedence next after the Yang di-Pertuan Agong over all other persons in the Federation.

(3) The Yang di-Pertuan Agong shall be elected by the Conference of Rulers for a term of five years, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers or be removed from office by the Conference of Rulers, and shall cease to hold office on ceasing to be a Ruler.

(4) The provisions of Parts I and III of the Third Schedule shall apply to the election and removal of the Yang di-Pertuan Agong.

Deputy Supreme Head of the Federation

33. (1) There shall be a Deputy Supreme Head of the Federation (to be called the Timbalan Yang di-Pertuan Agong) who shall exercise the functions and have the privileges of the Yang di-Pertuan Agong during any vacancy in the office of the Yang di-Pertuan Agong and during any period during which the Yang di-Pertuan Agong is unable to exercise the functions of his office owing to illness, absence from the Federation or for any other cause, but the Timbalan Yang di-Pertuan Agong shall not exercise those

Art 30A: *This Article which read as follows was inserted by Act 26/1963, section 31, in force from 16-09-1963, and repealed by Act 59/1966, section 2, in force from 09-08-1965:*

"30A. (1) Notwithstanding anything in Article 47, a Singapore citizen is not qualified to be an elected member of either House of Parliament except as a member for or from Singapore; and a citizen who is not a Singapore citizen is not qualified to be a member of either House for or from Singapore.

(2) A Singapore citizen shall not be qualified to be an elected member of the Legislative Assembly of any State other than Singapore, and a citizen who is not a Singapore citizen shall not be qualified to be a member of the Legislative Assembly of Singapore.

(3) Notwithstanding anything in Article 119, a citizen is not entitled to vote in a constituency in any election to the House of Representatives or a Legislative Assembly if-

(a) the constituency is not in the State of Singapore and he is on the qualifying date (as defined in that Article) a Singapore citizen; or

(b) if the constituency is in the State of Singapore and he is not on that date a Singapore citizen.

(4) Any election of a person to either House of Parliament or to a Legislative Assembly contrary to Clause (1) or (2) shall be void; and if a member of either House or of a Legislative Assembly (not being an appointed member) changes his status as

being or not being Singapore citizen, his seat shall become vacant."

Art. 30B: *This Article which read as follows was inserted by Act 26/1963, section 32, in force from 16-09-1963, and repealed by Act 59/1966, section 2 in force from 09-08-1965:*

"30B. (1) Where under this Constitution a person becomes a Singapore citizen by naturalization, or is enrolled as a citizen who is not a Singapore citizen, or being a Singapore citizen renounces or is deprived of his citizenship, or where a certificate of citizenship or other certificate is issued under Article 30 in relation to citizenship of Singapore, the Federal Government shall notify the government of Singapore of that fact.

(2) Where under the Constitution of the State of Singapore a person becomes a Singapore citizen by registration, or is enrolled as a Singapore citizen, or is deprived of his citizenship, or where a certificate of citizenship is issued under that Constitution, the government of Singapore shall notify the Federal Government of that fact."

Art. 31: *Amended by Act 26/1963, paragraph 24(1)(b), in force from 16-09-1963, by inserting the words "Part III of" before "the Second Schedule".*

Art. 32(1): *The words "except in the Special Court established under Part XV" inserted after the word "court" by Act A848, section 2, in force from 30-03-1993.*

Art. 32(2): *The words "to be called" substituted for "who shall be known as" by Act A354, section 9, in force from 27-08-1976.*

functions during any inability or absence of the Yang di-Pertuan Agong which is expected to be less than fifteen days, unless the Timbalan Yang di-Pertuan Agong is satisfied that it is necessary or expedient to exercise such functions.

- (2) The Timbalan Yang di-Pertuan Agong shall be elected by the Conference of Rulers for a term of five years, or if elected during the term for which the Yang di-Pertuan Agong was elected, for the remainder of that term, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers and shall cease to hold office on ceasing to be a Ruler.
- (3) If during the term for which the Timbalan Yang di-Pertuan Agong was elected a vacancy occurs in the office of the Yang di-Pertuan Agong his term shall expire on the cessation of the vacancy.
- (4) The provisions of Part II of the Third Schedule shall apply to the election of the Timbalan Yang di-Pertuan Agong.
- (5) Parliament may by law* provide for the exercise by a Ruler of the functions of the Yang di-Pertuan Agong in cases where those functions would under Clause (1) fall to be exercised by the Timbalan Yang di-Pertuan Agong but cannot be so exercised owing to a vacancy in the office of the Timbalan Yang di-Pertuan Agong or to his illness, absence from the Federation or to any other cause; but such a law shall not be passed without the consent of the Conference of Rulers.

Yang di-Pertuan Agong shall cease to exercise the functions of the Yang di-Pertuan Agong if charged with an offence

33A.(1) Where the Yang di-Pertuan Agong is charged with an offence under any law in the Special Court established under Part

XV he shall cease to exercise the functions of the Yang di-Pertuan Agong.

- (2) The period during which the Yang di-Pertuan Agong ceases, under Clause (1), to exercise the functions of the Yang di-Pertuan Agong shall be deemed to be part of the term of office of the Yang di-Pertuan Agong provided for in Clause (3) of Article 32.

Disabilities of Yang di-Pertuan Agong, etc.

- 34.(1) The Yang di-Pertuan Agong shall not exercise his functions as Ruler of his State except those of Head of the religion of Islam.
- (2) The Yang di-Pertuan Agong shall not hold any appointment carrying any remuneration.
- (3) The Yang di-Pertuan Agong shall not actively engage in any commercial enterprise.
- (4) The Yang di-Pertuan Agong shall not receive any emoluments of any kind whatever payable or accruing to him as the Ruler of his State under the provisions of the Constitution of that State or of any State law.
- (5) The Yang di-Pertuan Agong shall not, without the consent of the Conference of Rulers, be absent from the Federation for more than fifteen days, except on a State visit to another country.
- (6) Clauses (2) and (3) shall also apply to the Raja Permaisuri Agong.
- (7) Where the Timbalan Yang di-Pertuan Agong or any other person authorized by law exercises the functions of the Yang di-Pertuan Agong for a period exceeding fifteen days Clauses (1) to (5) shall apply to him during that period as they apply to the Yang di-Pertuan Agong.

Art. 33: Clause (1): The words "to be called" substituted for "to be known as", and the words "but the Timbalan Yang di-Pertuan Agong shall not exercise those functions during any inability or absence of the Yang di-Pertuan Agong which is expected to be less than fifteen days, unless the Timbalan Yang di-Pertuan Agong is satisfied that it is necessary or expedient to exercise such functions" substituted for "but the Deputy Supreme Head shall not exercise those functions during any absence of the Yang di-Pertuan Agong which is expected to be less than fifteen days" by Act A354, section 10, in force from 27-08-1976.

Clause (2): The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head" by Act A354, section 11, in force from 27-08-1976.

Clause (3): The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

Clause (5): See: (a) Art. 37(4)

(b) Yang di-Pertuan Agong (Exercise of Functions) Act 1957 [Act 373].

Art. 33A: This Article was added by Act A848, section 2A, in force from 30-03-1993.

Art. 34: Clause (1): The words "religion of Islam" substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976.

Clause (2): The words "appointment carrying any remuneration" substituted for "office of profit" by Act A354, section 12, in force from 12-08-1976.

Art. 34(6): The present Clause (6) was substituted by Act A354, section 12, in force from 27-08-1976 and replaced the earlier Clause which read as follows: "(6) The Raja Permaisuri Agong shall not hold any office under the Federation or any States."

Art. 34(7): The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

- (8) Nothing in Clause (1) shall prevent the Yang di-Pertuan Agong exercising as Ruler of his State any power vested in him either alone or in conjunction with any other authority
- (a) to amend the Constitution of the State; or
 - (b) to appoint a Regent or member of a Council of Regency in the place of any Regent or member, as the case may be, who has died or has become incapable for any reason of performing the duties of the office of Regent or member of the Council of Regency respectively.

Civil List of the Yang di-Pertuan Agong and his Consort and remuneration of the Timbalan Yang di-Pertuan Agong

35. (1) Parliament shall by law* provide a Civil List of the Yang di-Pertuan Agong which shall include provision for an annuity to be paid to the Raja Permaisuri Agong, and shall be charged on the Consolidated Fund and shall not be diminished during the Yang di-Pertuan Agong's continuance in office.
- (2) Parliament shall by law** make provision for the remuneration of the Timbalan Yang di-Pertuan Agong or any other person authorized by law to exercise the functions of the Yang di-Pertuan Agong during any period during which he exercises those functions and the remuneration for which provision is made in pursuance of this Clause shall be charged on the Consolidated Fund.

Public Seal

36. The Yang di-Pertuan Agong shall keep and use the Public Seal of the Federation.***

Oath of office of Yang di-Pertuan Agong

37. (1) The Yang di-Pertuan Agong shall before exercising his functions take and subscribe before the Conference of Rulers and in the presence of the Chief Justice of the Federal Court (or in his absence the next senior judge of the Federal Court available) the oath of office set out in Part I of the Fourth Schedule; and the oath shall be attested by two persons appointed for the purpose by the Conference of Rulers.
- (2) The Timbalan Yang di-Pertuan Agong shall before exercising his functions, other than the functions exercisable for the purpose of convening the Conference of Rulers, take and subscribe before the Conference of Rulers and in the presence of the Chief Justice of the Federal Court (or in his absence the next senior judge of the Federal Court available) the oath of office set out in Part II of the Fourth Schedule.
- (3) The said oaths, translated into English, are set out in Part III of the Fourth Schedule.
- (4) Any law made under Clause (5) of Article 33 shall make provision corresponding (with the necessary modifications) to Clause (2).

Art. 34(8): This Clause was inserted by Act 10/1960, subsection 3(2), in force from 11-09-1960. It replaces the earlier Clause added by F.M. Ordinance 42/1958, in force from 05-12-1958, which read as follows:

"(8) Nothing in Clause (1) shall prevent the Yang di-Pertuan Agong exercising as Ruler of his State any power vested in him either alone or in conjunction with any other authority-

(a) to amend the Constitution of the State for the purpose of-

(i) incorporating therein all or any of the essential provisions referred to in Clause (4) of Article 71, or provision substantially to the same effect;

(ii) removing from the Constitution of the State any provisions inconsistent with such essential provisions; or

(iii) bringing about a satisfactory transition to the constitutional arrangements contemplated by such essential provisions; or

(b) to appoint a Regent or member of a Council of Regency in the place of any Regent or members, as the case may be, who has died or has become incapable for any reasons of performing the duties of the office of Regent or member of the Council of Regency respectively."

Art 35(1): The words "which shall include provision for an annuity, to be paid to the Raja Permaisuri Agong, and" were substituted for "and a Civil List of the Raja Permaisuri Agong and those Civil Lists" by Act 14/1962, section 12, in force from 21-06 1962.

Art 35(2): The words "and the remuneration for which provision in made pursuance of this Clause shall be charged on the Consolidated Fund" at the end of the Clause were added by Act 19/1964, subsection 4(1), in force from 01-01-1965.

The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head" and "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

Art. 37:

- 1. The words "Lord President of the Federal Court" and "Federal Court" which appear in Clauses (1) and (2) were substituted for "Chief Justice of the Federation" and "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963.*

- 2. Subsection 18(2) of Act A566 in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.*

- 3. The words "Federal" and "Chief Justice of the Federal Court" substituted for "Supreme" and "Lord President of the Supreme Court" by Act A885, section 3, in force from 24-06-1994.*

Art. 37(2): The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

CHAPTER 2 - CONFERENCE OF RULERS**Conference of Rulers**

38. (1) There shall be a Majlis Raja-Raja (Conference of Rulers), which shall be constituted in accordance with the Fifth Schedule.
- (2) The Conference of Rulers shall exercise its functions of
- (a) electing, in accordance with the provisions of the Third Schedule, the Yang di-Pertuan Agong and Timbalan Yang di-Pertuan Agong;
 - (b) agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole;
 - (c) consenting or withholding consent to any law and making or giving advice on any appointment which under this Constitution requires the consent of the Conference or is to be made by or after consultation with the Conference;
 - (d) appointing members of the Special Court under Clause (1) of Article 182;
 - (e) granting pardons, reprieves and respites, or of remitting, suspending or commuting sentences, under Clause (12) of Article 42, and may deliberate on questions of national policy (for example changes in immigration policy) and any other matter that it thinks fit.
- (3) When the Conference deliberates on matters of national policy the Yang di-Pertuan Agong shall be accompanied by the Prime Minister, and the other Rulers and the Yang di-Pertua-Yang di-Pertua Negeri by their Menteri-Menteri Besar or Chief Ministers; and the deliberations shall be among the functions exercised, by the Yang di-Pertuan Agong in accordance with the advice of the Cabinet, and by the other Rulers and the Yang di-Pertua-Yang di-Pertua Negeri in accordance with the advice of their Executive Councils.
- (4) No law directly affecting the privileges, position, honours or dignities of the Rulers shall be passed without the consent of the Conference of Rulers.
- (5) The Conference of Rulers shall be consulted before any change in policy affecting administrative action under Article 153 is made.
- (6) The members of the Conference of Rulers may act in their discretion in any proceedings relating to the following functions, that is to say:
- (a) the election or removal from office of the Yang di-Pertuan Agong or the election of the Timbalan Yang di-Pertuan Agong;
 - (b) the advising on any appointment;
 - (c) the giving or withholding of consent to any law altering the boundaries of a State or affecting the privileges, position, honours or dignities of the Rulers;
 - (d) the agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole;
 - (e) the appointment of members of the Special Court under Clause (1) of Article 182; or
 - (f) the granting of pardons, reprieves and respites, or of remitting, suspending or commuting sentences, under Clause (12) of Article 42.
- (7) (Repealed).

CHAPTER 3 - THE EXECUTIVE**Executive authority of Federation**

39. The executive authority of the Federation shall be vested in the Yang di-Pertuan Agong and exercisable, subject to the provisions of any federal law and of the Second Schedule, by him

Art. 38(2)(a): The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

Art. 38(2)(d) & (e): Added by Act A848, section 3, in force from 30-03-1993.

Art. 38(3): The words "Yang di-Pertua-Yang di-Pertua Negeri" substituted for "Governors" by Act A514, section 19, in force from 27-08-1976.

Art. 38(6): The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

Art. 38(6)(e) & (f): Added by Act A848, section 3, in force from 30-03-1993.

Art. 38(7): 1. This Clause which was inserted by Act 26/1963, subsection 7(3), in force from 16-09-1963, and

repealed by Act A354, section 13, in force from 27-08-1976, read as follows:

"(7) The function of the Conference of Rulers of agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole shall not extend to Sabah or Sarawak, and accordingly those States shall be treated as excluded from the references in Clause (2) of Article 3 and in this Article to the Federation as a whole."

2. See Art. 159(5).

Art. 39: The words "and exercisable, subject to the provisions of any federal law and of the Second Schedule, by him or by the Cabinet or any Minister authorised by the Cabinet" which appear after "the Yang di-Pertuan Agong" were inserted by Act 14/1962, section 13, in force from 31-08-1957.

or by the Cabinet or any Minister authorized by the Cabinet, but Parliament may by law confer executive functions on other persons.

Yang di-Pertuan Agong to act on advice

40. (1) In the exercise of his functions under this Constitution or federal law the Yang di-Pertuan Agong shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, except as otherwise provided by this Constitution; but shall be entitled, at his request, to any information concerning the government of the Federation which is available to the Cabinet.

(1A) In the exercise of his functions under this Constitution or federal law, where the Yang di-Pertuan Agong is to act in accordance with advice, on advice, or after considering advice, the Yang di-Pertuan Agong shall accept and act in accordance with such advice.

(2) The Yang di-Pertuan Agong may act in his discretion in the performance of the following functions, that is to say:

- (a) the appointment of a Prime Minister;
- (b) the withholding of consent to a request for the dissolution of Parliament;
- (c) the requisition of a meeting of the Conference of Rulers concerned solely with the privileges, position, honours and dignities of Their Royal Highnesses, and any action at such a meeting, and in any other case mentioned in this Constitution.

(3) Federal law may make provision for requiring the Yang di-Pertuan Agong to act after consultation with or on the recommendation of any person or body of persons other than the Cabinet in the exercise of any of his functions other than-

- (a) functions exercisable in his discretion;
- (b) functions with respect to the exercise of which provision is made in any other Article.

Supreme command of armed forces

41. The Yang di-Pertuan Agong shall be the Supreme Commander of the armed forces of the Federation.

Power of pardon, etc.

42. (1) The Yang di-Pertuan Agong has power to grant pardons, reprieves and respites in respect of all offences which have been tried by court-martial and all offences committed in the Federal Territories of Kuala Lumpur, Labuan and Putrajaya; and the Ruler or Yang di-Pertua Negeri of a State has power to grant pardons, reprieves and respites in respect of all other offences committed in his State.

(2) Subject to Clause (10), and without prejudice to any provision of federal law relating to remission of sentences for good conduct or special services, any power conferred by federal or State law to remit, suspend or commute sentences for any offence shall be exercisable by the Yang di-Pertuan Agong if the sentence

Art. 40: 1. See Art. 153(2).
2. Clause (3): See Art. 42(4)(a).
3. Clause (1A) added by Act A885, section 4, in force from 24-06-1994.

Art. 42(1), (2), (10):
1. The words "Territories of Kuala Lumpur and Labuan" were substituted for the word "Territory" by Act A585, paragraph 12(a), in force from 16-04-1984.

2. Subsequently the words "Kuala Lumpur, Labuan and Putrajaya" were substituted for "Kuala Lumpur and Labuan" by Act A1095, paragraph 14(a), in force from 01-02-2001.

Art. 42(1): The words "and all offences committed in the Federal Territory" which appear after "court-martial" were inserted by Act A206, Schedule, in force from 01-02-1974. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Art. 42(2): 1. The words "or by a civil court exercising jurisdiction in the "Federal Territory" which appear after "court-martial" were inserted by Act A206, Schedule, in force from 01-02-1974. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

2. The words "and without prejudice to any provision of federal law relating to remission of sentences for good conduct or special services,"

inserted after "Subject to Clause (10)," by Act A514, section 2, in force from 15-05-1981. Act A514, subsection 2(2), read as follows:

"(2) Any remission for good conduct or special services authorised by federal law and granted before the commencement of this Act shall be deemed to have been validly granted."

3. See note under Art. 42(10).

Art. 42(3): 1. The words "For the purpose of this clause the Federal Territory shall be regarded as a State." inserted at the end of the Clause by Act A206, Schedule, in force from 01-02-1974.

2. The words "the Federal Territory of Kuala Lumpur or the Federal Territory of Labuan as the case may be, shall each be regarded as a state" were substituted for the words "the Federal Territory shall be regarded as a State" by Act A585, paragraph 12(b), in force from 16-04-1984.

3. Subsequently, the words "Federal Territory of Kuala Lumpur, the Federal Territory of Labuan and the Federal Territory of Putrajaya" were substituted for "Federal Territory of Kuala Lumpur or the Federal Territory of Labuan" by Act A1095, paragraph 14(b) in force from 01-02-2001.

Art. 42(4), (5), (6), (7) & (8):
The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

- was passed by a court-martial or by a civil court exercising jurisdiction in the Federal Territories of Kuala Lumpur, Labuan and Putrajaya and, in any other case, shall be exercisable by the Ruler or Yang di-Pertua Negeri of the State in which the offence was committed.
- (3) Where an offence was committed wholly or partly outside the Federation or in more than one State or in circumstances which make it doubtful where it was committed, it shall be treated for the purposes of this Article as having been committed in the State in which it was tried. For the purpose of this Clause the Federal Territory of Kuala Lumpur, the Federal Territory of Labuan and the Federal Territory of Putrajaya, as the case may be, shall each be regarded as a State.
- (4) The powers mentioned in this Article
- (a) are, so far as they are exercisable by the Yang di-Pertuan Agong, among functions with respect to which federal law may make provision under Clause (3) of Article 40;
 - (b) shall so far as they are exercisable by the Ruler or Yang di-Pertua Negeri of a State, be exercised on the advice of a Pardons Board constituted for that State in accordance with Clause (5).
- (5) The Pardons Board constituted for each State shall consist of the Attorney General of the Federation, the Chief Minister of the State and not more than three other members, who shall be appointed by the Ruler or Yang di-Pertua Negeri; but the Attorney General may from time to time by instrument in writing delegate his functions as a member of the Board to any other person, and the Ruler or Yang di-Pertua Negeri may appoint any person to exercise temporarily the functions of any member of the Board appointed by him who is absent or unable to act.
- (6) The members of a Pardons Board appointed by the Ruler or Yang di-Pertua Negeri shall be appointed for a term of three years and shall be eligible for reappointment, but may at any time resign from the Board.
- (7) A member of the Legislative Assembly of a State or of the House of Representatives shall not be appointed by the Ruler or Yang di-Pertua Negeri to be a member of a Pardons Board or to exercise temporarily the functions of such a member.
- (8) The Pardons Board shall meet in the presence of the Ruler or Yang di-Pertua Negeri and he shall preside over it.
- (9) Before tendering their advice on any matter a Pardons Board shall consider any written opinion which the Attorney General may have delivered thereon.
- (10) Notwithstanding anything in this Article, the power to grant pardons, reprieves and respites in respect of, or to remit, suspend or commute sentences imposed by any court established under any law regulating Islamic religious affairs in the State of Malacca, Penang, Sabah or Sarawak or the Federal Territories of Kuala Lumpur, Labuan and Putrajaya shall be exercisable by the Yang di-Pertuan Agong as Head of the religion of Islam in the State.
- (11) For the purpose of this Article, there shall be constituted a single Pardons Board for the Federal Territories of Kuala Lumpur, Labuan and Putrajaya and the provisions of Clauses (5), (6), (7), (8) and (9) shall apply mutatis mutandis to the Pardons Board under this Clause except that reference to "Ruler or Yang di-Pertua

Art. 42(7): The words "by the Ruler or Governor" were inserted by Act 26/1963, section 70, in force from 16-09-1963.

Art. 42(10): Added by Act 10/1960, section 4, in force from 31-05-1960, which also amended Clause (2) by inserting the words "Subject to Clause (10)," at the commencement of the Clause. Act 26/1963, subsection 7(2), in force from 16-09-1963, substituted the words "Penang or Singapore" for "or Penang". Act 59/1966, section 2, in force from 09-08-1965, restored the original version "or Penang". The words "or the Federal Territory" inserted after "Malacca or Penang" by Act A206, Schedule, in force from 01-02-1974, and the words "Islamic religious affairs" substituted for "Muslim religious affairs" and "religion of Islam" for "Muslim religion" by Act A354, section 45, in force from 27-08-1976.

Art. 42(11): 1. Added by Act A206, Schedule, in force from 01-02-1974, amended by Act A354, section 42, in force from 27-08-1976, by substituting "Yang di-Pertua Negeri" for "Governor".

This Clause as substituted by Act A585, paragraph 12(c), in force from 16-04-1984, read as follows:

"(11) For the purpose of this Article there shall be constituted a single Pardons Board for the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan and the provisions of Clauses (5), (6), (7), (8) and (9) of this Article shall apply mutatis mutandis to the Pardons Board under this Clause except that reference to "Ruler or Yang di-Pertua Negeri" shall be construed as reference to the Yang di-Pertuan Agong and reference to "Chief Minister of the State" shall be construed as reference to the Minister responsible for the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan."

2. Subsequently, the words "Federal Territory of Kuala Lumpur and the Federal Territory of Labuan and Putrajaya" were substituted for "Federal Territory of Kuala Lumpur and the Federal Territory of Labuan" wherever they appear by Act A1095, paragraph 14(c), in force from 01-02-2001.

Negeri" shall be construed as reference to the Yang di-Pertuan Agong and reference to "Chief Minister of the State" shall be construed as reference to the Minister responsible for the Federal Territories of Kuala Lumpur, Labuan and Putrajaya.

(12) Notwithstanding anything contained in this Constitution, where the powers mentioned in this Article

(a) are exercisable by the Yang di-Pertua Negeri of a State and are to be exercised in respect of himself or his wife, son or daughter, such powers shall be exercised by the Yang di-Pertuan Agong acting on the advice of the Pardons Board constituted for that State under this Article and which shall be presided over by him;

(b) are to be exercised in respect of the Yang di-Pertuan Agong, the Ruler of a State, or his Consort, as the case may be, such powers shall be exercised by the Conference of Rulers and the following provisions shall apply:

(i) when attending any proceedings under this Clause, the Yang di-Pertuan Agong shall not be accompanied by the Prime Minister and the other Rulers shall not be accompanied by their Menteri-Menteri Besar;

(ii) before arriving at its decision on any matter under this Clause, the Conference of Rulers shall consider any written opinion which the Attorney General may have delivered thereon;

(c) are to be exercised by the Yang di-Pertuan Agong or the Ruler of a State in respect of his son or daughter, as the case may be, such powers shall be exercised by the Ruler of a State nominated by the Conference of Rulers who shall act in accordance with the advice of the relevant Pardons Board constituted under this Article.

(13) For the purpose of paragraphs (b) and (c) of Clause (12), the Yang di-Pertuan Agong or the Ruler of the State concerned, as the case may be, and the Yang di-Pertua-Yang di-Pertua Negeri shall not be members of the Conference of Rulers.

Cabinet

43.(1) The Yang di-Pertuan Agong shall appoint a Jemaah Menteri (Cabinet of Ministers) to advise him in the exercise of his functions.

(2) The Cabinet shall be appointed as follows, that is to say:

(a) the Yang di-Pertuan Agong shall first appoint as Perdana Menteri (Prime Minister) to preside over the Cabinet a member of the House of Representatives who in his judgment is likely to command the confidence of the majority of the members of that House; and

(b) he shall on the advice of the Prime Minister appoint other Menteri (Ministers) from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not continue to hold office after the beginning of the next session of Parliament unless, if he has been appointed Prime Minister, he is a member of the new House of Representatives, and in any other case he is a member either of that House or of the Senate.

(3) The Cabinet shall be collectively responsible to Parliament.

(4) If the Prime Minister ceases to command the confidence of the majority of the members of the House of Representatives, then, unless at his request the Yang di-Pertuan Agong dissolves Parliament, the Prime Minister shall tender the resignation of the Cabinet.

Art. 42(12) & (13):

Added by Act A848, section 4, in force from 30-03-1993.

Art. 43: See Art. 57(1A).

Clause (5): 1. The words "unless the appointment of any Minister shall have been revoked by the Yang di-Pertuan Agong on the advice of Prime Minister," were inserted by Act 10/1960, section 5, in force from 31-05-1960.

2. See Art. 43A(3).

Clauses (6) and (8): See Art. 43A(3).

Clause (8) repealed by Act A857, section 2, in force from 20-08-1993.

Clause (9): See Members of Parliament (Remuneration) Act 1980 [Act 237].

Act. 43A: 1. Added by Act 10/1960, section 6, in force from 31-05-1960.

2. See Art. 57(1A).

3. Clauses (1), (2), (3) and (4): The words "Deputy Ministers" substituted for "Assistant Ministers" by Act A31, section 10, in force from 24-03-1971.

4. Clause (2): The words ", and for such purpose shall have all the powers of Ministers" which appear after the word "functions" were inserted by Act A566, section 3, in force from 16-12-1983.

5. Clause (3): The words "Clauses (5) and (6)" substituted for the words "Clauses (5), (6) and (8)" by Act A885, section 5, in force from 24-06-1994.

- (5) Subject to Clause (4), Ministers other than the Prime Minister shall hold office during the pleasure of the Yang di-Pertuan Agong, unless the appointment of any Minister shall have been revoked by the Yang di-Pertuan Agong on the advice of the Prime Minister but any Minister may resign his office.
- (6) Before a Minister exercises the functions of his office he shall take and subscribe in the presence of the Yang di-Pertuan Agong the oath of office and allegiance and the oath of secrecy set out in the Sixth Schedule.
- (7) Notwithstanding anything in this Article, a person who is a citizen by naturalization or by registration under Article 17 shall not be appointed Prime Minister.
- (8) (Repealed).
- (9) Parliament shall by law make provision for the remuneration of members of the Cabinet.

Deputy Ministers

- 43A.(1) The Yang di-Pertuan Agong may on the advice of the Prime Minister appoint Deputy Ministers from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not hold office after the beginning of the next session of Parliament unless he is a member either of that House or of the Senate.
- (2) Deputy Ministers shall assist Ministers in the discharge of their duties and functions, and for such purpose shall have all the powers of Ministers.
 - (3) The provisions of Clauses (5) and (6) of Article 43 shall apply to Deputy Ministers as they apply to Ministers.
 - (4) Parliament shall by law make provision for the remuneration of Deputy Ministers.

Parliamentary Secretaries

- 43B.(1) The Prime Minister may appoint Parliamentary Secretaries from among the members of either House of Parliament; but if an appointment is made while

Parliament is dissolved, a person who was a member of the last House of Representatives may be appointed, but shall not hold office after the beginning of the next session of Parliament unless he is a member either of that House or of the Senate.

- (2) Parliamentary Secretaries shall assist Ministers and Deputy Ministers in the discharge of their duties and functions, and for such purpose shall have all the powers of Ministers and Deputy Ministers.
- (3) A Parliamentary Secretary may at any time resign his office, and his appointment as such may be determined at any time by the Prime Minister.
- (4) Before a Parliamentary Secretary exercises the functions of his office he shall take and subscribe in the presence of the Prime Minister the oath of secrecy set out in the Sixth Schedule.
- (5) Parliament shall by law make provision for the remuneration of Parliamentary Secretaries.

Political Secretaries

- 43C.(1) The Prime Minister may appoint such number of persons as he may think fit to be Political Secretaries.
- (2) A person appointed as a Political Secretary by virtue of this Article
 - (a) need not be a member of either House of Parliament;
 - (b) may resign his office at any time;
 - (c) subject to paragraph (b), shall continue in office until such time as his appointment is determined by the Prime Minister.
 - (3) The provisions of Clause (4) of Article 43B shall apply to Political Secretaries as they apply to Parliamentary Secretaries.
 - (4) The duties and functions of Political Secretaries, and their remuneration, shall be determined by the Cabinet.

Chapter 4 - Federal Legislature Constitution of Parliament

44. The legislative authority of the Federation shall be vested in a Parliament, which shall consist

Art. 43A(4): See *Members of Parliament (Remuneration) Act 1980 [Act 237]*.

Art. 43B: 1. Added by Act 19/1964, subsection 5(1), in force from 16-09-1963.

2. See Art. 57(1A).

3. Clause (2):

(a) The words "Deputy Ministers" substituted for "Assistant Ministers" by Act A31, section 10, in force from 24-03-1971.

(b) The words ", and for such purpose shall have

all the powers of Ministers and Deputy Ministers" which appear after the word "functions" were inserted by Act A566, section 4, in force from 16-12-1983.

4. Clauses (4): See Art. 43C(3).

5. Clauses (5): See *Members of Parliament (Remuneration) Act 1980 [Act 237]*.

Art. 43C: Added by Act 19/1964, subsection 5(1), in force from 16-09-1963.

of the Yang di-Pertuan Agong and two Majlis (Houses of Parliament) to be known as the Dewan Negara (Senate) and the Dewan Rakyat (House of Representatives).

Composition of Senate

45. (1) Subject to Clause (4), the Senate shall consist of elected and appointed members as follows:
- (a) two members for each State shall be elected in accordance with the Seventh Schedule; and
 - (aa) two members for the Federal Territory of Kuala Lumpur, one member for the Federal Territory of Labuan and one member for the Federal Territory of Putrajaya shall be appointed by the Yang di-Pertuan Agong; and
 - (b) forty members shall be appointed by the Yang di-Pertuan Agong.
- (2) The members to be appointed by the Yang di-Pertuan Agong shall be persons who in his opinion have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or are capable of representing the interests of aborigines.
- (3) The term of office of a member of the Senate shall be three years and shall not be affected by a dissolution of Parliament.
- (3A) A member of the Senate shall not hold office for more than two terms either continuously or otherwise:

Provided that where a person who has already completed two or more terms of office as a member of the Senate is immediately before the coming into force of this Clause a member of the Senate, he may continue to serve as such member for the remainder of his term.

- (4) Parliament may by law
- (a) increase to three the number of members to be elected for each State;
 - (b) provide that the members to be elected for each State shall be so elected by the direct vote of the electors of that State;
 - (c) decrease the number of appointed members or abolish appointed members.

Composition of House of Representatives

46. (1) The House of Representatives shall consist of two hundred and twenty-two elected members.
- (2) There shall be
- (a) two hundred and nine members from the States in Malaysia as follows:
 - (i) twenty-six members from Johore;
 - (ii) fifteen members from Kedah;
 - (iii) fourteen members from Kelantan;
 - (iv) six members from Malacca;
 - (v) eight members from Negeri Sembilan;
 - (vi) fourteen members from Pahang;
 - (vii) thirteen members from Penang;
 - (viii) twenty-four members from Perak;
 - (ix) three members from Perlis;

Art. 45(1)(aa): This paragraph was inserted by Act A442, section 2, in force from 31-12-1978, subsequently it was substituted by Act A585, section 12, in force from 16-04-1984 and again by Act A1095, section 15, in force from 01-02-2001 to enable one member of the Senate to be appointed to represent the Federal Territory of Putrajaya. The original paragraph (aa) read as follows:

"(aa) two members for the Federal Territory shall be appointed by the Yang di-Pertuan Agong; and".

Art. 45(1)(b): Originally this paragraph provided for 16 members to be appointed by the Yang di-Pertuan Agong. Act 26/1963, section 8, in force from 16-09-1963, amended this to 22. Act 19/1964, section 6, in force from 30-07-1964, further amended it to 32; and subsequently amended by substituting "forty" for "thirty two" by Act A442, section 2, in force from 31-12-1978.

Art. 45(3): Amended by Act A442, section 2, in force from 31-12-1978, by substituting "three" for "six". Subsequently this Clause was amended again by Act A1130, section 4, in force from 28-09-2001, by deleting the words "subject to the provisions of the Seventh Schedule,".

Art. 45(3A): Added by Act A514, section 3, in force from 15-05-1981.

Art 45(4): See Art. 120.

Art. 46:1. This Article as it stood on Merdeka Day read as follows:

"46. (1) The House of Representatives shall consist of one hundred elected members except that the first House of Representatives shall consist of one hundred and four.

(2) After the completion of the first census to be taken after Merdeka Day Parliament may by law alter the number of members of the House of Representatives".

2. This Article was amended by Act 14/1962, section 14, in force from 21-06-1962, by substituting "one hundred and four elected members" for "one hundred elected members except that the first House of Representatives shall consist of one hundred and four" in Clause (1), and repealed Clause (2).

3. This Article was substituted by Act 26/1963, section 9, in force from 16-09-1963 which read as follows:

"46. (1) The House of Representatives shall consist of one hundred and fifty-nine elected members.

(2) There shall be-

(a) one hundred and four members from the States of Malaya;

(b) sixteen members from Sabah;

- (x) twenty-five members from Sabah;
 - (xi) thirty-one members from Sarawak;
 - (xii) twenty-two members from Selangor; and
 - (xiii) eight members from Terengganu; and
- (b) thirteen members from the Federal Territories of Kuala Lumpur, Labuan

and Putrajaya as follows:

- (i) eleven members from the Federal Territory of Kuala Lumpur;
- (ii) one member from the Federal Territory of Labuan;
- (iii) one member from the Federal Territory of Putrajaya.

5. This Article was again amended by Act A206, section 12, in force from 23-08-1973, by the substitution of the whole Article which read as follows:

"46. (1) The House of Representatives shall consist of one hundred and fifty-four elected members.

(2) There shall be-

(a) one hundred and forty-nine members from the States in Malaysia as follows:

- (i) sixteen members from Johore;
- (ii) thirteen members from Kedah;
- (iii) twelve members from Kelantan;
- (iv) four members from Malacca;
- (v) six members from Negeri Sembilan;
- (vi) eight members from Pahang;
- (vii) nine members from Penang;
- (viii) twenty-one members from Perak;
- (ix) two members from Perlis;
- (x) sixteen members from Sabah;
- (xi) twenty-four members from Sarawak;
- (xii) eleven members from Selangor;
- (xiii) seven members from Terengganu; and

(b) five members from the Federal Territory."

6. The present Article was substituted by Act A566, section 5, in force from 16-12-1983 and amended by Act A585, paragraph 14(b), in force from 16-04-1984. However, the substitution and amendment shall not affect the composition of the House of Representatives or any elections to that House until the dissolution of Parliament occurring on or after 31-12-2984. (See P.U. (A) 475 and 476/1984.)

7. Clause (1): Amended by Act A631, section 2, in force from 24-02-1986, by substituting the word "eight" for "seventy-seven".

Clause (2): Amended by Act A631, section 2, in force from 24-02-1986, by substituting the word "seventy-two" for "sixty-nine" in paragraph (a) and the word "twenty-seven" for "twentyfour" in subparagraph (xi) of paragraph (a).

8. This Article, as amended, shall not affect the composition of the House of Representatives or any election to that House until the dissolution of Parliament. See Art. 57(1A).

9. Clause (1): Amended by Act A837, section 2, in force from 20-11-1992, by substituting for the word "eighty" the word "ninety-two".

Clause (2): Amended by Act A837, section 2, in force from 20-11-1992-

- (i) by substituting for the word "seventy-two" in paragraph (a) the word "eight-one";
- (ii) by substituting for the word "eighteen" in subparagraph (a)(i) the word "twenty";
- (iii) by substituting for the word "fourteen" in subparagraph (a)(ii) the word "fifteen";
- (iv) by substituting for the word "thirteen" in subparagraph (a)(iii) the word "fourteen";
- (v) by substituting for the word "ten" in subparagraph (a)(vi) the word "eleven";
- (vi) by substituting for the word "two" in subparagraph (a)(ix) the word "three";
- (vii) by substituting for the word "fourteen" in subparagraph (a)(xii) the word "seventeen";
- (viii) by substituting for the word "eight" in paragraph (b) the word "eleven"; and
- (ix) by substituting for the word "seven" in subparagraph (b)(i) the word "ten".

Note:

The above amendments shall not affect the composition of the House of Representatives or any election to that House until dissolution of Parliament occurring on or after the date of the coming into force of the Order made under section 12 of the Thirteenth Schedule-See section 4 of Act A837.

10. The present Article was again amended by Act A945, section 2, in force from 07-06-1996, to increase the composition of the House of Representatives from one hundred and ninety-two to one hundred and ninety-three, i.e. specifically increasing the composition of the members from the State of Sarawak from twenty-seven to twenty-eight.

Note:

However this amendment shall not affect the composition of the House of Representatives or any election to that House until the dissolution of Parliament occurring on or after the date of the coming into force of the Order made under section 12 of the Thirteenth Schedule to the Federal Constitution following the review undertaken pursuant to Clause (2) of Article 113 of the Federal Constitution and the said Thirteenth Schedule.

11. Clause (1): Amended by Act A1095, paragraph 16(a), in force from 01-02-2001, by substituting for the word "ninety-three" the word "ninety-four".

Clause (2): Amended by Act A1095, paragraph 16(b), in force from 01-02-2001, to enable one member of the House of Representatives to be elected to represent the Federal Territory of Putrajaya.

12. Clause (1): Amended by Act A1198, paragraph 2(a), in force from 15-08-2003, by substituting for the words "one hundred and ninety-four" the words "two hundred and nineteen".

Clause (2): Amended by Act A1198, paragraph 2(b), in force 15-08-2003, by increasing the number of members of the House of Representatives consequent upon the delimitation of the Constituencies undertaken by the Election Commission from 8 August 2002 until 7 September 2002. The increase is as follows:

- (a) six members from Johore;
- (b) one member from Malacca;
- (c) one member from Negeri Sembilan;
- (d) three members from Pahang;
- (e) two members from Penang;
- (f) one member from Perak;
- (g) five members from Sabah;
- (h) five members from Selangor; and
- (i) one member from the Federal Territory of Kuala Lumpur.

13. Clause (1): Amended by Act A1260, paragraph 2(a), in force from 19-01-2006, by substituting for the words "two hundred and nineteen" the words "two hundred and twenty-two".

Clause (2): Amended by Act A1260, paragraph 2(b), in force from 19-01-2006, to increase the composition of the House of Representatives from two hundred and six to two hundred and nine, i.e. specifically increasing the composition of the members from the State of Sarawak from twenty-eight to thirty-one.

Qualifications for membership of Parliament

47. Every citizen resident in the Federation is qualified to be a member

- (a) of the Senate, if he is not less than thirty years old;
- (b) of the House of Representatives, if he is not less than twenty-one years old, unless he is disqualified for being a member by this Constitution or by any law made in pursuance of Article 48.

Disqualification for membership of Parliament

48. (1) Subject to the provisions of this Article, a person is disqualified for being a member of either House of Parliament if

- (a) he is and has been found or declared to be of unsound mind; or
- (b) he is an undischarged bankrupt; or
- (c) he holds an office of profit; or
- (d) having been nominated for election to either House of Parliament or to the Legislative Assembly of a State, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required; or
- (e) he has been convicted of an offence by a court of law in the Federation (or, before Malaysia Day, in the territories comprised in the State of Sabah or Sarawak or in Singapore) and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit and has not received a free pardon; or
- (f) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, any country outside the Federation or has made a declaration of allegiance to any country outside the Federation.

(2) Federal law may impose, for such periods as may be specified thereby, disqualification for membership of either House of Parliament on persons

committing offences in connection with elections; and any person who has been convicted of such an offence or has in proceedings relating to an election been proved guilty of an act constituting such an offence, shall be disqualified accordingly for a period so specified.

- (3) The disqualification of a person under paragraph (d) or paragraph (e) of Clause (1) may be removed by the Yang di-Pertuan Agong and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (d) was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (e) was released from custody or the date on which the fine mentioned in the said paragraph (e) was imposed on such person and a person shall not be disqualified under paragraph (f) of Clause (1) by reason only of anything done by him before he became a citizen.
- (4) Notwithstanding anything contained in the foregoing provisions of this Article, where a member of either House of Parliament becomes disqualified from continuing to be a member thereof pursuant to paragraph (e) of Clause (1) or under a federal law made in pursuance of Clause (2)
 - (a) the disqualification shall take effect upon the expiry of fourteen days from the date on which he was
 - (i) convicted and sentenced as specified in the aforesaid paragraph (e); or
 - (ii) convicted of an offence or proved guilty of an act under a federal law made in pursuance of Clause (2); or
 - (b) if within the period of fourteen days specified in paragraph (a) an appeal or any other court proceeding is brought in respect of such conviction or sentence, or in respect of being so

Art. 48

1. See Art. 47.

2. Clause (1): (a) Act 10/1960, section 7, in force from 31-05-1960, inserted the words "or to the Legislative Assembly of a State" in paragraph (d) and substituted the words "one year or to a fine of not less than two thousand dollars" for "two years" in paragraph (e); Act 26/1963, section 70, in force from 16-09-1963, inserted the words "(or, before Malaysia Day, in the territories comprised in a Borneo State or Singapore)" in paragraph (e).

(b) Act A514, section 19, in force from 27-08-1976, substituted "the State of Sabah and Sarawak" for "a Borneo State" in paragraph (e) and the word "ringgit" substituted for "dollars" by Act 160, section 2, in force from 29-08-1975.

(c) Act A354, section 15, in force from 27-08-1976, substituted the words "any country outside the Federation" for "a foreign county" in paragraph (f).

3. Clause (2): See Election Offences Act 1954 [Act 5].

4. Clause (3): The words "or the date on which the fine mentioned in the said paragraph (e) was imposed on such person" were inserted by Act 10/1960, paragraph 7(c), in force from 31-05-1960.

5. Clauses (4) and (5): Added by Act A566, section 6, in force from 16-12-1983. 6. Clause (6): Added by Act A767, section 2, in force from 11-05-1990.

convicted or proved guilty, as the case may be, the disqualification shall take effect upon the expiry of fourteen days from the date on which such appeal or other court proceeding is disposed of by the court; or

- (c) if within the period specified in paragraph (a) or the period after the disposal of the appeal or other court proceeding specified in paragraph (b) there is filed a petition for a pardon, such disqualification shall take effect immediately upon the petition being disposed of.
- (5) Clause (4) shall not apply for the purpose of nomination, election or appointment of any person to either House of Parliament, for which purpose the disqualification shall take effect immediately upon the occurrence of the event referred to in paragraph (e) of Clause (1) or in Clause (2), as the case may be.
- (6) A person who resign his memberships of the House of Representatives shall, for a period of five years beginning with the date on which his resignation takes effect, be disqualified from being a member of the House of Representatives.

Provisions against double memberships

49. A person shall not at the same time be a member of both House of Parliament, nor be elected to the House of Representatives for more than one constituency or to the Senate for more than one State, nor be both an elected and an appointed member of the Senate.

Effect of disqualification, and prohibition of nomination or appointment without consent

50. (1) If a member of either House of Parliament becomes disqualified for membership of that House his seat shall become vacant.
- (2) If a person disqualified for being a member of the House of Representatives is elected to that House or if a person disqualified for being a member of the Senate is elected or appointed to the Senate or if an election or appointment to either House is contrary to Article 49, the election or appointment shall be void.

(3) (Repealed).

- (4) A person cannot be validly nominated for election to membership of either House or appointed to the Senate without his consent.

Resignation of members

51. A member of either House of Parliament may resign his membership by writing under his hand addressed, if he is a member of the Senate, to the President of the Senate, and if a member of the House of Representatives, to the Speaker of that House.

Absence of a member

52. (1) If a member of either House of Parliament is without the leave of the House absent from every sitting of the House for a period of six months the House may declare his seat vacant.
- (2) A member of either House of Parliament who has been granted leave of absence from the sittings of the House of which he is a member shall not, for the duration of such leave, participate in any manner in the affairs and business of that House.

Decisions as to disqualification

53. (1) If any question arises whether a member of a House of Parliament has become disqualified for membership, the decision of that House shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the House postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

- (2) Where a member of either House of Parliament becomes disqualified under paragraph (e) of Clause (1) of Article 48 or under a federal law made in pursuance of Clause (2) of Article 48, Clause (1) shall not apply and he shall cease to be a member of that House, and his seat shall become vacant, immediately upon his disqualification taking effect in accordance with Clause (4) of Article 48.

Art. 49: See Art. 50(2).

Art. 50: 1. See Art. 57(1A).

2. Clause (3): This Clause which read as follows, was repealed by Act 25/1963, subsection 3(1), in force from 29-08-1963:

"(3) If the election of any person would or might be void under Clause (2) his nomination for the election shall be void."

Art. 51: See Art. 57(1A).

Art. 52: See Art. 57(1A).

Art. 52(2): Added by Act A514, section 4, in force from 15-05-1981.

Art. 53: 1. Proviso added by Act 26/1963, subsection 11(1), in force from 16-09-1963.

2. Clause (1): Renumbered by Act A566, section 7, in force from 16-12-1983.

3. Clause (2): Inserted by Act A566, section 7, in force from 16-12-1983.

Vacancies in Senate and casual vacancies

54. (1) Save as provided under Clause (3), whenever there is a vacancy among members of the Senate or a casual vacancy among members of the House of Representatives, such vacancy or casual vacancy shall be filled within sixty days from the date on which it is established by the President of the Senate that there is a vacancy or by the Election Commission that there is a casual vacancy, as the case may be, and an election shall be held or an appointment made accordingly:

Provided that failure to make any such appointment within the period specified in this Clause shall not invalidate any appointment made out of time:

Provided further that, if a casual vacancy in the House of Representatives is established on a date within two years of the date Parliament shall, in accordance with Clause (3) of Article 55, stand dissolved, such casual vacancy shall not be filled unless the Speaker notifies the Election Commission in writing that the numerical strength of the party that constitutes a majority of all the members of the House of Representatives is being affected by such vacancy, in which

event such vacancy shall be filled within sixty days from the date of the receipt of that notification.

- (2) (Repealed).
 (3) Where a vacancy among members of the Senate relates to a vacancy which shall be filled by a member who shall be elected by a State in accordance with the Seventh Schedule, the provisions of Clause (1) shall not apply to the filling of such vacancy.

Summoning, prorogation and dissolution of Parliament

55. (1) The Yang di-Pertuan Agong shall from time to time summon Parliament and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first meeting in the next session.

- (2) The Yang di-Pertuan Agong may prorogue or dissolve Parliament.
 (3) Parliament unless sooner dissolved, shall continue for five years from the date of its first meeting and shall then stand dissolved.
 (4) Whenever Parliament is dissolved a general election shall be held within sixty days from the date of the dissolution and Parliament shall be summoned to meet

Art. 54: 1. The present Article was inserted by Act 59/1966, section 2, in force from 19-09-1966. The earlier Article as it stood at the date of repeal read as follows:

"54. Except where there is a vacancy among the members elected to the Senate by a State and the vacancy is to be filled in accordance with the provisions of the Seventh Schedule, whenever there is a vacancy among the members of the Senate or a casual vacancy among the members of the House of Representatives it shall be filled within sixty days from the date on which it is established that there is a vacancy, and an election shall be held or an appointment made accordingly."

2. Clause (1): (a) Further proviso inserted by Act A1, section 2, in force from 18-11-1968.

The words "Clause (3)" were substituted for the words "Clauses (2) and (3)" by Act A585, paragraph 21(a), in force from 14-04-1984.

(b) Amended by Act A354, section 16, in force from 27-08-1976, by inserting after "the date on which it is established" the words "by the Election Commission" and by Act A31, section 3, in force from 24-03-1971, by deleting in the first proviso after the words "out of time" the following:

"but in any such case the term of office of a member of the Senate so appointed shall be six years from the end of the period of sixty days from the date on which the existence of the vacancy which he was appointed to fill was established and not six years from the date of his appointment."

(c) The words "by the President of the Senate that there is a vacancy or by the Election Commission that there is a casual vacancy, as the case may be" substituted for the words "by the Election Commission that there is a vacancy" by Act A857, paragraph 3(a), in force from 20-08-1993.

(d) The second proviso which read as follows was substituted by the present proviso by Act A857, paragraph 3(b), in force from 20-08-1993:

"Provided further, if a casual vacancy in the House of Representatives is established on a date within six months of the date Parliament shall, in accordance with Clause (3) of Article 55, stand dissolved, such casual vacancy shall not be filled."

3. Clause (2): (a) Amended by Act A354, section 16, in force from 27-08-1976, by inserting after "the date on which it is established" the words "by the Election Commission".

(b) This Clause which read as follows was deleted by Act A585, paragraph 21(b), in force from 14-04-1984:

"(2) Where a casual vacancy in the House of Representatives relates to a vacancy which shall be filled by a member from Sabah or Sarawak, such casual vacancy shall be filled within ninety days from the date on which it is established by the Election Commission that there is a vacancy and an election shall be held accordingly."

4. See Art. 57(1A), 118A.

Art. 55(4): See Art. 118A.

1. Act 59/1966, section 2, in force from 19-09-1966, inserted the words "in the States of Malaya and ninety days in the Borneo States" and substituted the words "one hundred and twenty" for "ninety".

2. The words "the States of Sabah and Sarawak" substituted for "the Borneo States" by Act A354, section 43, and Act A514, section 19, both in force from 27-08-1976.

3. The words "in the States of Malaya and ninety days in the States of Sabah and Sarawak" were deleted by Act A585, paragraph 22(a), in force from 14-04-1984.

- on a date not later than one hundred and twenty days from that date.
- (5) A Bill pending in Parliament shall not lapse by reason of the prorogation of Parliament.
- (6) (Repealed).
- (7) A Bill pending the assent of the Yang di-Pertuan Agong under Clause (4) or Clause (4A) of Article 66 shall not lapse by reason of the prorogation or dissolution of Parliament.

President and Deputy President of Senate

56. (1) The Senate shall from time to time choose one of its members to be Yang di-Pertua Dewan Negara (President of the Senate) and one to be Deputy President of the Senate, and shall, subject to Clause (3), transact no business while the office of President is vacant other than the election of a President.
- (2) A member holding office as President or Deputy President shall cease to hold his office on the expiry of the term for which he was elected or appointed a member or on otherwise ceasing to be a member of the Senate, or upon being disqualified under Clause (5), and may at any time resign his office.
- (3) During any vacancy in the office of President or during any absence of the President from any sitting, the Deputy President or, if the Deputy President is also absent or if his office is also vacant, such other member as may be determined by the rules of procedure of the Senate, shall act as President.
- (4) If a member of the Legislative Assembly of a State is chosen to be President he shall resign from the Assembly before exercising the functions of his office.

- (5) A member who is elected to be President or Deputy President shall be disqualified from holding such office if after three months of his election to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.

- (6) Where any question arises regarding the disqualification of the President or Deputy President under Clause (5), the decision of the Senate shall be taken and shall be final.

Speaker and Deputy Speakers of the House of Representatives

57. (1) The House of Representatives shall from time to time elect
- (a) as Yang di-Pertua Dewan Rakyat (Speaker), a person who either is a member of the House or is qualified for election as such a member; and
- (b) two Deputy Speakers from among members of the House, and the House shall, subject to Clause (3), transact no business while the office of Speaker is vacant other than the election of a Speaker.

Art. 55(5), (6) & (7):

1. Added by Act A585, paragraph 22(b), in force from 14-04-1984.

2. Clause (6) repealed by Act A885, section 6, in force from 24-06-1994.

Art. 56(1): The words "subject to Clause (3)," inserted after "and shall" by Act A514, section 5, in force from 15-05-1981.

Art. 56(4): Added by Act 10/1960, section 8, in force from 31-05-1960.

Art. 56(5), (6): 1. Added by Act A514, section 5, in force from 15-05-1981.

2. The words "or Deputy President" were deleted by Act A566, section 8, in force from 16-12-1983 but were again inserted by Act A1130, section 5, in force from 28-09-2001.

Note: The amendments made in Clauses (5) and (6) of Article 56 by Act A566 shall apply only to a person elected Deputy President on or after 16-12-1983.

Art. 57: 1. Act 19/1964, subsection 7(1), in force from 30-07-1964, substituted Clauses (1), (1A), (2) and (2A) for Clauses (1) and (2). The earlier clauses read as follows:

"57. (1) The House of Representatives shall from time to time choose one of its members to be Yang di-Pertuan Dewan Rakyat (Speaker) and one to be Deputy Speaker, and shall transact no business while the office of Speaker is vacant other than the election of a Speaker.

(2) A member holding office as Speaker or Deputy shall vacate his office on ceasing to be a member of the House of Representatives and may at any time resign his office."

2. Clause (1)(b): The present Clause was substituted by Act A566, paragraph 9(1)(a), in force from 16-12-1983. The earlier Clause as it stood at the date of repeal read as follows:

"(b) as Deputy Speaker, a person who is a member of the House;"

3. Clause (1A)(b): See Art 62(3).

- (1A) Any person elected as Speaker who is not a member of the House of Representatives
- (a) shall, before he enters upon the duties of his office, take and subscribe before the House the oath of office and allegiance set out in the Sixth Schedule; and
 - (b) shall, by virtue of holding his office, be a member of the House additional to the members elected pursuant to Article 46:

Provided that paragraph (b) shall not have effect for the purposes of any of the following provisions of this Constitution, that is to say, Articles 43, 43A, 43B, 50 to 52, 54 and 59; and no person shall be entitled, by virtue of that paragraph, to vote on any matter before the House.

- (2) The Speaker may at any time resign his office by writing under his hand addressed to the Clerk of the House of Representatives, and shall vacate his office
- (a) when the House first meets after a general election;
 - (b) on his ceasing to be a member of the House otherwise than by reason of a dissolution thereof or, if he is a member by virtue only of paragraph (b) of Clause (1A), on his ceasing to be qualified to be a member;
 - (bb) upon being disqualified under Clause (5);
 - (c) if the House at any time so resolves.
- (2A) A Deputy Speaker may at any time resign his office by writing under his hand addressed to the Clerk of the House of Representatives, and shall vacate his office
- (a) on his ceasing to be a member of the House;
 - (b) if the House at any time so resolves.

- (3) During any vacancy in the office of Speaker or during any absence of the Speaker from any sitting, otherwise than by reason of the House first meeting after a general election, one of the Deputy Speakers or, if both the Deputy Speakers are absent or if both their offices are vacant, such other member as may be determined by the rules of procedure of the House, shall act as Speaker.
- (4) If a member of the Legislative Assembly of a State is chosen to be Speaker he shall resign from the Assembly before exercising the functions of his office.
- (5) A person who is elected to be Speaker or a Deputy Speaker shall be disqualified from holding such office if after three months of his election to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.

- (6) Where any question arises regarding the disqualification of the Speaker or a Deputy Speaker under Clause (5) the decision of the House of Representatives shall be taken and shall be final.

Art. 57(2): Clause (2)(bb): Added by Act A514, section 4, in force from 15-05-1981. Clause (2A): The word "A" was substituted for the word "The" by Act A566, paragraph 9(1)(b), in force from 16-12-1983.

*Art. 57(3): 1. The present Clause was substituted by Act A514, section 6, in force from 15-05-1981, and replaced the earlier Clause which read as follows:
 "(3) During any absence of the Speaker from a sitting of the House of Representatives the Deputy Speaker or, if he is also absent, such other member as may be determined by the rules of procedure of the House, shall act as Speaker."
 2. The words "one of the Deputy Speakers or, if both the Deputy Speakers are absent or if both their offices are vacant" were substituted for the words "the Deputy Speaker or, if the Deputy Speaker is also absent or if his office is also vacant" by Act A566, paragraph 9(1)(c), in force from 16-12-1983.*

Art. 57(4): Added by Act 10/1960, section 9, in force from 31-05-1960.

Art. 57(5) & (6): 1. Added by Act A514, section 6, in force from 15-05-1981.

Clauses (2) and (2A): See note on previous page.

2. The words "or Deputy Speaker" were deleted by Act A566, paragraph 9(1)(d), in force from 16-12-1983 but were again inserted by Act A1130, section 6, in force from 28-9-2001.

Shoulder Note: The words "Deputy Speakers" were substituted for the words "Deputy Speaker" by Act A566, paragraph 9(1)(e), in force from 16-12-1983.

Note: The amendments made in Clauses (5) and (6) of Article 57 by Act A566 shall apply only to a person elected as a Deputy Speaker of the House of Representatives on or after 16-12-1983.

Remuneration of President, Deputy President, Speaker and Deputy Speakers

58. Parliament shall by law provide for the remuneration of the President and Deputy President of the Senate and the Speaker and Deputy Speakers of the House of Representatives, and the remuneration so provided for the President of the Senate and the Speaker of the House of Representative shall be charged on the Consolidated Fund.

Oaths by members

59. (1) Every member of either House of Parliament shall before taking his seat take and subscribe before the person presiding in the House an oath in the form set out in the Sixth Schedule, but a member may before taking that oath take part in the election of a President of the Senate or Speaker of the House of Representatives.
- (2) If a member has not taken his seat within six months from the date on which the House first sits after his election or such further time as the House may allow, his seat shall become vacant.

Address by the Yang di-Pertuan Agong

60. The Yang di-Pertuan Agong may address either House of Parliament or both Houses jointly.

Special provisions as to Cabinet and Attorney General

61. (1) In addition to his rights as a member of one of the Houses of Parliament every member of the Cabinet shall have the right to take part in the proceedings of the other House.
- (2) Either House of Parliament may appoint as a member of any of its committees the Attorney General or any member of the Cabinet notwithstanding that he is not a member of that House.
- (3) This Article does not authorize any person who is not a member of a House to vote in that House or any of its committees.

- (4) In this Article "member of the Cabinet" includes a Deputy Minister and a Parliamentary Secretary.

Parliamentary procedure

62. (1) Subject to the provisions of this Constitution and of federal law, each House of Parliament shall regulate its own procedure.
- (2) Each House may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled thereto shall not invalidate any proceedings.
- (3) Subject to Clause (4) and to Articles 89 (1) and 159 (3) and to sections 10 and 11 of the Thirteenth Schedule, each House shall, if not unanimous, take its decision by a simple majority of members voting; and the person presiding shall unless he is a member of the House by virtue only of paragraph (b) of Clause (1A) of Article 57, cast his vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.
- (4) In regulating its procedure each House may provide, as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.
- (5) Members absent from a House shall not be allowed to vote.

Privileges of Parliament

63. (1) The validity of any proceedings in either House of Parliament or any committee thereof shall not be questioned in any court.
- (2) No person shall be liable to any proceedings in any court in respect of anything said or any vote given by him when taking part in any proceedings of either House of Parliament or any committee thereof.
- (3) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of either House of Parliament.

Art. 58: 1. See *Members of Parliament (Remuneration) Act 1980 [Act 237]*.

2. The words "Deputy Speakers" were substituted for the words "Deputy Speaker" appearing in this Article and in the shoulder note thereto by Act A566, section 10, in force from 16-12-1983.

Art. 59: 1. See Art. 57 (1A).

2. Clause 2: The word "six" was substituted for the word "three" by Act A566, section 11, in force from 16-12-1983.

Art. 61(4):1. Added by Act 10/1960, section 10, in force from 31-05-1960.

2. The words "Deputy Minister" substituted for "Assistant Minister" by Act A31, section 10, in force from 24-03-1971.

3. The words "and" and "and a Parliamentary Secretary" were added by Act A631, section 4, in force from 24-02-1986.

Art. 62(3): Act 14/1962, Sch. section 4, in force from 21-06-1962, inserted the words "and to sections 10 and 11 of the Thirteenth Schedule" and Act 19/1964, subsection 7(2), in force from 30-07-1964, inserted the words "unless he is a member of the House by virtue only of paragraph (b) of Clause (1A) of Article 57".

Art. 63: 1. Clause (4): Added by Act A30, section 3, in force from 10-03-1971.

2. See *Houses of Parliament (Privileges and Powers) Ordinance, No. 15 of 1952*.

3. Clause (5): Added by Act A848, section 5, in force from 30-03-1993.

- (4) Clause (2) shall not apply to any person charged with an offence under the law passed by Parliament under Clause (4) of Article 10 or with an offence under the Sedition Act 1948 [Act 15] as amended by the Emergency (Essential Powers) Ordinance No. 45, 1970 [P.U. (A) 282/1970].
- (5) Notwithstanding Clause (4), no person shall be liable to any proceedings in any court in respect of anything said by him of the Yang di-Pertuan Agong or a Ruler when taking part in any proceedings of either House of Parliament or any committee thereof except where he advocates the abolition of the constitutional position of the Yang di-Pertuan Agong as the Supreme Head of the Federation or the constitutional position of the Ruler of a State, as the case may be.

Remuneration of members

64. Parliament shall by law provide for the remuneration of members of each House.

Clerks of Senate and House of Representatives

- 65.(1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives.
- (2) The Clerk to the Senate and the Clerk to the House of Representatives shall be

appointed by the Yang di-Pertuan Agong from among members of the general public service of the Federation and each shall hold office until he attains the age of compulsory retirement for members of the general public service unless he sooner resigns his office or is transferred to another office in the general public service.

- (3) The persons holding the office of the Clerk to the Senate and Clerk to the House of Representatives immediately prior to the coming into force of this Clause shall, unless either person has not attained the age of fifty-five years and has opted to become a member of the general public service of the Federation, continue to hold office respectively on terms and conditions not less favourable than those applicable to him immediately before such coming into operation and shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court, and in this respect the representation mentioned in Article 125 (3) shall be a representation made by the President of the Senate or, as the case may be, the Speaker of the House of

Art. 64: See *Members of Parliament (Remuneration) Act 1980 [Act 237]*.

Art. 65(2):1. *Proviso added by Act A354, section 17, in force from Merdeka Day.*

See section 7 of the *Constitution (Amendment) Act 1992 [Act A837]* on the status of members of the *Parliamentary Service* upon repeal of the *Parliamentary Service Act 1963 [Act 394]*.

2. The words "the age of compulsory retirement for members of the general public service" were substituted for "the age of fifty-five years" by Act A1130, section 7, in force from 28-09-2001.

Art. 65(3):1. The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963.

2. Subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

3. The word "Federal" substituted for the word "Supreme" by Act A885, section 7, in force from 24-06-1994.

Art. 65(2) & (3):The present Clauses were inserted by Act A837, section 5, in force from 20-11-1992, and replaced the earlier Clauses which read as follows:

"(2) The Clerk to The Senate and the Clerk to the House of Representatives shall be appointed by the Yang di-Pertuan Agong and, subject to Clause (3), each shall hold office until he attains the age of sixty years or such other age as Parliament may by law provide, unless he sooner resigns his office: Provided that this Clause shall not be taken to prevent the Yang di-Pertuan Agong from making the appointment from amongst the members of the public services to which Part X applies for such shorter period as he may deem fit, and this proviso shall be deemed to have been an integral part of

this Article as from Merdeka Day.

(3) The Clerk to the Senate and the Clerk to the House of Representatives may be removed from office on the like grounds and in the like manner as a judge of the Supreme Court, except that the representation mentioned in Clause (3) of Article 125 shall be a representation made by the President of the Senate or, as the case may be, the Speaker of the House of Representatives."

Art. 65(4):1. The present Clause was inserted by Act 14/1962, paragraph 15(a), in force from 21-06-1962, and replaced the earlier Clause which read as follows:

"(4) Before appointing any member of his staff the Clerk to the Senate shall consult the President of the Senate, and the Clerk to the House of Representatives the Speaker of the House."

2. See *Parliamentary Service Act 1963 [Act 12/1963]*.

3. This Clause which is reproduced as follows, was repealed by Act A837, section 5, in force from 20-11-1992:

"(4) Except as otherwise expressly provided by this Article, the qualifications for appointment and conditions of service of the Clerk to the Senate and the Clerk to the House of Representatives, and of members of the staff of the Houses of Parliament, may be regulated by federal law."

Art. 65(5):1. The words "the staff of Parliament" were substituted for "their staffs" by Act 14/1962, paragraph 15(b), in force from 21-06-1962.

2. This Clause which is reproduced as follows, was repealed by Act A837, section 5, in force from 20-11-1992:

"(5) The Clerk to the Senate, the Clerk to the House of Representatives and members of the staff of Parliament are disqualified for being members of either House of Parliament or the Legislative Assembly of any State."

- Representatives.
 (4) (Repealed).
 (5) (Repealed).

Chapter 5 - Legislative procedure

Exercise of legislative power

66. (1) The power of Parliament to make laws shall be exercised by Bills passed by both Houses (or, in the cases mentioned in Article 68, the House of Representatives) and, except as otherwise provided in this Article, assented to by the Yang di-Pertuan Agong.
- (2) Subject to Article 67, a Bill may originate in either House.
- (3) When a Bill has been passed by the House in which it originated it shall be sent to the other House; and it shall be presented to the Yang di Pertuan Agong for his assent when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it or when it is required to be so presented under Article 68.
- (4) The Yang di-Pertuan Agong shall within thirty days after a Bill is presented to him assent to the Bill by causing the Public Seal to be affixed thereto.

- (4A) If a Bill is not assented to by the Yang di-Pertuan Agong within the time specified in Clause (4), it shall become law at the expiration of the time specified in that Clause in the like manner as if he had assented thereto.
- (4B) (Repealed).
- (5) A Bill shall become law on being assented to by the Yang di-Pertuan Agong or as provided in Clause (4A), but no law shall come into force until it has been published, without prejudice, however, to the power of Parliament to postpone the operation of any law or to make laws with retrospective effect.
- (6) Nothing in this Article or in Article 68 shall invalidate any law confirming an undertaking given by the Federal Government to the effect that a Bill to which the undertaking relates shall not be presented to the Yang di-Pertuan Agong for his assent except in accordance with the undertaking.

Art. 66(1): The words ", except as otherwise provided in this Article," were added after the word "and" by Act A584, paragraph 2(a), in force from 20-01-1984.

Art. 66(4):1. The words", and after assenting to a Bill he shall cause it to be published as a law" were deleted by Act A566, section 12, in force from 16-12-1983.

2. Clause (4) was substituted by Act A584, section 2, in force from 20-01-1984. The original Clause read as follows:

"(4) The Yang di-Pertuan Agong shall signify his assent to a Bill by causing the Public Seal to be affixed thereto, and after assenting to a Bill he shall cause it to be published as a law."

Clauses (4A) and (4B): Added by Act A584, paragraph 2(b), in force from 20-01-1984.

Clause 5: 1. Substituted by Act A566, paragraph 12(b) in force from 16-12-1983. Act A566, paragraph 12(b) also introduced Clause (5A). Both Clauses (5) and (5A) read as follows:

"(5) A Bill shall become law on being assented to by the Yang di-Pertuan Agong. If for any reason whatsoever the Bill is not assented to within fifteen days of the Bill being presented to the Yang di-Pertuan Agong, he shall be deemed to have assented to the Bill and the Bill shall accordingly become law.

(5A) No law shall come into force until it has been published, without prejudice, however, to the power of Parliament to postpone the operation of any law or to make laws with retrospective effect."

2. Subsequently Act A584, paragraphs 2(c) and (d), in force from 20-01-1984 substituted Clause (5) as it stands and repealed Clause (5A). Clauses (4), (4A), (4B) and (5):

1. Clauses (4) and (4A) were substituted by Act

A885, section 8, in force from 24-06-1994. The earlier Clauses read as follows:

"(4) The Yang di-Pertuan Agong shall within thirty days after a Bill is presented to him-

(a) assent to the Bill by causing the Public Seal to be affixed thereto; or

(b) if it is not a money Bill, return the Bill to the House in which it originated with a statement of the reasons for his objection to the Bill, or to any provision thereof.

(4A) If the Yang di-Pertuan Agong returns a Bill to the House in which it originated in accordance with Clause (4)(b), the House shall as soon as possible proceed to reconsider the Bill. If after such reconsideration the Bill is passed by the votes of not less than two-thirds of the total number of members of that House in the case of a Bill for making any amendment to the Constitution other than an amendment excepted pursuant to Article 159, and by a simple majority in the case of any other Bill, with or without amendment, it shall be sent together with the objections to the other House, by which it shall likewise be reconsidered, and if similarly approved by members of that House, the Bill shall again be presented to the Yang di-Pertuan Agong for assent and the Yang di-Pertuan Agong shall give his assent thereto within thirty days after the Bill is presented to him."

2. Clause (4B) which read as follows, repealed by Act A885, section 8, in force from 24-06-1994:

"(4B) If a Bill is not assented to by the Yang di-Pertuan Agong within the time specified in Clause (4)(a) or (4A) hereof, it shall become law at the expiration of the time as specified in Clause (4)(a) or (4A), as the case may be, in the like manner as if he had assented to it."

Restriction on introduction of Bills and moving of amendments involving taxation, expenditure, etc.

67. (1) A Bill or amendment making provision (whether directly or indirectly) for
- (a) imposing or increasing any tax or abolishing, reducing or remitting any existing tax;
 - (b) the borrowing of money, or the giving of any guarantee, by the Federation, or the amendment of the law relating to the financial obligations of the Federation;
 - (c) the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition or alteration of any such charge;
 - (d) the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any increase in the amount of such a payment, issue or withdrawal;
 - (e) the compounding or remission of any debt due to the Federation;
 - (f) the assignment of a tax or fee or the making of a grant to any State;
 - (g) the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys or the audit of the accounts of the Federation or a State, being provision as respects which the Minister charged with responsibility for finance signifies that it goes beyond what is incidental only and not of a substantial nature having regard to the purposes of the Bill or amendment shall not be introduced or moved except by a Minister, and a Bill making any such provision shall not be introduced in the Senate.
- (2) A Bill or amendment shall not be deemed to make provision for any of the said matters by reason only that it provides
- (a) for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee or a fee or charge for any service rendered; or

- (b) for the imposition, alteration or regulation of any tax or rate by any local authority or body for local purposes.

Assent to Bills passed by House of Representatives only.

68. (1) Where a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within a month, it shall be presented to the Yang di-Pertuan Agong for his assent unless the House of Representatives otherwise directs.
- (2) Where
- (a) a Bill which is not a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree; and
 - (b) in the following session (whether of the same Parliament or not) but not earlier than one year after it was first passed by the House of Representatives the same Bill, with no other alterations than those mentioned in Clause (3), is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree, the Bill shall, unless the House of Representatives otherwise directs, be presented to the Yang di-Pertuan Agong for his assent with such amendments, if any, as may have been agreed to by both Houses.
- (3) The alterations referred to in Clause (2) are alterations certified by the Speaker of the House of Representatives to be necessary owing to the time which has elapsed since the Bill was passed in the earlier session or to represent amendments made in that session by the Senate.
- (4) When a Bill is presented to the Yang di-

Art. 67: See Art. 66(2).
Clause (1):

1. The words "(whether directly or indirectly)" which appear in lines one and two and the words "being provision as respects which the Minister charged with responsibility for finance signifies that it goes beyond what is incidental only and not of a substantial nature having regard to the

purposes of the Bill or amendment" which appear after paragraph (g) were added and the words "any such provision" in the penultimate line of the Clause were substituted for "provision for any such matter" by Act 14/1962, section 16, in force from 15-07-1962.

2. See Art. 68(6).

Art. 68: See Art. 66 (1), (3) and (6).

Pertuan Agong in pursuance of this Article it shall bear a certificate of the Speaker of the House of Representatives that the provisions of this Article have been complied with, and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

- (5) This Article does not apply to any Bill for making any amendment to this Constitution, other than an amendment excepted from the provisions of Clause (3) of Article 159.
- (6) In this Article "money Bill" means a Bill which, containing in the opinion of the Speaker of the House of Representatives only provisions dealing with all or any of the following matters, that is to say:
- (a) the matters mentioned in Clause (1) of Article 67 or the regulation of any tax;
 - (b) the reduction of any such amount as is mentioned in paragraph (d) of Clause (1) of Article 67; and
 - (c) any matter incidental to those matters or any of them, is certified by him as a money Bill.

Chapter 6 - Capacity as respects property, contracts and suite Capacity of Federation as respects property, contracts and suits

- 69.(1) The Federation has power to acquire, hold and dispose of property of any kind and to make contracts.
- (2) The Federation may sue and be sued.

PART V THE STATES

Precedence of Rulers and Yang di-Pertua-Yang di-Pertua Negeri

70. (1) Subject to the precedence of the Yang di-Pertuan Agong and his Consort, the Rulers and Yang di-Pertua-Yang di-Pertua Negeri of the States shall take precedence over all other persons and each Ruler or Yang di-Pertua Negeri shall in his own State take precedence over the other Rulers and Yang di-Pertua-Yang di-Pertua Negeri.

- (2) Subject to Clause (1), the Rulers shall take precedence over the Yang di-Pertua-Yang di-Pertua Negeri and, among themselves, in accordance with the dates on which they acceded as Rulers, and the Yang di-Pertua-Yang di-Pertua Negeri shall take precedence among themselves in accordance with the dates on which they were appointed as Yang di-Pertua-Yang di-Pertua Negeri; and if Yang di-Pertua-Yang di-Pertua Negeri were appointed on the same day the older shall take precedence over the younger.

Federal guarantee of State Constitutions

71. (1) The Federation shall guarantee the right of a Ruler of a State to succeed and to hold, enjoy and exercise the constitutional rights and privileges of Ruler of that State in accordance with the Constitution of that State; but any dispute as to the title to the succession as Ruler of any State shall be determined solely by such authorities and in such manner as may be provided by the Constitution of that State.
- (2) Clause (1) shall, with the necessary modifications, apply in relation to a Ruling Chief of Negeri Sembilan as it applies to the Ruler of a State.
- (3) If it appears to Parliament that in any State any provision of this Constitution or of the Constitution of that State is being habitually disregarded, Parliament may, notwithstanding anything in this Constitution, by law make provision for securing compliance with those provisions.
- (4) If at any time the Constitution of any State does not contain the provisions set out in Part I of the Eighth Schedule, with or without the modifications allowed under Clause (5) (hereinafter referred to as "the essential provisions") or provisions substantially to the same effect, or contains provisions inconsistent with the essential provisions, Parliament may, notwithstanding anything in this Constitution, by law make provision

Art. 69: Clause (1): See *Government Contracts Act 1949* [Act 120].

Clause (2): See *Government Proceedings Act 1956* [Act 359].

Art. 70: 1. Clause (1): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

2. Clauses (1) and (2): The words "Yang di-Pertua-Yang di-Pertua Negeri" substituted for "Governors" by Act A514, section 19, in force from 27-08-1976.

3. See Art. 159(5).

Art. 71(1): See Art. 159(5).

Art. 71(4): Act 25/1963, section 8, in force from 29-08-1963, deleted the words "after the thirtieth day

of June, nineteen hundred and fifty-nine," which appeared after "If at any time" in line one, and the words "it appears to Parliament that" which followed immediately thereafter were deleted by Act 26/1963, subsection 12(2), in force from 16-09-1963.

Art. 71(7): 1. Added by Act 26/1963, subsection 12(1), in force from 16-09-1963. The figures "1975" in paragraph (b) were substituted for "1957" by Act 59/1966, section 2, in force from 16-09-1963.

2. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976 and the words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

for giving effect in that State to the essential provisions or for removing the inconsistent provisions.

- (5) The provisions set out in Part I of the Eighth Schedule may be modified by substituting for section 2 or section 4 or both the provisions set out in Part II of that Schedule as an alternative thereto
- (a) in the case of every State, until the dissolution of the second Legislative Assembly constituted in accordance with those provisions or those provisions so modified;
- (b) in the case of Perlis, until such further time as the Legislative Assembly of that State may resolve and, as respects the provision set out in section 2 of that Schedule, indefinitely.
- (6) A law made for a State in pursuance of this Article shall, unless sooner repealed by Parliament, cease to have effect on such day as a new Legislative Assembly, constituted in that State after the passing of the law, may resolve.
- (7) In relation to the State of Sabah or Sarawak
- (a) Clause (5) shall not apply; but
- (b) until the end of August 1975, or such earlier date as the Yang di-Pertuan Agong with the concurrence of the Yang di-Pertua Negeri may by order direct, Clause (4) shall apply as if the reference to the modifications allowed under Clause (5) were a reference to the modifications made by the Constitution of the State as in force on Malaysia Day.
- (8) (Repealed).

Privileges of Legislative Assembly

72. (1) The validity of any proceedings in the

Legislative Assembly of any State shall not be questioned in any court.

- (2) No person shall be liable to any proceedings in any court in respect of anything said or any vote given by him when taking part in proceedings of the Legislative Assembly of any State or of any committee thereof.
- (3) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of the Legislative Assembly of any State.
- (4) Clause (2) shall not apply to any person charged with an offence under the law passed by Parliament under Clause (4) of Article 10 or with an offence under the Sedition Act 1948 as amended by the Emergency (Essential Powers) Ordinance No. 45, 1970.
- (5) Notwithstanding Clause (4), no person shall be liable to any proceedings in any court in respect of anything said by him of the Ruler of any State when taking part in any proceedings of the Legislative Assembly of any State or any committee thereof except where he advocates the abolition of the Ruler's position as the constitutional Ruler of that State.

PART VI RELATIONS BETWEEN THE FEDERATION AND THE STATES

Chapter 1 - Distribution of legislative powers Extent of federal and State laws

73. In exercising the legislative powers conferred on it by this Constitution

- (a) Parliament may make laws for the whole or any part of the Federation and laws having effect outside as well as within the Federation;
- (b) the Legislature of a State may make laws for the whole or any part of that State.

Art. 71(7):1. Added by Act 26/1963, subsection 12(1), in force from 16-09-1963. The figures "1975" in paragraph (b) were substituted for "1957" by Act 59/1966, section 2, in force from 16-09-1963.

2. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976 and the words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Art. 71(8): This Clause which read as follows was inserted by Act 26/1963, subsection 12(1), in force from 16-09-1963, and repealed by Act 59/1966, section 2, in force from 16-09-1963:

"(8) In relation to Singapore Clauses (4) to (6) shall not apply, but no enactment of the Legislature of Singapore making in the Constitution of the State amendments relating to any matter dealt with by the provisions set out in Part I of the Eighth

Schedule (as it applies to Singapore) shall have effect unless-

(a) the amendments do not materially affect the operation of the Constitution in relation to those matters; or

(b) the effect of the amendments is confined to inserting provisions so set out or provisions substantially to the same effect (whether or not in substitution for other provisions) or to removing provisions inconsistent with the provisions so set out;

or (c) the enactment is approved by Act of Parliament."

Art. 72: Clause (4): Added by Act A30, section 4, in force from 10-03-1971.

Clause (5): Added by Act A848, section 6, in force from 30-03-1993.

Part VI-See Art. 154(2).

Subject matter of federal and State laws

74. (1) Without prejudice to any power to make laws conferred on it by any other Article, Parliament may make laws with respect to any of the matters enumerated in the Federal List or the Concurrent List (that is to say, the First or Third List set out in the Ninth Schedule).
- (2) Without prejudice to any power to make laws conferred on it by any other Article, the Legislature of a State may make laws with respect to any of the matters enumerated in the State List (that is to say, the Second List set out in the Ninth Schedule) or the Concurrent List.
- (3) The power to make laws conferred by this Article is exercisable subject to any conditions or restrictions imposed with respect to any particular matter by this Constitution.
- (4) Where general as well as specific expressions are used in describing any of the matter enumerated in the Lists set out in the Ninth Schedule the generality of the former shall not be taken to be limited by the latter.

Inconsistencies between Federal and State laws

75. If any State law is inconsistent with a federal law, the federal law shall prevail and the State law shall, to the extent of the inconsistency, be void.

Power of Parliament to legislate for States in certain cases

76. (1) Parliament may make laws with respect to any matter enumerated in the State List, but only as follows, that is to say:
- (a) for the purpose of implementing any treaty, agreement or convention between the Federation and any other country, or any decision of an international organization of which the Federation is a member; or

- (b) for the purpose of promoting uniformity of the laws of two or more States; or
- (c) if so requested by the Legislative Assembly of any State.

- (2) No law shall be made in pursuance of paragraph (a) of Clause (1) with respect to any matters of Islamic law or the custom of the Malays or to any matters of native law or custom in the States of Sabah and Sarawak and no Bill for a law under that paragraph shall be introduced into either House of Parliament until the Government of any State concerned has been consulted.
- (3) Subject to Clause (4), a law made in pursuance of paragraph (b) or paragraph (c) of Clause (1) shall not come into operation in any State until it has been adopted by a law made by the Legislature of that State, and shall then be deemed to be a State law and not a federal law, and may accordingly be amended or repealed by a law made by that Legislature.
- (4) Parliament may, for the purpose only of ensuring uniformity of law and policy, make laws with respect to land tenure, the relations of landlord and tenant, registration of titles and deeds relating to land, transfer of land, mortgages, leases and charges in respect of land, easements and other rights and interests in land, compulsory acquisition of land, rating and valuation of land, and local government; and Clauses (1)(b) and (3) shall not apply to any law relating to any such matter.

Power of Parliament to extend legislative powers of States

- 76A.(1) It is hereby declared that the power of Parliament to make laws with respect to a matter enumerated in the Federal List includes power to authorize the Legislatures of the States or any of them, subject to such conditions or restrictions (if any) as Parliament may impose, to make laws with

Art. 74: 1. See Art 159(4)(b).
2. Clause (2): The words "Without prejudice to any power to make laws conferred on it by any other Article," appearing at the commencement were inserted by Act 25/1963, subsection 2(2), in force from 31-08-1957.

Art. 75: See Art. 76A(2), 162(2)

Art. 76: See Art. 159(4)(b), 160(2) definition of "federal purposes".
Clause (1): See Art. 169.
Clause (1)(b): See Art. 95D.
Clause (2):1. The words "or to any matters of native law or customs in the Borneo States" were inserted by Act 26/1963, section 70, in force from 16-09-1963.
2. The words "Islamic law" substituted for "Muslim law" by Act A345, section 45 and "States of Sabah and Sarawak," substituted for "Borneo States" by

Act A345, section 43, and Act A514, section 19, both in force from 27-08-1976.

Clause (3): The words "for the purposes of Article 75" which appeared before "to be a State law" were deleted by Act 10/1960, section 11, in force from 31-05-1960.

Clause (4):1. The words "other than mining leases" which appeared after "leases" were deleted by Act 14/1962, section 17, in force from 21-06-1962.

2. See Art. 80(3), 95D.

Art. 76A: 1. Added by Act 26/1963, section 37, in force from 31-08-1957.

2. See Art. 95C(1)(a).

3. See *Incorporation (State Legislatures Competency) Act 1962* [Act 380].

4. Clause (3): See Art. 95C(3).

respect to the whole or any part of that matter.

- (2) Notwithstanding Article 75, a State law made under authority conferred by Act of Parliament as mentioned in Clause (1) may, if and to the extent that the Act so provides, amend or repeal (as regards the State in question) any federal law passed before that Act.
- (3) Any matter with respect to which the Legislature of a State is for the time being authorized by Act of Parliament to make laws shall for purposes of Articles 79, 80 and 82 be treated as regards the State in question as if it were a matter enumerated in the Concurrent List.

Residual power of legislation

77. The Legislature of a State shall have power to make laws with respect to any matter not enumerated in any of the Lists set out in the Ninth Schedule, not being a matter in respect of which Parliament has power to make laws.

Legislation restricting use of rivers

78. In so far as any law made by Parliament or any regulation made in pursuance of such a law restricts the rights of a State or its residents to the use for navigation or irrigation of any river wholly within that State it shall not have effect in that State unless it has been approved by a resolution of the Legislative Assembly of that State supported by a majority of the total number of its members.

Exercise of concurrent legislative powers

79. (1) Where it appears to the presiding officer of either House of Parliament or of the Legislative Assembly of any State that a Bill or an amendment to a Bill proposes a change in the law relating to any of the matters enumerated in the Concurrent List, or to any of the matters enumerated in the State List with respect to which the Federation is exercising functions in accordance with Article 94, he shall certify the Bill or amendment for the purposes of this Article.
- (2) A Bill or amendment certified under this Article shall not be proceeded with until four

weeks have elapsed since its publication, unless the presiding officer, being satisfied that the State Governments, or as the case may be, the Federal Government, have been consulted, allows it to be proceeded with on the ground of urgency.

Chapter 2 - Distribution of executive powers

Distribution of executive powers

80. (1) Subject to the following provisions of this Article the executive authority of the Federation extends to all matters with respect to which Parliament may make laws, and the executive authority of a State to all matters with respect to which the Legislature of that State may make laws.
- (2) The executive authority of the Federation does not extend to any matter enumerated in the State List, except in so far as is provided in Articles 93 to 95, nor to any matter enumerated in the Concurrent List, except in so far as may be provided by federal or State law; and so far as federal or State law confers executive authority on the Federation with respect to any matter enumerated in the Concurrent List it may do so to the exclusion of the executive authority of the State.
- (3) So far as a law made under Clause (4) of Article 76 makes provisions for conferring executive authority on the Federation it shall not operate in any State unless approved by resolution of the Legislative Assembly of that State.
- (4) Federal law may provide that the executive authority of a State shall extend to the administration of any specified provisions of federal law and may for that purpose confer powers and impose duties on any authority of the State.
- (5) Subject to any provisions of federal or State law, arrangements may be made between the Federation and a State for the performance of any functions by the authorities of the one on behalf of the authorities of the other and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

Art. 79: See Art. 76A(3), 92(2), 149(1), 150(5).

Art. 80: See Art. 76A(3).

Clause (4): See Art. 95C(1)(b).
Clause (6):

1. The words "Lord President of the Federal Court" were substituted for "Chief Justice" by Act 26/1963, section 70, in force from 16-09-1963. Subsequently subsection 18(2) of Act A566, in

force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

2. See Art. 95C(3).

3. The words "Chief Justice of the Federal Court" substituted for the words "Lord President of the Supreme Court" by Act A885, section 9, in force from 24-06-1994.

- (6) Where, in pursuance of Clause (4), any functions are conferred by federal law on any authority of a State the Federation shall make such payments to the State as may be agreed between the Federation and the State or as may in default of agreement be determined by a tribunal appointed by the Chief Justice of the Federal Court.

Obligation of States towards Federation

81. The executive authority of every State shall be so exercised
- (a) as to ensure compliance with any federal law applying to that State; and
 - (b) as not to impede or prejudice the exercise of the executive authority of the Federation.

Chapter 3 - Distribution of financial burdens Financing of expenditure relating to matter on Concurrent List

82. Where any law or executive action relating to any of the matters enumerated in the Concurrent List involves expenditure, such action shall be taken under this Constitution as will ensure that, unless otherwise agreed, the burden of that expenditure is borne
- (a) by the Federation, if the expenditure results either from federal commitments or from State commitments undertaken in accordance with federal policy and with the specific approval of the Federal Government;
 - (b) by the State or States concerned, if the expenditure results from State commitments undertaken by the State or States on its or their own authority.

Chapter 4 - Land

Acquisition of land for federal purposes

83. (1) If the Federal Government is satisfied that land in a State, not being alienated land, is needed for federal purposes, that Government may, after consultation with the State Government, require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation, or to such public authority as the Federal Government may direct, such grant of the land as the Federal Government may direct:

Provided that the Federal Government shall not require the grant of any land reserved

for a State purpose unless it is satisfied that it is in the national interest so to do.

- (2) Where in accordance with Clause (1) the Federal Government requires the State Government to cause to be made a grant of land in perpetuity, the grant shall be made without restrictions as to the use of the land but shall be subject to the payment annually of an appropriate quit rent and the Federation shall pay to the State a premium equal to the market value for the grant; and where the Federal Government so requires the State Government to cause to be granted any other interest in land, the Federation shall pay to the State the just annual rent therefor and such premium, if any is required by the State Government, as may be just:

Provided that if the value of the land has been increased by means of any improvement made (otherwise than at the expense of the State) while the land was reserved for federal purposes, the increase shall not be taken into consideration in determining the market value, rent or premium for the purposes of this Clause.

- (3) Where a requirement is made under Clause (1) in respect of any land which, at the date of the requirement, was intended for any State purpose, then if
- (a) other land is acquired by the State for that purpose in substitution for the first mentioned land; and
 - (b) the cost of the land so acquired exceeds the amount paid by the Federation (otherwise than as rent) in accordance with Clause (2) in respect of the interest granted to the Federation, the Federation shall pay to the State such sum as may be just in respect of the excess.
- (4) Where a further grant is made in pursuance of this Article in respect of land an interest in which is vested in the Federation in which is vested in the Federation or any public authority, any sums payable by way of premium under Clause (2) in respect of the further grant shall be reduced by an amount equal to the market value of any

Art. 82: See Art. 76A(3).

Art. 83: See Art. 88.

Clause (5): See Art. 84(1)(a)

Paragraph (a): See Art. 88(b)

Clause (8): Added by Act A704, section 3, in force from 10-06-1988.

improvements made (otherwise than at the expense of the State) since that interest became vested as aforesaid.

(5) The foregoing provisions of this Article (except Clause (3)) shall apply in relation to alienated land as they apply in relation to land not being alienated land, but subject to the following modifications:

(a) in Clause (1), the words "after consultation with the State Government" shall be omitted;

(b) where a requirement is made under that Clause, it shall be the duty of the State Government to cause to be acquired by agreement or compulsorily such interest in the land as may be necessary for complying with the requirement;

(c) any expenses incurred by the State in or in connection with the acquisition of land in accordance with paragraph

(b) shall be repaid by the Federation, except that if the acquisition is by agreement the Federation shall not, unless it is party to the agreement, be liable to pay more than it would have paid on a compulsory acquisition;

(d) any sum paid by the Federation to the State in accordance with paragraph (c) shall be taken into consideration in determining for the purposes of Clause (2) the market value, the appropriate quit rent or the just annual rent, and shall be deducted from any premium to be paid by the Federation under that Clause.

(6) Where a grant is made to the Federation in pursuance of Clause (1) in respect of land which, or an interest in which, was acquired

by the State Government at the expense of the Government of the Federation of Malaya before Merdeka Day, paragraph (d) of Clause (5) shall apply to the sums paid in respect of the acquisition by the Government of the Federation of Malaya as if they were sums paid by the Federation in accordance with paragraph (c) of Clause (5); and Clause (3) shall not apply to any such land.

(7) Nothing in this Article shall prevent the reservation of land in a State for federal purposes on such terms and conditions as may be agreed between the Federal Government and the Government of the State, or effect the power of the appropriate authority in State to acquire in accordance with any law for the time being in force any alienated land for federal purposes without a requirement by the Federal Government under this Article.

(8) Nothing in this Article shall prevent the making of a grant of land in a State to the Federation, on such terms and conditions as may be agreed between the Federal Government and the Government of the State, without a requirement by the Federal Government under this Article.

84. (Repealed).

Grant to Federation of land reserved for federal purposes

85. (1) Where any land in a State is reserved for any federal purposes, the Federal Government may require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation a grant of the land in perpetuity without restrictions as to the use

Art. 84: 1. This Article which read as follows was repealed by Act A704, section 4, in force from 10-06-1988: "84. (1) Where any interest in land in a State vested in the Federation or a public authority for federal purposes ceases to be required for federal purposes, it shall revert to that State if the State Government agrees to pay to the Federation- (a) in a case where the land, or an interest therein, was acquired by the State Government in pursuance of Clause (5) of Article 83, or was acquired by the State Government at the expense of the Government of the Federation of Malaya before Merdeka Day, an amount equal to the market value of the interest vested in the Federation or public authority; (b) in any other case, at the option of the State Government, either- (i) an amount equal to the market value of that interest; or (ii) an amount equal to the sums paid (otherwise than as rent) by the Federation, or by the Government of the Federation of Malaya before Merdeka Day, in respect of the grant of that interest, together with the market value of any improvements made (otherwise than at the

expense of the State) to the land after that grant. (2) Where any interest in land to which Clause (1) applies does not revert to the State in accordance with that Clause, the Federal Government or the public authority, as the case may be, may sell the interest on such terms and conditions as that Government or authority may think fit." 2. See Art. 86(1), (2), (4) & (5), 88.

Art. 85: 1. This Article which read as follows was substituted by Act A704, section 5, in force from 10-06-1988: "85. (1) Where any land in State which is reserved for any federal purposes ceases to be required for those purposes, the Federal Government shall offer to release the land to the State on condition that the State pays to the Federation- (a) the market value of any improvements made (otherwise than at the expense of the State) while the land was in use for federal purposes; and (b) the amount, if any, paid by the Federation, or paid before Merdeka Day by the Government of the Federation of Malaya, in respect of the cost of acquisition of any interest in the land by the State Government, and if the State Government accepts the offer the reservation shall cease.

- of the land, but subject to the payment of a premium to be determined in accordance with Clause (2) and to the payment annually of an appropriate quit rent.
- (2) The premium referred to in Clause (1) shall be equal to the market value of the land reduced by
- (a) the market value of any improvements made (otherwise than at the expense of the State) while the land was in use for federal purposes; and
 - (b) the amount, if any, paid by the Federation, or paid before Merdeka Day by the Government of the Federation of Malaya, in respect of the cost of acquisition of any interest in the land by the State Government.
- (3) Without prejudice to Clause (1), where any land in a State is reserved for any federal purposes, the Federal Government may offer to release the land to the State on condition that the State pays to the Federation the market value and the amount mentioned in paragraphs (a) and (b) of Clause (2); and if the State Government accepts the offer the reservation shall cease.
- (4) Except as provided by this Article, land in a State which is reserved for federal purposes shall not cease to be so reserved, and all land so reserved shall be controlled and managed by or on behalf of the Federal Government, and the Federal Government may grant any right of occupation, control or management, or a tenancy or lease, of the whole or any part of such land, to any person
- (a) for the use of the land by such person for any duration for the federal purpose for which it is reserved, or for any purpose ancillary or incidental thereto; or
 - (b) where the Federal Government is unable for any reason to use the land for the time being for the federal purposes for which it is reserved, for its use by such person for any purpose other than a federal purpose, for such duration and on such terms and conditions as the Federal Government may determine.
- (5) In this Article the reference to land in a State reserved for federal purposes includes
- (a) any land which was reserved before Merdeka Day in accordance with the provisions of any law then in force in the State for any purpose which has become a federal purpose after Merdeka Day;
 - (b) any land reserved for any federal purpose after Merdeka Day in accordance with the provisions of any law for the time being in force in a State;
 - (c) any State land referred to in the repealed Clause (4) of Article 166; and
 - (d) any land in a State reserved for federal purposes by virtue of Clause (7) of Article 83.

Disposition of land vested in the Federation

86. (1) Where any interest in land is vested in the Federation, or in public authority, for any purpose, the Federation or the public authority may dispose of that interest or any smaller interest in the land to any person as it deems fit.
- (2) Where any interest in land in a State is disposed of by or to the Federation or any public authority in pursuance of this Article or of Article 85, it shall be the duty of the Government of that State to register the transaction accordingly.

Art. 85: (2) Where the State Government does not accept an offer made in accordance with Clause (1), then, unless by agreement between the Federal Government and the State Government the land is reserved for another federal purpose, the Federal Government may require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation a grant of the land in perpetuity without restrictions as to the use of the land, but subject to the payment of a premium equal to the market value of the land reduced by the amounts which would have been payable to the Federation under Clause (1) if the said offer had been accepted, and to the payment annually of an appropriate quit rent; and where such grant is made to the Federation, the Federal Government may sell and transfer or lease the land on such terms and conditions as it may think fit.

(3) Except as provided by this Article, land in a State which is reserved for federal purposes shall not cease to be so reserved, and all land so reserved shall be controlled and managed by or on behalf of the Federal Government."

2. See Art. 86(2) and (5), 88.

Art. 86: 1. Clause (6) of this Article which read as follows was added by Act A585, section 23, in force from 14-04-1984:

"(6) The foregoing provisions of this Article shall not apply to any land or interest in land in the Federal Territory of Kuala Lumpur or the Federal Territory of Labuan howsoever vested in the Federation, and the Federation may dispose of such land or interest."

2. This Article was substituted by Act A704, section 6, in force from 10-06-1988. The previous Article read as follows:

"86. (1) Where any interest in land vested in the Federation, the Federation may, subject to Article 84 and to Clause (2) of this Article, dispose of that interest or any smaller interest in the land.

(2) Every such disposition of an interest in land shall be made conditional on the land being used for a federal purpose specified therein, and no such disposition shall be made to a person other than a public authority except-

- (a) under and in accordance with the provisions of federal law; or
- (b) by an order of the Yang di-Pertuan Agong laid and approved in accordance with Clause (3):

Determination of disputes as to land values

- 87.(1) Where any dispute arises between the Federal Government and a State Government as to the making of any payment by or to the Federation under the foregoing Articles of this chapter, or as to the amount of any such payment, the dispute shall be referred, at the instance either of the Federal Government or of the State Government, to the Lands Tribunal appointed in accordance with this Article.
- (2) The Lands Tribunal shall consist of
- (a) a chairman, who shall be appointed by the Chief Justice of the Federal Court and who shall be, or have been, or be qualified to be a judge of the Federal Court, the Court of Appeal or a High Court, or shall before Malaysia Day have been a judge of the Federal Court;
 - (b) a member who shall be appointed by the Federal Government; and
 - (c) a member who shall be appointed by the State Government.
- (3) The practice and procedure of the Lands Tribunal shall be regulated by rules of court framed by the Rules Committee or other authority having power under written law to make rules or orders regulating the practice and procedure of the Federal Court.

- (4) An appeal shall lie from the Lands Tribunal to the Federal Court on any question of law.

Application of Articles 83 to 87 to states not having a Ruler

88. In their application to any of the States not having a Ruler, Articles 83 to 87 shall have effect-
- (a) subject to such adaptations (if any) as Parliament may by law provide, being adaptations required to secure that they apply (as nearly as practicable having regard to differences in the system of land tenure) in the same manner as they apply to other States; and
 - (b) in the case of the States of Sabah and Sarawak with the omission in Article 83 of paragraph (a) of Clause (5).

Malay reservations

89. (1) Any land in a State which immediately before Merdeka Day was a Malay reservation in accordance with the existing law may continue as a Malay reservation in accordance with that law until otherwise provided by an Enactment of the Legislature of that State, being an Enactment
- (a) passed by a majority of the total

Art. 86: *Provided that nothing in this Clause shall apply to a disposition authorized by Article 84 or Article 85, or to a disposition by the Federation to any person for the purposes of the implementation of any treaty, agreement or convention with any other country, or to any person in his capacity as consular or diplomatic representative of any other country.*

(3) *An order of the Yang di-Pertuan Agong under paragraph (b) of Clause (2) shall be laid before both Houses of Parliament and shall not take effect until it is approved by resolution of each House.*

(4) *Except as provided by Article 84, no interest in land vested for federal purposes in a public authority, or vested in any other person by virtue of a disposition under this Article, shall be disposed of by that authority or person otherwise than to the Federation.*

(5) *Where any interest in land in a State is disposed of by or to the Federation or any public authority in pursuance of this Article or of Article 84 or 85, it shall be the duty of the Government of that State to register the transaction accordingly.*

(6) *The foregoing provisions of this Article shall not apply to any land or interest in land in the Federal Territory of Kuala Lumpur or the Federal Territory of Labuan howsoever vested in the Federation, and the Federation may dispose of such land or interest."*

3. See Art. 88.

Art. 87: See Art. 88, 156. Clause 2(a):

1. *This paragraph was inserted by Act 26/1963, section 70, in force from 16-09-1963, and replaced the original paragraph which read as follows:*

"(a) a chairman, who shall be a person who is or has been or is qualified to be a judge of the Supreme Court, and who shall be appointed by the Chief Justice;";

2. *Subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.*

3. *The words "Chief Justice of the Federal Court" substituted for the words "Lord President of the Supreme Court"; and the words "Federal Court, the Court of Appeal or a High Court" substituted for the words "Supreme Court or a High Court" by Act A885, section 10, in force from 24-06-1994.*

Clause (3): The words "or other authority having power under written law to make rules or orders regulating the practice and procedure of the Federal Court" which appear at the end were added by Act 26/1963, section 70, in force from 16-09-1963.

Clause (4): The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963.

Clauses (3) and (4): The word "Federal" substituted for the word "Supreme" by Act A885, section 10, in force from 24-06-1994.

Art. 88: *The present Article was inserted by Act 26/1963, section 44, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, amended paragraph (b) by deleting the words "and Singapore" which appeared after "Borneo States". The original Article read as follows:*

"88. Parliament shall by law make provision for modifying Articles 83 to 87 in their application to Malacca and Penang in such manner as it may consider to be required."

Paragraph (b): The words "States of Sabah and Sarawak" were substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Art. 89: 1. See Art. 90(3), 161A(5).
2. Clause (1): See Art. 62(3), 90(2).
3. Clause (1A): Added by Act A514, section 7, in force from 15-05-1981.

- number of members of the Legislative Assembly and by the votes of not less than two-thirds of the members present and voting; and
- (b) approved by resolution of each House of Parliament passed by a majority of the total number of members of that House and by the votes of not less than two-thirds of the members voting.
- (1A) Any law made under Clause (1) providing for the forfeiture or reversal to the State Authority, or for the deprivation, of the ownership of any Malay reservation, or of any right or interest therein, on account of any person, or any corporation, company or other body (whether corporate or unincorporate) holding the same ceasing to be qualified or competent under the relevant law relating to Malay reservations to hold the same, shall not be invalid on the ground of inconsistency with Article 13.
- (2) Any land in a State which is not for the time being a Malay reservation in accordance with the existing law and has not been developed or cultivated may be declared as a Malay reservation in accordance with that law: Provided that
- (a) where any land in a State is declared a Malay reservation under this Clause, an equal area of land in that State which has not been developed or cultivated shall be made available for general alienation; and
- (b) the total area of land in a State for the time being declared as a Malay reservation under this Clause shall not at any time exceed the total area of land in that State which has been made available for general alienation in pursuance of paragraph (a).
- (3) Subject to Clause (4), that Government of any State may, in accordance with the existing law, declare as a Malay reservation
- (a) any land acquired by that Government by agreement for that purpose;
- (b) on the application of the proprietor, and with the consent of every person having a right or interest therein, any other land, and shall, in accordance with the existing law, immediately declare as a Malay reservation, in a case where any land ceases to be a Malay reservation, any other land of a similar character and of an area not exceeding the area of that land.
- (4) Nothing in this Article shall authorize the declaration as a Malay reservation of any land which at the time of the declaration is owned or occupied by a person who is not a Malay or in or over which such a person has then any right or interest.
- (5) Without prejudice to Clause (3), the Government of any State may, in accordance with law, acquire land for the settlement of Malays or other communities, and establish trusts for that purpose.
- (6) In this Article "Malay Reservation" means land reserved for alienation to Malays or to natives of the State in which it lies; and "Malay" includes any person who, under the law of the State in which he is resident, is treated as a Malay for the purposes of the reservation of land.
- (7) Subject to Article 161A, this Article shall have effect notwithstanding any other provision of this Constitution; but (without prejudice to any such other provision) no land shall be retained or declared as a Malay reservation except as provided by this Article and Article 90.
- (8) The provisions of this Article shall apply to the Federal Territories of Kuala Lumpur and Putrajaya in the like manner that they apply to a State, save that Clause (1) in its application to the Federal Territories of Kuala Lumpur and Putrajaya shall be modified to read that any land in the Federal Territory of Kuala Lumpur or the Federal Territory of Putrajaya which immediately before Merdeka Day was a Malay reservation in accordance with the

Art. 89: 4. Clause (3): The words "and shall, in accordance with the existing law, immediately declare as a Malay reservation, in a case where any land ceases to be a Malay reservation, any other land of a similar character and of an area not exceeding the area of that land." added after paragraph (b) by Act A514, section 7, in force from 15-05-1981. Paragraph (c) which read as follows was repealed by Act A514, section 7, in force from 15-05-1981: "(c) in a case where any land ceases to be a Malay reservation, any land of a similar character and of an area not exceeding the area of that land."
5. Clause (7): The words "Subject to Article 161A" at the commencement were inserted by Act 26/1963, section 70, in force from 16-09-1963.

6. Clause (8): Added by Act A585, subsection 24(1), in force from 01-02-1974, and subsequently amended by Act A1095, section 17, in force from 01-02-2001 to included in the Federal Territory of Putrajaya.

Note: Article 89 of the Constitution shall not apply to the Federal Territory of Labuan and Article 8 of the Constitution shall not invalidate or prohibit any provisions of federal law for reservation of land for natives in the Federal Territory of Labuan or for alienation to them, or for giving them preferential treatment as regards the alienation of land in the Federal Territory of Labuan by the Federation. (See subsection 18(2) of Act A585).

existing law may continue as a Malay reservation in accordance with that law until otherwise provided by an Act of Parliament passed by a majority of the total number of members of each House of Parliament and by the votes of not less than two-thirds of the members present and voting in each House.

Special provisions relating to customary land in Negeri Sembilan and Malacca, and Malay Holdings in Terengganu

90. (1) Nothing in this Constitution shall affect the validity of any restrictions imposed by law on the transfer or lease of customary land in the State of Negeri Sembilan or the State of Malacca, or of any interest in such land.

(1A) For the purpose of Clause (1)

(a) "transfer" includes any charge, transmission or vesting, or creation of any lien or trust, or entry of any caveat, or any other form of dealing or disposal of whatever description or nature; and

(b) "lease" includes any tenancy of whatever form or duration.

(2) Notwithstanding anything in this Constitution, the existing law in the State of Terengganu with respect to Malay holdings shall continue in force until otherwise provided by an Enactment of the Legislature of that State passed and approved as described in Clause (1) of Article 89.

(3) Any such Enactment of the Legislature of the State of Terengganu may make provision for Malay reservations corresponding with the existing law in force in any other State of a Ruler; and in that event the said Article 89 shall have effect in relation to Terengganu subject to the following modifications, that is to say:

(a) in Clause (1), for the reference to land which immediately before Merdeka Day was a Malay reservation in accordance with the existing law, there shall be substituted a reference to land which, immediately before the passing of the said Enactment, was a Malay holding; and

(b) subject as aforesaid, any reference to the existing law shall be construed as a reference to the said Enactment.

National Land Council

91. (1) There shall be a National Land Council consisting of a Minister as chairman, one representative from each of the States, who shall be appointed by the Ruler or Yang di-Pertua Negeri, and such number of representatives of the Federal Government as that Government may appoint but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten.

(2) The chairman may vote on any question before the National Land Council but shall not have a casting vote.

(3) The National Land Council shall be summoned to meet by the chairman as often as he considers necessary but there shall be at least one meeting in every year.

(4) If the chairman or a representative of a State or of the Federal Government is unable to attend a meeting, the authority by whom he was appointed may appoint another person to take his place at that meeting.

(5) It shall be the duty of the National Land Council to formulate from time to time in consultation with the Federal Government, the State Governments and the National Finance Council a national policy for the promotion and control of the utilization of land throughout the Federation for mining, agriculture, forestry or any other purpose, and for the administration of any laws relating there to; and the Federal and State Governments shall follow the policy so formulated.

(6) The Federal Government or the Government of any State may consult the National Land Council in respect of any other matter relating to the utilization of land or in respect of any proposed legislation dealing with land or of the administration of any such law, and it shall be the duty of the National Land Council to advise that Government on any such matters.

Art. 90: 1. See Art. 89(7).
2. Clause (1A): Added by Act A566, section 13, in force from 16-12-1983.

Art. 91: 1. See Art. 95E(1), (2) and (5)(a).
2. Clause (1): (a) The words "not exceeding ten" which appeared after "and such number" were

deleted and the words "but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten" which appear at the end were added by Act 26/1963, section 70, in force from 16-09-1963.
(b) The words "Yang di-Pertua

Chapter 5 - National development

National development plan

92. (1) If, after a recommendation from an expert committee and after consultation with the National Finance Council, the National Land Council and the Government of any State concerned, the Yang di-Pertuan Agong is satisfied that it is conducive to the national interest that a development plan be put into operation in any area or areas in one or more of the States, the Yang di-Pertuan Agong may, after publishing the plan, proclaim the area or areas as a development area; and thereupon Parliament shall have power to give effect to the development plan or any part thereof, notwithstanding that any of the matters to which the plan relates are matters with respect to which, apart from this Article, only States would have power to make laws.
- (2) Any Act passed in pursuance of this Article shall recite that it has been so passed and that the provisions of Clause (1) have been complied with; and Article 79 shall not apply to any Bill for such an Act or any amendment to such a Bill.
- (3) In this Article, "development plan" means a plan for the development, improvement, or conservation of the natural resources of a development area, the exploitation of such resources, or the increase of means of employment in the area.
- (4) Without prejudice to their power under any other Article to require any interest in land to be acquired or granted for federal purposes, the Federal Government may from time to time require the reservation for the purposes of a development plan, to such extent as they may specify, of any land in a development area which is not occupied by private persons; but any diminution, in consequence of the reservation, of the annual revenue received by a State shall be made good to the State by the Federation.
- (5) All income received by the Federation through the operation of a development plan shall, subject to Clause (6), be applied
- (a) in the first instance, for the provision of capital and the meeting of working expenses for the development plan;
 - (b) in the second instance, for the repayment to the Federation of any expenditure, including expenditure under Clause (4), incurred by the Federation in operating the plan; and
 - (c) as to the balance, for payments to the State in which the development area is situated or, if it is situated in two or more States, to those States in such proportions as the Federal Government may determine.
- (6) If it is agreed between the Federal Government and the Government of any State which includes the whole or any part of the development area that any expenditure incurred in operating the development plan is to be met by the State, any expenditure so met shall be repaid to the State and the repayment shall rank *pari passu* with the repayment to the Federation of any expenditure incurred by the Federation.
- (7) Parliament may repeal or amend any Act passed in pursuance of this Article, and for that purpose may make such incidental and consequential provisions as it may consider necessary.
- (8) Nothing in this Article shall affect the power of Parliament or of the Legislature of any State
- (a) to impose such taxes or rates as it is authorized to impose under any other provision of this Constitution; or
 - (b) to make from the Federal Consolidated Fund or the State Consolidated Fund, as the case may be, grants not repayable under Clause (5) or (6), except that where, in pursuance of Clause (1), a rate is imposed on any property by federal law which, but for this Article, might have been imposed by State law, no rate of the same kind shall be imposed by State law for any period for which the rate imposed by federal law is payable.

Inquiries, surveys and statistics

93. (1) The Federal Government may conduct such inquiries (whether by Commission or otherwise), authorize such surveys and collect and publish such statistics as it thinks fit, notwithstanding that such inquiries, surveys and collection and publication of statistics relate to a matter with regard to which the Legislature of a State may make laws.
- (2) It shall be the duty of the Government of a State, and of all officers and authorities thereof, to assist the Federal Government in the execution of its powers under this Article; and for this purpose the Federal Government may give such directions as it may deem necessary.

Art. 92: See Art. 95E(1) & (3), 108(4)(e).

Art. 93: See Art. 80(2), 94(3).

Federal powers in respect of State subjects

94. (1) The executive authority of the Federation extends to the conduct of research, the provision and maintenance of experimental and demonstration stations, the giving of advice and technical assistance to the Government of any State, and the provision of education, publicity, and demonstration for the inhabitants of any State, in respect of any of the matters with respect to which the Legislature of a State may make laws; and the agricultural and forestry officers of any State shall accept any professional advice given to the Government of that state under this Clause.
- (2) Notwithstanding anything in this Constitution, the existing Departments of Agriculture, Commissioner of Lands, Forestry and Social Welfare may continue to exercise the functions exercised by them immediately before Merdeka Day.
- (3) Nothing in this Constitution shall prevent the Federal Government from establishing Ministries or Departments of Government to exercise the functions of the Federal Government under Article 93 and this Article in relation to matters within the legislative authority of a State, and such matters may include soil conservation, local government and town and country planning.

Inspection of State activities

95. (1) Subject to Clause (3), in exercising the executive authority of the Federation any officer authorized by the Federal Government may inspect any department or work of a State Government with a view to making a report thereon to the Federal Government.
- (2) A report made under this Article shall, if the Federal Government so direct, be communicated to the State Government and laid before the Legislative Assembly of the State.

- (3) This Article does not authorize the inspection of any department or work dealing only with or carried on only with respect to matters with the exclusive legislative authority of a State.

Chapter 7 - National Council for Local Government
National Council for Local Government

- 95A. (1) There shall be a National Council for Local Government consisting of a Minister as Chairman, one representative from each of the States, who shall be appointed by the Ruler or Yang di-Pertua Negeri, and such number of representatives of the Federal Government as that Government may appoint but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten.
- (2) The Chairman may vote on any question before the National Council for Local Government and shall have a casting vote.
- (3) The National Council for Local Government shall be summoned to meet by the Chairman as often as he considers necessary but there shall be at least one meeting in every year.
- (4) If the Chairman or a representative of a State or of the Federal Government is unable to attend a meeting, the authority by whom he was appointed may appoint another person to take his place at that meeting.
- (5) It shall be the duty of the National Council for Local Government to formulate from time to time in consultation with the Federal Government and the State Governments a national policy for the promotion, development and control of local government throughout the Federation and for the administration of any laws relating thereto; and the Federal and State Governments shall follow the policy so formulated.

Art. 94: See Art. 79 (1), 80 (2), 95E (1).
Clause (1): See Art. 95E (4).

Art. 95: See Art. 80(2).

Art. 95A: 1. Added by Act 10/1960, section 12, in force from 31-05-1960.

2. See Art. 95E(1), (2) and (5)(b).

3. Clause (1): (a) The words "not exceeding ten" which appeared after "and such number" were deleted and the words "but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten" which appear at the end were added by Act 26/1963, section 70, in force from 16-09-1963.

(b) The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Part VI: The heading of chapter 8 "States of Sabah and Sarawak" substituted for the words "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Art. 95B: Added by Act 26/1963, section 35, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, deleted the words "and Singapore" which appeared at the end of the first line of Clause (1) and the word "appropriate" which appeared at the commencement of paragraphs (a) and (b) before "supplement".

Shoulder Note and Clause (1): The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

- (6) It shall also be the duty of the Federal Government and the Government of any State to consult the National Council for Local Government in respect of any proposed legislation dealing with local government and it shall be the duty of the National Council for Local Government to advise those Governments on any such matter.
- (7) The Federal Government or the Government of any State may consult the National Council for Local Government in respect of any other matter relating to local government, and it shall be the duty of the National Council for Local Government to advise that Government on any such matter.
- (3) The Legislature of the State of Sabah or Sarawak may also make laws for imposing sales taxes, and any sales tax imposed by State law in the State of Sabah or Sarawak shall be deemed to be among the matters enumerated in the State List and not in the Federal List; but-
- (a) there shall not in the charging or administration of a State sales tax be any discrimination between goods of the same description according to the place in which they originate; and
 - (b) the charge for any federal sales tax shall be met out of sums collected from a person liable for that tax before the charge for a State sales tax.

Chapter 8 - Application to States of Sabah and Sarawak Modifications for states of Sabah and Sarawak of distribution of legislative powers

95B.(1) In the case of the States of Sabah and Sarawak

- (a) the supplement to List II set out in the Ninth Schedule shall be deemed to form part of the State List, and the matters enumerated therein shall be deemed not to be included in the Federal List or Concurrent List; and
 - (b) the supplement to List III set out in the Ninth Schedule shall, subject to the State List, be deemed to form part of the Concurrent List, and the matters enumerated therein shall be deemed not to be included in the Federal List (but not so as to affect the construction of the State List, where it refers to the Federal List).
- (2) Where by virtue of Clause (1) an item is included in the Concurrent List for a State for a period only, the expiration or termination of that period shall not affect the continued operation of any State law passed by virtue of the item, save as provided by federal or State law.

Power by order to extend legislative or executive powers of States

95C.(1) Subject to the provisions of any Act of Parliament passed after Malaysia Day, the Yang di-Pertuan Agong may by order make as respects any State any such provision as may be made by Act of Parliament-

- (a) for authorizing the Legislature of the State to make laws as mentioned in Article 76A; or
 - (b) for extending the executive authority of the State, and the powers or duties of any authority of the State, as mentioned in Clause (4) of Article 80.
- (2) An order made by virtue of paragraph (a) of Clause (1) shall not authorize the Legislature of a State to amend or repeal an Act of Parliament passed after Malaysia Day, unless the Act so provides.
- (3) Clause (3) of Article 76A and Clause (6) of Article 80 shall apply in relation to an order under paragraph (a) and paragraph (b) respectively of Clause (1) of this Article as they apply in relation to an Act of Parliament.
- (4) Where an order under this Article is revoked by a later order, the later order may include provision for continuing in force (generally or to such extent or for such purposes as the order may specify) any State law passed by

Art. 95B: Clause (3): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Art. 95C: Added by Act 26/1963, section 38, in force from 16-09-1963.

Clause (1):1. The words "any State" in line three were substituted for "a Borneo State" by Act 31/1965, subsection 2(1), in force from 16-09-1963.

2. See-(a) Borneo State (Legislative Powers) Order 1963-L.N. 17/1964;

(b) Borneo State (Executive Powers) (Shotguns) Order 1963-L.N. 38/1964;

(c) Sarawak (Legislative Powers) Order 1965-L.N. 22/1965;

(d) Sarawak (Legislative Powers) (No. 2) Order, 1965-L.N.106/1965.

virtue of the earlier order or any subsidiary legislation made or thing done under any such State law, and from the coming into operation of the later order any State law thereby continued in force shall have effect as federal law:

Provided that no provision shall be continued in force by virtue of this Clause if or in so far as it could not have been made by Act of Parliament.

- (5) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

Exclusion for States of Sabah and Sarawak of Parliament's power to pass uniform laws about land or local government

95D. In relation to the State of Sabah or Sarawak, Clause (4) of Article 76 shall not apply, nor shall paragraph (b) of Clause (1) of that Article enable Parliament to make laws with respect to any of the matters mentioned in Clause (4) of that Article.

Exclusion of States of Sabah and Sarawak from national plans for land utilization, local government, development, etc.

95E.(1) In relation to the State of Sabah or Sarawak, Articles 91, 92, 94 and 95A shall have effect subject to the following Clauses.

- (2) Subject to Clause (5), under Article 91 and under Article 95A the State Government shall not be required to follow the policy formulated by the National Land Council or by the National Council for Local Government, as the case may be, but the representative of the State shall not be entitled to vote on questions before the Council.
- (3) Under Article 92 no area in the State shall be proclaimed a development area for the purposes of any development plan without the concurrence of the Yang di-Pertua Negeri.

(4) Under Clause (1) of Article 94 (under which in respect of matters in the State List the Federation may conduct research, give advice and technical assistance, etc.) the agricultural and forestry officers of the State of Sabah or Sarawak shall consider, but shall not be required to accept, professional advice given to the Government of the State.

- (5) Clause (2) shall cease to apply to a State
- (a) as regards Article 91, if Parliament so provides with the concurrence of the Yang di-Pertua Negeri; and
- (b) as regards Article 95A, if Parliament so provides with the concurrence of the Legislative Assembly, but for each representative of the State of Sabah or Sarawak becoming entitled, by virtue of this Clause, to vote on questions before the National Land Council or National Council for Local Government, one shall be added to the maximum number of representatives of the Federal Government on that Council.

**PART VII
FINANCIAL PROVISIONS**

Chapter 1 - General

No taxation unless authorised by law

96. No tax or rate shall be levied by or for the purposes of the Federation except by or under the authority of federal law.

Consolidated Funds

97. (1) All revenues and moneys howsoever raised or received by the Federation shall, subject to the provisions of this Constitution and of federal law, be paid into and form one fund, to be known as the Federal Consolidated Fund.
- (2) All revenues and moneys howsoever raised or received by a State shall, subject to Clause (3) and to any law, be paid into and form one fund, to be known as the Consolidated Fund of that State.

Art. 95D: 1. Added by Act 26/1963, section 42, in force from 16-09-1963. The words "and in relation to Singapore" which appeared after "a Borneo State" were deleted by Act 59/1966, section 2, in force from 09-08-1965.

2. The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Art. 95E: Added by Act 26/1963, section 43, in force from 16-09-1963. The words "and in relation to Singapore" which appeared after "a Borneo State"

in Clause (1) and the words "or of Singapore" which appeared after "Borneo State" in Clause (5) were deleted by Act 59/1966, section 2, in force from 09-08-1965.

Clause (1): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Clause (3): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A514, section 19, in force from 27-08-1976.

- (3) If in accordance with State law or in respect of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, in accordance with federal law any Zakat, Fitrah, Baitulmal, or similar Islamic religious revenue is raised, it shall be paid into a separate fund and shall not be paid out except under the authority of State law or federal law, as the case may be.
- (4) Unless the context otherwise requires, any reference in this Constitution to the Consolidated Fund shall be construed as a reference to the Federal Consolidated Fund.

Expenditure charged on Federal Consolidated Fund

98. (1) There shall be charged on the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other Article or federal law
- (a) all pensions, compensation for loss of office and gratuities for which the Federation is liable;
 - (b) all debt charges for which the Federation is liable; and
 - (c) any moneys required to satisfy any judgment, decision or award against the Federation by any court or tribunal.
- (2) In making payment of any grant to a State in accordance with the provisions of this Part, the Federation may deduct the amount of any debt charges payable to the Federation by the State and charged on the Consolidated Fund of that State.
- (3) For the purposes of this Article debt charges include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Annual financial statement

99. (1) The Yang di-Pertuan Agong shall, in respect of every financial year, cause to be laid before the House of Representatives a statement of the estimated receipts and expenditure of the Federation for that year, and unless Parliament in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year:

Provided that there may be separate statements of estimated receipts and estimated expenditure, and in that case it shall not be necessary for the statement of receipts to be so laid before the commencement of the year to which it relates.

- (2) The estimates of expenditure shall show-
 - (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
 - (b) subject to Clause (3), the sums required to meet the expenditure for other purposes proposed to be met from the Consolidated Fund.
- (3) The sums to be shown under paragraph (b) of Clause (2) do not include-
 - (a) sums representing the proceeds of any loan raised by the Federation for specific purposes and appropriated for those purposes by the Act authorizing the raising of the loan;
 - (b) sums representing any money or interest on money received by the Federation subject to a trust and to be applied in accordance with the terms of the trust;
 - (c) sums representing any money held by the Federation which has been received or appropriated for the purpose of any trust fund established by or in accordance with federal law.

Art. 97(3): 1. The words "or in respect of the Federal Territory, in accordance with federal law" were inserted after "in accordance with State law" in line one, and after the words "State law" at the end of the Clause the words "or federal law, as the case may be" were inserted by Act A206, Schedule, in force from 01-02-1974. The words "Islamic religious revenue" substituted for "Muslim revenue" by Act A354, section 45, in force from 27-08-1976.

2. The words "Territories of Kuala Lumpur and Labuan" were substituted for the word "Territory" by Act A585, Schedule, in force from 16-04-1984.

3. See Financial Procedure Act 1957 [Act 61].

4. The words "Kuala Lumpur, Labuan and Putrajaya" were substituted for "Kuala Lumpur and Labuan" by Act A1095, section 18, in force from 01-02-2001.

Art. 99: See Art. 102(b).

Clause (1): Proviso added by Act 14/1962, subsection 18(1), in force from 21-06-1962.

Clause (2): The original Clause (2) read as follows:

"(2) The estimates of expenditure shall show separately-

(a) the total sums required to meet expenditure charged on the Consolidated Fund; and

(b) subject to Clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.".
The word "separately" appearing after the words "shall show" deleted and paragraph (b) substituted by Act A354, section 18, in force from 27-08-1976.

Clause (3):

1. Paragraph (c) added by Act 14/1962, subsection 18(2), in force from 21-06-1962.

2. See Art. 100, 104(2).

Clause (4): The word "purposes" substituted for "heads" by Act A354, section 18, in force from 27-08-1976.

- (4) The said statement shall also show, so far as is practicable, the assets and liabilities of the Federation at the end of the last completed financial year, the manner in which those assets are invested or held, and the general purposes in respect of which those liabilities are outstanding.

Supply Bills

100. The expenditure to be met from the Consolidated Fund but not charged thereon, other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 99, shall be included in a Bill, to be known as a supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

Supplementary and excess expenditure

101. If in respect of any financial year it is found
- that the amount appropriated by the Supply Act for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Act; or
 - that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for that purpose by the Supply Act, a supplementary estimates showing the sums required or spent shall be laid before the House of Representatives and the purposes of any such expenditure shall be included in a supply Bill.

Powers to authorize expenditure on account or for unspecified purposes

102. Parliament shall have power in respect of any financial year
- before the passing of the Supply Bill, to authorize by law expenditure for part of the year;
 - to authorize by law expenditure for the whole or part of the year otherwise than in accordance with Articles 99 to 101, if owing to the magnitude or

indefinite character of any service or to circumstances of unusual urgency it appears to Parliament to be desirable to do so.

Contingencies Fund

- 103.(1) Parliament may by law provide for the creation of a Contingencies Fund and for authorizing the Minister charged with responsibility for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Contingencies Fund to meet that need.
- (2) Where any advance is made in accordance with Clause (1), a supplementary estimate shall be presented and a Supply Bill introduced as soon as possible for the purpose of replacing the amount so advanced.

Withdrawals from Consolidated Fund

- 104.(1) Subject to Clause (2), no moneys shall be withdrawn from the Consolidated Fund unless they are
- charged on the Consolidated Fund; or
 - authorized to be issued by a Supply Act; or
 - authorized to be issued under Article 102.
- (2) Clause (1) does not apply to any such sums as are mentioned in Clause (3) of Article 99.
- (3) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by federal law.

Auditor General

105. (1) There shall be an Auditor General, who shall be appointed by the Yang di-Pertuan Agong on the advice of the Prime Minister and after consultation with the Conference of Rulers.
- (2) A person who has held the office of Auditor General shall be eligible for reappointment but shall not be eligible for any other appointment in the service of the Federation or for any appointment in the service of a State.

Art. 100: 1. See Art. 102(b).
2. The words "heads of" deleted before the "expenditure" in line one by Act A354, section 19, in force from 27-08-1976.

Art. 101: 1. See Art. 102(b).
2. The word "purposes" substituted for "heads" by Act A354, section 20, in force from 27-08-1976.

Art. 102: See Art. 104(1)(c).

Art. 103: See (a) Art. 109(5); (b) Financial Procedure Act 1957 [Act 61], section 11.

Art. 105: Clause (3): The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963. Subsequently subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court. Act A885, section 11, in force from 24-06-1994, substituted the word "Federal" for the word "Supreme".
Clauses (4) and (6): See Audit Act 1957 [Act 62].

- (3) The Auditor General may at any time resign his office but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.
- (4) Parliament shall by law provide for the remuneration of the Auditor General, and the remuneration so provided shall be charged on the Consolidated Fund.
- (5) The remuneration and other terms of office (including pension rights) of the Auditor General shall not be altered to his disadvantage after his appointment.
- (6) Subject to the provisions of this Article, the terms and conditions of service of the Auditor General shall be determined by federal law and, subject to the provisions of federal law, by the Yang di-Pertuan Agong.

Powers and duties of Auditor General

106. (1) The accounts of the Federation and of the States shall be audited and reported on by the Auditor General.
- (2) The Auditor General shall perform such other duties and exercise such powers in relation to the accounts of the Federation and of the States and to the accounts of other public authorities and of those bodies which are specified by order made by the Yang di-Pertuan Agong, as may be provided by federal law.

Reports of Auditor General

107. (1) The Auditor General shall submit his reports to the Yang di-Pertuan Agong, who shall cause them to be laid before the House of Representatives.
- (2) A copy of any such report relating to the accounts of a State, or to the accounts of any public authority exercising powers conferred by State law, shall be submitted to the Ruler or Yang di-Pertua Negeri of that State, who shall cause it to be laid before the Legislative Assembly.

National Finance Council

108. (1) There shall be a National Finance Council consisting of the Prime Minister, such

- other Ministers as the Prime Minister may designate, and one representative from each of the States, appointed by the Ruler or Yang di-Pertua Negeri.
- (2) The National Finance Council shall be summoned to meet by the Prime Minister as often as he considers necessary and whenever the representatives of three or more States demand a meeting, but there shall be at least one meeting in every twelve months.
 - (3) At any meeting of the National Finance Council the Prime Minister may be represented by another Minister of the Federation, and the Prime Minister or, if he is not present, the Minister representing him, shall preside.
 - (4) It shall be the duty of the Federal Government to consult the National Finance Council in respect of-
 - (a) the making of grants by the Federation to the States;
 - (b) the assignment to the States of the whole or any portion of the proceeds of any federal tax or fee;
 - (c) the annual loan requirements of the Federation and the States and the exercise by the Federation and the States of their borrowing powers;
 - (d) the making of loans to any of the States;
 - (e) the making of development plans in accordance with Article 92;
 - (f) the matters referred to in Item 7(f) and (g) of the Federal List;
 - (g) any proposal to introduce a Bill for such a law as is mentioned in Clause (2) Article 109 or Clause (3) or (3A) of Article 110;
 - (h) any other matter in respect of which this Constitution or federal law makes provision for consultation with the National Finance Council.
 - (5) The Federal Government may consult the National Finance Council in respect of any other matter, whether or not it involves questions of finance, and the government of a State may consult the said Council in respect of any matter which affects the financial position of that State.

Art. 106(2):1. See *Audit Act 1957* [Act 62].
 2. The words "of those bodies which are specified by order made by the Yang di-Pertuan Agong" were substituted for "bodies administering public funds" by Act A354, section 21, in force from 27-08-1976.
 3. See *Statutory Bodies (Accounts and Annual Reports) Act 1980* [Act 240].

Art. 107(2):1. See Art. 112A(1).
 2. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Art. 108: 1. Clause (1): The words "other Ministers" substituted for "other Minister" and "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 22 and section 42, in force from 27-08-1976.
 2. Clause (4): The words "or (3A)" at end of paragraph (g) were inserted by Act 14/1962, Sch. section 5, in force from 21-06-1962.
 3. See Art. 112D(7).

Grants to States

109. (1) The Federation shall make to each State in respect of each financial year
- (a) a grant, to be known as a capitation grant, which shall be calculated in accordance with the provisions of Part I of the Tenth Schedule;
 - (b) a grant for the maintenance of State roads, to be known as the State road grant, which shall be calculated in accordance with the provisions of Part II of that Schedule.
- (2) Parliament may from time to time by law vary the rates of the capitation grant; but if the effect of any such law is to reduce the grant, provision shall be made in that law for securing that the amount of grant received by any State in respect of any financial year is not less than ninety percent of the amount received by that State in the preceding financial year.
- (3) Parliament may by law make grants for specific purposes to any of the States on such terms and conditions as may be provided by any such law.
- (4) The amounts required for making the grants mentioned in the preceding provisions of this Article shall be charged on the Consolidated Fund.
- (5) If, in accordance with Article 103, a Contingencies Fund is created, the power to make advances from that Fund for meeting an urgent and unforeseen need for expenditure shall include power to make such advances to a State for meeting such a need.
- (6) The Federation shall pay into a fund, to be known as the State Reserve Fund-
- (a) (Repealed);
 - (b) in respect of every financial year such sum as the Federal Government may, after consultation with the National Finance Council, determine to be necessary, and the Federation may

from time to time, after consultation with the National Finance Council, make grants out of the State Reserve Fund to any State for the purposes of development or generally to supplement its revenues.

Assignment of taxes and fees to the States

110. (1) Subject to Clause (2), each of the States shall receive all proceeds from the taxes, fees and other sources of revenue specified in Part III of the Tenth Schedule so far as collected, levied or raised within the State.
- (2) Parliament may from time to time by law substitute for any source of revenue specified in section 1, 3, 4, 5, 6, 7, 8, 12 or 14 of Part III of the Tenth Schedule or for any source of revenue so substituted, another source of revenue of substantially equal value.
- (3) Each State shall receive, on such terms and conditions as may be provided by or under federal law, ten percent or such greater amount as may be so provided of the export duty on tin produced in the State.
- (3A) Parliament may by law provide that each State shall receive, on such terms and conditions as may be prescribed by or under federal law, such proportion as may be so prescribed of the export duty on minerals (other than tin) produced in the State.

In this Article "minerals" means mineral ores, metal and mineral oils.

- (3B) Without prejudice to the power to impose conditions conferred by Clause (3) or (3A), Parliament may by law provide for prohibiting or restricting, in, or except in, such cases as may be provided by or under the law, the levying of royalties on or similar charges

Art. 109: Clause (2): See Art. 108(4)(g).
Clause (6): The word "succeeding" which appeared before "financial year" in paragraph (b) was deleted and paragraph (a) which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(a) in respect of the first financial year in which Part VII is in operation, the sum of four million dollars; and".

Art. 110: See Art. 161C(3).

Clause (3):

1. The words "may be provided by or under federal law" and "may be so provided" were substituted for "Parliament may by law provide" by Act 14/1962, Sch. section 5, in force from 21-06-1962.

2. See Art. 108(4)(g).

Clause (3A):

1. Added by Act 14/1962, section 19, in force from 21-06-1962.

2. See Art. 108(4)(g), 112C(3).

3. See Assignment of Revenue (Export Duty on Iron Ore) Act 1962 [Act 395] and Assignment of Export Duty (Mineral Ores) Act 1964 [Act 396].

Clause (3B):

1. Added by Act 14/1962, section 19, in force from 21-06-1962.

2. See Art. 112C(4).

Clause (4):

1. The words "to (3A)" were substituted for "to (3)" in line two by Act 14/1962, Sch. section 5, in force from 21-06-1962.

2. See Art. 112C(3).

Clause (5): The words "Clause (3) and (3A)" were substituted for "Clause (3)" by Act 14/1962, section 5, in force from 21-06-1962.

- in respect of minerals (whether under a lease or other instrument or under any State enactment, and whether the instrument was made or the enactment passed before or after the coming into operation of this Clause).
- (4) Without prejudice to the provisions of Clauses (1) to (3A), Parliament may by law
- (a) assign to the States the whole or any portion of the proceeds of any tax or fee raised or levied by the Federation; and
 - (b) assign to the States the responsibility of collecting for State purposes any tax or fee authorized by federal law.
- (5) The amounts receivable by the States under Clause (1), (2) or (4) shall not be paid into the Consolidated Fund; and the amounts receivable by the States under Clauses (3) and (3A) shall be charged on the Consolidated Fund.

Restriction on borrowing

111. (1) The Federation shall not borrow except under the authority of federal law.
- (2) A State shall not borrow except under the authority of State law, and State law shall not authorize a State to borrow except from the Federation or, for a period not exceeding five years, from a bank or other financial source approved for that purpose by the Federal Government, and subject to such conditions as may be specified by the Federal Government.
- (3) A State shall not give any guarantee except under the authority of State law, and such guarantee shall not be given except with the approval of the Federal Government and subject to such conditions as may be specified by it.

Restriction on alterations in establishments of States

112. (1) Subject to Clause (2), no State shall, without the approval of the Federation, make any addition to its establishment

or the establishment of any of its departments, or alter the rates of established salaries and emoluments, if the effect of doing so would be to increase the liability of the Federation in respect of pensions, gratuities or other like allowances.

- (2) This Article does not apply to
- (a) non-pensionable appointments the maximum salaries of which do not exceed four hundred ringgit per month or such other amount as may be fixed by order by the Yang di-Pertuan Agong; or
 - (b) pensionable appointments the maximum salaries of which do not exceed one hundred ringgit per month or such other amount as may be fixed by order by the Yang di-Pertuan Agong.

Chapter 2 - Application to States of Sabah and Sarawak

State audits in States of Sabah and Sarawak

- 112A.(1) The Auditor General shall submit his reports relating to the accounts of each of the States of Sabah and Sarawak, or to the accounts of any public authority exercising powers vested in it by the State law in either of those States, to the Yang di-Pertuan Agong (who shall cause them to be laid before the House of Representatives) and to the Yang di-Pertua Negeri of the State; and accordingly Clause (2) of Article 107 shall not apply to those reports.
- (2) The Yang di-Pertua Negeri shall cause any such report submitted to him to be laid before the Legislative Assembly.
- (3) The powers and duties of the Auditor General in relation to the accounts mentioned in Clause (1) for any period ending before the year 1969 shall, in the State of Sabah and Sarawak, be exercised and discharged on his behalf by the senior officer of his department for the time being stationed in the State in question:

Art. 111: Clause (2): The Present Clause (2) was inserted by Act A354, section 23, in force from 27-08-1976, and replaced the earlier Clause which read as follows:

"(2) A State shall not borrow except under the authority of State law, and State law shall not authorize a State to borrow except from the Federation or, for a period not exceeding twelve months, from a bank approved for that purpose by the Federal Government."

See Art. 112B.

Clause (3): Added by Act A354, section 23, in force from 27-08-1976.

Art. 112: Clause (2)(a) and (b): The word "ringgit" substituted for "dollars" by Act 160, section 2, in force from 29-

08-1975, the words "or such other amount as may be fixed by order by the Yang di-Pertuan Agong" inserted after "per month" by Act A354, section 24, in force from 27-08-1976.

Part VII: The heading of Chapter 2 "States of Sabah and Sarawak" substituted for the words "Borneo States" by Act A514, section 19 in force from 27-08-1976.

Art. 112A: Added by Act 26/1963, section 50, in force from 16-09-1963.

Clause (1): (a) The words "each of the Borneo States" were substituted for "a Borneo State or Singapore" and the words "either of those States" were substituted for "any of those States" by Act 59/1966, section 2, in force from 09-08-1965.

Provided that during the absence or incapacity of that officer, or a vacancy in his post, those powers and duties shall be exercised and discharged by the Auditor General or such officer of his department as he may designate.

Borrowing powers of states of Sabah and Sarawak

112B. Clause (2) of Article 111 shall not restrict the power of the State of Sabah and Sarawak to borrow under the authority of State law within the State, if the borrowing has the approval of the Central Bank for the time being of the Federation.

Special grants and assignments of revenue to States of Sabah and Sarawak

112C.(1) Subject to the provisions of Article 112D and to any limitation expressed in the relevant section of the Tenth Schedule

- (a) the Federation shall make to the States of Sabah and Sarawak in respect of each financial year the grants specified in Part IV of that Schedule; and
 - (b) each of those States shall receive all proceeds from the taxes, fees and dues specified in Part V of that Schedule, so far as collected, levied or raised within the States, or such part of those proceeds as is so specified.
- (2) The amounts required for making the grants specified in the said Part IV, and the amounts receivable by the State of Sabah or Sarawak under section 3 or 4 of the said Part V, shall be charged on the Consolidated Fund; and the amounts otherwise receivable by the State of Sabah or Sarawak under the said Part V

shall not be paid into the Consolidated Fund.

- (3) In Article 110, Clauses (3A) and (4) shall not apply to the State of Sabah or Sarawak.
- (4) Subject to Clause (5) of Article 112D, in relation to the State of Sabah or Sarawak Clause (3B) of Article 110
 - (a) shall apply in relation to all minerals, including mineral oils; but
 - (b) shall not authorize Parliament to prohibit the levying of royalties on any mineral by the State or to restrict the royalties that may be levied in any case so that the State is not entitled to receive a royalty amounting to ten per cent ad valorem (calculated as for export duty).

Reviews of special grants to States of Sabah and Sarawak

112D.(1) The grants specified in section 1 and subsection (1) of section 2 of Part IV of the Tenth Schedule, and any substituted or additional grant made by virtue of this Clause, shall at the intervals mentioned in Clause (4) be reviewed by the Governments of the Federation and the States or State concerned, and if they agree on the alteration or abolition of any of those grants, or the making of another grant instead of or as well as those grants or any of them, the said Part IV and Clause (2) of Article 112C shall be modified by order of the Yang di-Pertuan Agong as may be necessary to give effect to the agreement:

Provided that on the first review the grant specified in subsection (2) of section 1 of the said Part IV shall not be brought into

Art. 112: (b) The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976 and "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Clause (2): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Clause (3): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Art. 112B: Added by Act 26/1963, section 49, in force from 16-09-1963. The words "or of Singapore" which appeared after "Borneo State" and the words", nor the power of Singapore to borrow under the authority of State law otherwise than within the State, if the borrowing has approval of the Federal Government" which appeared at the end were deleted by Act 59/1966, section 2, in force from 09-08-1965.

Clause (1): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Art. 112C: Added by Act 26/1963, section 46, in force from 16-09-1963.

Clause (1)(a): The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Clause (2): See Art. 112D(1).

Clauses (2), (3) and (4): The words "State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Clause (4): See Art. 112D(5).

Art. 112A-D: Shoulder Notes: The words "States of Sabah and Sarawak" substituted for the words "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Art. 112D: 1. Added by Act 26/1963, section 47, in force from 16-09-1963.

2. See Art. 112c, 10th Sch. Pt. IV, subsection 1(2).

Clause (4): The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Clauses (5): See Art. 112C(4).

- question except for the purpose of fixing the amounts for the ensuing five years.
- (2) Any review under this Article shall take into account the financial position of the Federal Government, as well as the needs of the States or State concerned, but (subject to that) shall endeavour to ensure that the State revenue is adequate to meet the cost of State services as they exist at the time of the review, with such provision for their expansion as appears reasonable.
- (3) The period for which provision is to be made on a review shall be a period of five years or (except in the case of the first review) such longer period as may be agreed between the Federation and the States or State concerned; but any order under Clause (1) giving effect to the results of a review shall continue in force after the end of that period, except in so far as it is superseded by a further order under that Clause.
- (4) A review under this Article shall not take place earlier than is reasonably necessary to secure that effect can be given to the results of the review from the end of the year 1968 or, in the case of a second or subsequent review, from the end of the period provided for by the preceding review; but, subject to that, reviews shall be held as regards both the States of Sabah and Sarawak for periods beginning with the year 1969 and with the year 1974, and thereafter as regards either of them at such time (during or after the period provided for on the preceding review) as the Government of the Federation or of the State may require.
- (5) If on the occasion of any review under this Article the Government of the Federation gives notice to the States or State concerned of their intention to vary any of the assignments of revenue under Part V of the Tenth Schedule (including any substituted or additional assignment made by virtue of this Clause), or to vary Clause (4) of Article 112C, the review shall take the variation into account, and provision shall be made by order of the Yang di-Pertuan Agong so as to give effect to the variation from the beginning of the period provided for on the review:
- Provided that this Clause shall not apply to the assignments under sections 4, 7 and 8, and shall not apply to that under section 5 or 6 until the second review.
- (6) If on any review the Federal Government and the Government of a State are unable to reach agreement on any matter, it shall be referred to an independent assessor, and his recommendations thereon shall be binding on the governments concerned and shall be given effect as if they were the agreement of those governments.
- (7) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of matters arising under this Article.
- (8) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.
- 112E. (Repealed).

Art. 112E: This article which read as follows was inserted by Act 26/1963, section 48, in force from 16-09-1963, and was repealed by Act 59/1966, section 2, in force from 09-08-1965:

"112E. (1) The Federal Government and the government of Singapore may from time to time enter into agreement providing matters:

(a) the manner in which the revenue derived by the Federation from Singapore or any part of that revenue is to be collected and accounted for, and the division of it between the Federation and the State;

(b) the exercise by the State government or other authority of that State in relation to any such revenue of powers conferred by the laws relating thereto, or the concurrence of that government or any such authority in the exercise of any of those powers;

(c) the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of import and export duties in relation to goods imported into or exported from Singapore;

(d) excluding or modifying in relation to the State all or any of the provisions of Articles 109 and 110 and the Tenth Schedule;

(e) the making of payments (by way of loan or otherwise) by the Federation to the State or by the State to the Federation;

(f) determining the revenue which is to be treated for the purposes of any such agreement as derived from Singapore, reviewing the operation of any such agreement and referring to the decision of an independent assessor matters arising on such a review and not settled by agreement, and other matters arising out of or incidental to any such agreement.

(2) The Yang di-Pertuan Agong shall by order make such provision as may be necessary to give effect to any such agreement as is mentioned in Clause (1), including provision modifying in relation to Singapore any law relating to any federal revenue; and any such order shall be laid before each House of Parliament.

(3) An order under Clause (2) may provide that the executive authority of the State shall extend to the administration of any specified provisions of the law relating to any federal revenue, and may for that purpose confer powers and impose duties on any authority of the State.

PART VIII ELECTIONS

Conduct of elections

113. (1) There shall be an Election Commission, to be constituted in accordance with Article 114, which, subject to the provisions of federal law, shall conduct elections to the House of Representatives and the Legislative Assemblies of the States and prepare and revise electoral rolls for such elections.

(2) (i) Subject to paragraph (ii), the Election Commission shall, from time to time, as they deem necessary, review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule; and the reviews of constituencies for the purpose of elections to the Legislative Assemblies shall be undertaken at the same time as the reviews of constituencies for the purpose of elections to the House of Representatives.

(ii) There shall be an interval of not less than eight years between the date of completion of one review, and the

date of commencement of the next review, under this Clause.

(iii) A review under paragraph (i) shall be completed within a period of not more than two years from the date of its commencement.

(3) If the Election Commission are of opinion that in consequence of a law made under Article 2 it is necessary to undertake the reviews mentioned in Clause (2), they shall do so, whether or not eight years have elapsed since the last review under that Clause.

(3A) (i) Where the number of elected members of the House of Representatives is altered in consequence of any amendment to Article 46, or the number of elected members of the Legislative Assembly of a State is altered in consequence of a law enacted by the Legislature of a State, the Election Commission shall, subject to Clause (3B), undertake a review of the division into federal or State constituencies, as the case may be, of the area which is affected by the alteration, and such review shall be completed within a period of not more than two years from the date of the coming into force of the law making the alteration.

Art. 112E (4) *In relation to Singapore Part III of the Tenth Schedule shall have effect as if the source of revenue specified in section 7 including the property tax levied for local purposes by the State.*

(5) *The decision of an independent assessor on any matter referred to him on the review of an agreement under this Article shall be binding on the governments concerned and shall be treated for purposes of this Article as the agreement of those governments.*

(6) *Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of any agreement under this Article.*

(7) *An agreement made before Malaysia Day shall have effect for the purposes of this Article.*

(8) *This Article shall cease to have effect as regards the making of any further agreement thereunder-*

(a) *if at any time there is no agreement in force under this Article; and*

(b) *in such other circumstances as may be provided by an agreement thereunder:*

Provided that it shall not under paragraph (a) so cease to have effect pending the completion of a review of the operation of such an agreement (including any reference to an independent assessor)."

Art. 113(1):1. *The words "and delimit constituencies" which appeared after "Legislative Assemblies of the States" were deleted by Act 14/1962, paragraph 20(a), in force from 21-06-1962.*

2. *See Art. 115(2).*

3. *See Elections Act 1958 [Act 19].*

Art. 113(2):1. *This Clause as originally in force commenced as follows:*

"After the first delimitation of constituencies in accordance with Articles 116 and 117 the Election Commission.."

Act 14/1962, paragraph 20(b), in force from 21-

06-1962, substituted the words "Article 171" for "Articles 116 and 117" and paragraph 20(c) substituted the words "and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule" for "and make such changes therein as they may think necessary in order to comply with the provisions of those Articles". Act 26/1963, subsection 10(2), in force from 16-09-1963, deleted the words "After the first delimitation of constituencies in accordance with Article 171" which then appeared at the commencement.

2. *The present Clause was inserted by Act A585, paragraph 25(a), in force from 14-04-1984 and replaced the earlier Clause which read as follows:*

"(2) The Election Commission shall, at intervals of not more than ten nor, subject to Clause (3), less than eight years, review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule; and the reviews of constituencies for the purpose of elections to the Legislative Assemblies shall be undertaken at the same time as the reviews of constituencies for the purpose of elections to the House of Representatives."

3. *See 13th Sch. section 4.*

Art. 113(3): *The words "or 46" which appeared after "Article 2" were deleted by Act 14/1962, Sch. section 6, in force from 21-06-1962.*

Art. 113(3A):1. *Added by Act A585, paragraph 25(b), in force from 14-04-1984.*

2. *The words ", subject to Clause (3B)," were inserted after the words "the Election Commission shall" in paragraph (i) of Clause (3A), by Act A849, section 2, in force from 20-11-1992.*

- (ii) A review under paragraph (i) shall not affect the interval provided under paragraph (ii) of Clause (2) in respect of a review under paragraph (i) of that Clause.
- (iii) The provisions of the Thirteenth Schedule shall apply to a review under this Clause, but subject to such modifications as may be considered necessary by the Election Commission.
- (3B) Where an amendment to Article 46 or a law enacted by the Legislative Assembly of a State referred to in paragraph (i) of Clause (3A) comes into force after the lapse of eight years from the date of completion of the last review under Clause (2) and the Election Commission are of the opinion that it is necessary to undertake a review under Clause (2), the Election Commission shall not undertake a review under paragraph (i) of Clause (3A) but shall instead undertake a review under Clause (2) and in conducting such review shall take into account any area which is affected in consequence of the amendment or the law referred to in paragraph (i) of Clause (3A).
- (4) Federal or State law may authorize the Election Commission to conduct elections other than those referred to in Clause (1).
- (5) So far as may be necessary for the purposes of its functions under this Article the Election Commission may make rules, but any such rules shall have effect subject to the provisions of federal law.
- (6) There shall be separate reviews under Clause (2) for the States of Malaya and for each of the States of Sabah and Sarawak, and for the purposes of this Part the expression "unit of review" shall mean, for federal constituencies, the area under review and, for State constituencies, the State and the expression "States of Malaya" shall include the Federal Territories of Kuala Lumpur, Labuan and Putrajaya.
- (7) Subject to Clause (3), the period for the first reviews under Clause (2) for any unit of review shall be calculated from the first delimitation of constituencies for that unit under this Constitution or under the Malaysia Act [Act 26 of 1963].
- (8) Notwithstanding Clause (7) of this Article the period for reviews under Clause (2) for the unit of review of the States of Malaya undertaken after the passing of the Constitution (Amendment) (No. 2) Act 1973 shall be calculated from the first delimitation of constituencies for that unit immediately following the passing of that Act.
- (9) The date of the commencement of a review under Clause (2) or Clause (3A), as the case may be, shall be the date of the publication in the Gazette of the notice referred to in section 4 of the Thirteenth Schedule.
- (10) The date of the completion of a review under Clause (2) or Clause (3A), as the case may be, shall be the date of the submission of the report to the Prime

Art. 113(3B): Added by Act A849, section 2, in force from 20-11-1992.

Art. 113(4): 1. The present Clause was inserted by Act 14/1962, Sch. section 6, in force from 21-06-1962 and replaced the original Clause which read as follows:

"(4) The Election Commission shall also conduct elections to the municipal council of the federal capital, and State law may authorize the Commission to conduct any other election."

2. See Local Government Elections Act 1960 [Act 473].

Art. 113(5): See Constitution (Election Commission) Rules, 1960-L.N. 110/1960.

Art. 113(6): 1. Added by Act 26/1963, subsection 10(2), in force from 16-09-1963. The word "and" which appears after "States of Malaya" was inserted and the words "and for the State of Singapore" which appeared after "Borneo States" were deleted by Act 59/1966, section 2, in force from 09-08-1965.

2. The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

3. The words, and the expression "States of Malaya" shall include the Federal Territory of Kuala Lumpur and Federal Territory of Labuan' were inserted after the words "the State" by Act A585, section 15, in force from 16-04-1984.

4. Subsequently, the words "Federal Territories of Kuala Lumpur, Labuan and Putrajaya" were substituted for the words "Federal Territory of Kuala Lumpur and the Federal Territory of Labuan" by Act A1095, section 19, in force from 01-02-2001.

Notes:

1. Upon the commencement of Act A1095, the area which constitutes the Federal Territory of Putrajaya shall cease to form part of a State constituency, but until the dissolution of the Legislative Assembly of the State of Selangor next following the commencement of this Act, the member of that Assembly elected from such constituency shall, notwithstanding the exclusion of that area from such constituency, continue to be a member of that Assembly.

2. Until the dissolution of Parliament next following the commencement of Act A1095, the federal constituency which includes the area which constitutes the Federal Territory of Putrajaya shall continue to exist and the member elected from such constituency shall continue to be a member of Parliament.

Art. 113(7): Added by Act 26/1963, subsection 10(2), in force from 16-09-1963.

Art. 113(8): Added by Act A206, section 13, in force from 23-08-1973.

Art. 113(9) & (10): Added by Act A585, paragraph 25(c), in force from 14-04-1984.

Minister under section 8 of the Thirteenth Schedule, and a notice of such date shall be published by the Election Commission in the Gazette.

Constitution of Election Commission

114. (1) The Election Commission shall be appointed by the Yang di-Pertuan Agong after consultation with the Conference of Rulers, and shall consist of a chairman, a deputy chairman and five other members.
- (2) In appointing members of the Election Commission the Yang di-Pertuan Agong shall have regard to the importance of securing an Election Commission which enjoys public confidence.
- (3) A member of the Election Commission shall cease to hold office on attaining the age of sixty-five years or on becoming disqualified under Clause (4) and may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.
- (4) Notwithstanding anything in Clause (3), the Yang di-Pertuan Agong shall by order remove from office any member of the Election Commission if such member

- (a) is an undischarged bankrupt; or
- (b) engages in any paid office or employment outside the duties of this office; or
- (c) is a member of either House of Parliament or of the Legislative Assembly of a State.

- (4A) In addition to any disqualification provided under Clause (4), the chairman of the Election Commission shall be disqualified from holding such office if after three months of his appointment to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.

Art. 113(9) & (10):

Notes: 1. Upon the commencement of Act A585 (i.e. 16-04-1984) the area which constitutes the Federal Territory of Labuan shall cease to form part of a State constituency.

2. Until the dissolution of the Legislative Assembly of the State of Sabah, next following the commencement of Act A585 the member of the said assembly elected from such constituency shall, notwithstanding the exclusion of the said area from the said constituency, continue to be a member of the said Assembly.

For the dissolution of the Legislative Assembly of the State of Sabah see Sabah G.N. No. 141/1985.

3. Until the dissolution of Parliament next following the commencement of that Act, the federal constituency which includes the area which constitutes the Federal Territory of Labuan shall continue to exist and the member elected from the said constituency shall continue to be a member of Parliament.

Art. 114(1): 1. The word "three other members" which appear at the end were substituted for "two other members" by Act 26/1963, subsection 10(1), in force from 16-09-1963 and subsequently the word "five" was substituted for "three" by Act A1130, section 8, in force from 28-09-2001.

2. The words ", a deputy chairman" were inserted after the word "chairman" by Act A514, section 8, in force from 15-05-1981.

Art. 114(3): The words "Federal Court" which appear at the end were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963. Subsequently subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme

Court.

Act A885, section 12, in force from 24-06-1994, substituted the word "Federal" for the word "Supreme".

Art. 114(4): 1. The present Clause was inserted by Act 10/1960, section 13, in force from 31-08-1957, and replaced the Original Clause which read as follows:

"(4) A person is disqualified for appointment as a member of the Election Commission if he holds any other office of profit or is a member of either House of Parliament or of the Legislative Assembly of any State."

2. This amendment of the Article has effect notwithstanding anything in Clause (6) of the Article, see Act 14/1962, subsection 21(2).

3. The word "shall" substituted for "may" by Act A514, section 8, in force from 15-05-1981.

Art. 114(4)(b): 1. Act A514, section 8, in force from 15-05-1981 replaced the earlier paragraph which read as follows:

"(b) engages in any paid office or employment outside the duties of his office; or " with the following-

"(b) is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it; or".

2. This is again substituted by the present paragraph as it appears by virtue of Act A566, paragraph 14(1)(a), in force from 16-12-1983.

- (5) Parliament shall by law provide for the remuneration of members of the Election Commission, and the remuneration so provided shall be charged on the Consolidated Fund.
- (5A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of members of the Election Commission other than their remuneration.
- (6) The remuneration and other terms of office of a member of the Election Commission shall not be altered to his disadvantage after his appointment.
- (7) Where, during any period, the chairman of the Election Commission has been granted leave of absence by the Yang di-Pertuan Agong or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions, the deputy chairman shall discharge the functions of the chairman during that period, and if the deputy chairman is also absent or unable to discharge such functions, a member of the Election Commission may be appointed by the Yang di-Pertuan Agong to discharge the functions of the chairman during that period.

Assistance to Election Commission

115. (1) The Election Commission may employ such number of persons, on such terms and subject to such conditions, as the Commission may with the approval of

the Yang di-Pertuan Agong determine.

- (2) All public authorities shall on the request of the Commission give the Commission such assistance in the discharge of its duties as may be practicable; and in exercising its functions of making recommendations for the delimitation of constituencies for the elections mentioned in Clause (1) of Article 113 the Commission shall seek the advice of two officers of the Federal Government with special knowledge of the topography of, and the distribution of the population in, the unit of review for federal elections, and those officers shall be selected for that purpose by the Yang di-Pertuan Agong.

Federal constituencies

116. (1) For the election of members to the House of Representatives a unit of review shall be divided into constituencies in accordance with the provisions contained in the Thirteenth Schedule.
- (2) The total number of constituencies shall be equal to the number of members, so that one member shall be elected for each constituency, and of that total in the States of Malaya a number determined in accordance with the provisions contained in Article 46 and the Thirteenth Schedule shall be allocated to each State.
- (3) (Repealed).
- (4) (Repealed).
- (5) (Repealed).

Art. 114(4A):1. The present Clause was substituted by Act A566, paragraph 14(1)(b), in force from 16-02-1983. The earlier Clause which read as follows was added by Act A514, paragraph 8(d), in force from 15-05-1981:

"(4A) The disqualification in paragraph (b) of Clause (4) shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it."

2. See Election Commission Act 1957 [Act 31].

Art. 114(5):1. See Election Commission Act 1957 [Act 31].

Art. 114(5A):1. Added by Act 14/1962, subsection 21(1), in force from 21-06-1962.

2. See Election Commission Act 1957 [Act 31].

Art. 114(7):1. Added by Act A354, section 25, in force from 27-08-1976.

2. The words "the deputy chairman shall discharge the functions of the chairman during that period, and if the deputy chairman is also absent or unable to discharge such function," inserted after "to discharge his functions," by Act A514, section 8, in force from 15-05-1981.

Note: The amendments made to Article 114 by Act A566 shall apply only to a person who is appointed a member of the Election Commission on or after 16-12-1983.

Art. 115(2):The words "making recommendations for the delimitation of constituencies" were substituted for "delimiting constituencies" by Act 14/1962, Sch. section 7, in force from 21-06-1962. The words "unit of review for federal elections, and those officers" were substituted for "Federation, who" by Act 26/1963, section 70, in force from 16-09-1963.

Art. 116:See 8th Sch. subsection 4(2); 13th Sch. section 2. Clause (1): The words "provisions contained in the Thirteenth Schedule" which appear at the end were substituted for "following provisions of this Article" by Act 14/1962, paragraph 22(a), in force from 21-06-1962. The words "a unit of review" which appear after "House of Representatives" were substituted for "the Federation" by Act 26/1963, section 70, in force 16-09-1963.

Clause (2): (a) The words "the provisions contained in the Thirteenth Schedule" were substituted for "Clause (3)" by Act 14/1962, paragraph 22(b), in force from 21-06-1962. The words "in the States of Malaya" were inserted by Act 26/1963, section 70, in force from 16-09-1963.

(b) The words "Article 46 and the Thirteenth Schedule" substituted for "the Thirteenth Schedule" by Art A206, section 14, in force from 23-08-1973.

Clauses (3), (4) and (5): These Clauses which read as follows were repealed by Act 14/1962, paragraph 22(c), in force from 21-06-1962:

State constituencies

117. For the election of members to the Legislative Assembly of a State the State shall be divided into as many constituencies as there are elected members, so that one member shall be elected for each constituency; and the division shall be made in accordance with the provisions contained in the Thirteenth Schedule.

Method of challenging election

118. No election to the House of Representatives or to the Legislative Assembly of a State shall be called in question except by an election petition presented to the High Court having jurisdiction where the election was held.

Method of questioning election petition of no return

118A. A petition complaining of no return to the House of Representatives or the Legislative Assembly shall be deemed to be an election petition and the High Court may make such order thereon as it may think fit for compelling a return to be made, but the failure to make a return within any periods specified by Article 54 or 55 or by the corresponding provision

of the Constitution of any State, as the case may be, shall not be a ground for declaring that a member has not been duly elected.

Qualifications of electors

119. (1) Every citizen who
- (a) has attained the age of twenty-one years on the qualifying date;
 - (b) is resident in a constituency on such qualifying date or, if not so resident, is an absent voter; and
 - (c) is, under the provisions of any law relating to elections, registered in the electoral roll as an elector in the constituency in which he resides on the qualifying date, is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under Clause (3) or under any law relating to offences committed in connection with elections; but no person shall in the same election vote in more than one constituency.
- (2) If a person is in a constituency by reason only of being a patient in an establishment

Art. 116: "(3) Constituencies shall be allocated to the several States in such manner that the electoral quota of each State is as nearly equal to the electoral quota of the Federation as it can be without causing undue disparity between the population quota of that State and the population quota of the Federation.

(4) Each State shall be divided into constituencies in such manner that each constituency contains a number of electors as nearly equal to the electoral quota of the State as may be after making due allowance for the distribution of the different communities and for differences in density of population and the means of communication; but the allowance so made shall not increase or reduce the number of electors in any constituency to a number differing from the electoral quota by more than fifteen per cent.

(5) In this Article-

(a) "electoral quota" means the number obtained by dividing the number of electors in the Federation or a State by the total number of constituencies or, as the case may be, the number of constituencies in that State;

(b) "population quota" means the number obtained by dividing the population of the Federation or of a State by the total number of constituencies or, as the case may be, the number of constituencies in that State; and for the purposes of this Article the number of electors shall be taken to be as shown on the current electoral rolls and the population as counted at the most recent census."

Art. 117: 1. The words "in accordance with the provisions contained in the Thirteenth Schedule" which appear at the end were substituted for "in the manner provided by Clause (4) of article 116" by Act 14/1962, Sch, section 8, in force from 21-06-1962.

2. See 13th Sch, section 2.

Art. 118: 1. The words "the House of Representatives" were substituted for "either House of Parliament" by Act 25/1963, subsection 3(2), in force from 29-08-1963 and the words "the High Court having jurisdiction where the election was held", were substituted for a "Judge of the Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963.

2. See Art. 120(c).

Art. 118A: 1. Added by Act 31/1965, subsection 2(2), in force from 01-07-1965.

2. See Art. 120 (c).

3. The words "or the Legislative Assembly" were inserted immediately after the words "House of Representatives" by Act A704, section 7, in force from 10-06-1988.

4. The words "or by the corresponding provision of the Constitution of any State, as the case may be," were added immediately after the words "Article 54 or 55" by Act A704, section 7, in force from 10-06-1988.

Art. 119(1):1. This Clause was inserted by Act 10/1960, paragraph 14(a), in force from 31-05-1960, and replaced the original Clause which read as follows:

"(1) Every citizen who has attained the age of twenty-one years on the qualifying date and has been resident in a constituency for at least six months immediately preceding the qualifying date is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under Clause (3) or under any law relating to offences committed in connection with elections, but no person shall in the same election vote in more than one constituency."

- maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or of being detained in custody he shall for the purposes of Clause (1) be deemed not to be resident in that constituency.
- (3) A person is disqualified for being an elector in any election to the House of Representatives or the Legislative Assembly if
- (a) on the qualifying date he is detained as a person of unsound mind or is serving a sentence of imprisonment; or
 - (b) having before the qualifying date been convicted in any part of the Commonwealth of an offence and sentenced to death or imprisonment for a term exceeding twelve months, he remains liable on the qualifying date to suffer any punishment for that offence.
- (4) In this Article
- (a) "absent voter" means, in relation to any constituency, any citizen who is registered as an absent voter in respect of that constituency;
 - (b) "qualifying date" means the date on which a person applies for registration as an elector in a constituency, or the date on which he applies for the change of his registration as an elector in a different constituency, in accordance with the provisions of any law relating to elections.

Direct elections to the Senate

120. Where in accordance with Clause (4) of Article 45 provision is made by Parliament for the election of Senators by the direct vote of electors
- (a) the whole of a State shall form a single constituency and each elector shall have as many votes at any election to the Senate as there are seats to be filled in that election; and
 - (b) the electoral rolls for elections to the House of Representatives shall also be the electoral rolls for elections to the Senate; and
 - (c) Articles 118, 118A and 119 shall apply in relation to elections to the Senate as they apply in relation to elections to the House of Representatives.

PART IX THE JUDICIARY

Judicial power of the Federation

121. (1) There shall be two High Courts of co-ordinate jurisdiction and status, namely
- (a) one in the States of Malaya, which shall be known as the High Court in Malaya and shall have its principal registry at such place in the States of Malaya as the Yang di-Pertuan Agong may determine; and
 - (b) one in the States of Sabah and Sarawak, which shall be known as the High Court in Sabah and Sarawak and shall have its principal registry at such place in the States of Sabah and Sarawak as the Yang di-Pertuan Agong may determine;

Art. 119(1): 2. This Clause was amended by Act A1130, section 9, in force from 28-09-2001 as follows
(a) in paragraph (a), the word "and" at the end of paragraph (a) was deleted;
(b) in paragraph (b), by substituting for the comma at the end of paragraph the word "; and";
(c) a new paragraph (c) was inserted as follows:
"(c) is, under the provisions of any law relating to elections, registered in the electoral roll as an elector in the constituency in which he resides on the qualifying date,".
3. See Art. 120(c).

Art. 119(4): The words "and "absent voter" means in relation to any constituency any citizen who is registered as an absent voter in respect of that constituency under the provisions of any law relating to elections" which appear at the end were added by Act 10/1960, paragraph 14(b), in force from 31-05-1960. Subsequently, this Clause was substituted by Act A1130, paragraph 9(b), in force from 28-09-2001. The original Clause read as follows:
"(4) In this Article "qualifying date" means the date by reference to which the electoral rolls are prepared or revised, and "absent voter" means in relation to any constituency any citizen who is registered as an absent voter in respect of that

constituency under the provisions of any law relating to elections."

Art. 120(c): The number "118A" was inserted by Act 31/1965, subsection 2(2), in force from 01-07-1965.

Art. 121:1. The present Article was inserted by Act 26/1963, section 13, in force from 16-09-1963.

Act 59/1966, section 2, in force from 09-08-1965 substituted the words "two High Courts" for "three High Courts" in line two and repealed paragraph (c) of Clause (1) which read as follows:

"(c) one in the State of Singapore, which shall be known as the High Court in Singapore".

Clause (1)(b): The words "the States of Sabah and Sarawak" substituted for "the Borneo States" by Act A354, section 43, in force from 27-08-1976.

Clause (1)(a): The words "There shall be" substituted for the words "Subject to Clause (2) the judicial power of the Federation shall be vested in" by Act A704, section 8, in force from 10-06-1988.

(b) The words "and such inferior courts as may be provided by federal law; and the High Courts and inferior courts shall have such jurisdiction and powers as may be conferred by or under federal law" substituted for the words "and in such inferior courts as may be provided by federal law" by Act A704, section 8, in force from 10-06-1988.

- (c) (Repealed).
and such inferior courts as may be provided by federal law and the High Courts and inferior courts shall have such jurisdiction and powers as may be conferred by or under federal law.
- (1A) The courts referred to in Clause (1) shall have no jurisdiction in respect of any matter within the jurisdiction of the Syariah courts.
- (1B) There shall be a court which shall be known as the Mahkamah Rayuan (Court of Appeal) and shall have its principal registry at such place as the Yang di-Pertuan Agong may determine, and the Court of Appeal shall have the following jurisdiction, that is to say
- (a) jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the Court and appealable under federal law to a judge of the Court); and
- (b) such other jurisdiction as may be conferred by or under federal law.
- (2) There shall be a court which shall be known as the Mahkamah Persekutuan (Federal Court) and shall have its principal registry at such place as the Yang di-Pertuan Agong may determine,

- and the Federal Court shall have the following jurisdiction, that is to say
- (a) jurisdiction to determine appeals from decisions of the Court of Appeal, of the High Court or a judge thereof;
- (b) such original or consultative jurisdiction as is specified in Articles 128 and 130; and
- (c) such other jurisdiction as may be conferred by or under federal law.
- (3) Subject to any limitations imposed by or under federal law, any order, decree, judgment or process of the courts referred to in Clause (1) or of any judge thereof shall (so far as its nature permits) have full force and effect according to its tenor throughout the Federation, and may be executed or enforced in any part of the Federation accordingly; and federal law may provide for courts in one part of the Federation or their officers to act in aid of courts in another part.
- (4) In determining where the principal registry of the High Court in Sabah and Sarawak is to be, the Yang di-Pertuan Agong shall act on the advice of the Prime Minister, who shall consult the Chief Ministers of the States of Sabah and Sarawak and the Chief Judge of the High Court.

Art. 121: (c) The words "There shall be" substituted for the words "The following jurisdiction shall be vested in" by Act A704, section 8, in 10-06-1988.

(d) The words "and the Supreme Court shall have the following jurisdiction" inserted immediately after the words "Kuala Lumpur", by Act A704, section 8, in force from 10-06-1988.

(e) The words "Sabah and Sarawak" substituted for the word "Borneo" by Act A885, section 13, in force from 24-06-1994.

(f) The words "at such place in the States as the Yang di-Pertuan Agong may determine" substituted for the words "in Kuala Lumpur" by Act A1260, paragraph 3(a), in force from 19-01-2006.

Clause (1A): Added by Act A704, section 8, in force from 10-06-1988.

Clause (1B): (a) Added by Act A885, section 13, in force from 24-06-1994.

(b) The words "at such place as the Yang di-Pertuan Agong may determine" substituted for the words "in Kuala Lumpur" by Act A1260, paragraph 3(b), in force from 10-10-2003.

Clause (2): (a) The words "Mahkamah Agung (Supreme Court)" substituted for "Federal Court" by Act A566, section 15, in force from 01-01-1985.

(b) Paragraph (c) inserted by Act A566, section 15, in force from 01-01-1985.

(c) The words "at such place as the Yang di-Pertuan Agong may determine" substituted for the words "in Kuala Lumpur" by Act A1260, paragraph 3(b), in force from 10-10-2003.

Note: Upon sections 15, 16 and 17 of Act A566 coming into force on 01-01-1985, all references in or under the Constitution or in or under any other

written law to the Federal Court and judges and officers thereof shall be construed as references to the Supreme Court and judges and officers thereof respectively.

The High Court in Borneo constituted under Clause (1)(b) of Article 121 of the Constitution shall, until such time as the Yang di-Pertuan Agong by order otherwise provides, have jurisdiction in the Federal Territory of Labuan. (See section 16 of Act A585).

(c) The words "Mahkamah Persekutuan (Federal Court)" and "Federal Court" substituted respectively for the words "Mahkamah Agung (Supreme Court)" and "Supreme Court" by Act A885, section 13, in force from 24-06-1994.

(d) Paragraph (a) of Clause (2) substituted by Act A885, section 13, in force from 24-06-1994. The original paragraph (a) read as follows:

"(a) exclusive jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the court and appealable under federal law to a judge of the Court);".

Clause (4): (a) The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

(b) The words "Sabah and Sarawak" and "Judge" substituted respectively for the words "Borneo" and "Justice" by Act A885, section 13, in force from 24-06-1994.

The original Article read as follows:

"121. The judicial power of the Federation shall be vested in a Supreme Court and such inferior courts as may be provided by federal law."

2. See Courts of Judicature Act 1964 [Act 91], Subordinate Courts Act 1948 [Act 92].

Constitution of Federal Court

122. (1) The Federal Court shall consist of a president of the Court (to be styled "the Chief Justice of the Federal Court"), of the President of the Court of Appeal, of the Chief Judges of the High Courts and, until the Yang di-Pertuan Agong by order otherwise provides, of four* other judges and such additional judges as may be appointed pursuant to Clause (1A).

(1A) Notwithstanding anything in this Constitution contained, the Yang di-Pertuan Agong acting on the advice of the Chief Justice of the Federal Court may appoint for such purposes or for such period of time as he may specify any person who has held high judicial office in Malaysia to be an additional judge of the Federal Court:

Provided that no such additional judge shall be ineligible to hold office by reason of having attained the age of sixty-six years.

(2) A judge of the Court of Appeal other than the President of the Court of Appeal may sit as a judge of the Federal Court where the Chief Justice considers that the interests of justice so require, and the judge shall be nominated for the purpose (as occasion requires) by the Chief Justice.

Constitution of Court of Appeal

122A.(1) The Court of Appeal shall consist of a chairman (to be styled the "President of the Court of Appeal") and, until the Yang di-Pertuan Agong by order otherwise provides, of ten *other judges.

(2) A judge of a High Court may sit as a judge of the Court of Appeal where the President of the Court of Appeal considers that the interests of justice so require, and the judge shall be nominated for the purpose (as occasion requires) by the President of the Court of Appeal after consulting the Chief Judge of that High Court.

Art. 122: 1. This Article was inserted by Act 26/1963, section 15, in force from 16-09-1963.

Clause (1A) was added by Act 31/1965, subsection 2(2), in force from 01-07-1965, which also substituted the words "four other judges and such additional judges as may be appointed pursuant to Clause (1A)" for "two other judges" at the end of Clause (1). The words "the Yang di-Pertuan Agong by order otherwise provides" substituted for "Parliament otherwise provides" in Clause (1) by Act A354, section 26, in force from 27-08-1976. The earlier Article as it stood at the date of repeal read as follows:

"122. (1) The Supreme Court shall consist of a Chief Justice and other judges; but the number of the other judges shall not exceed fifteen until Parliament otherwise provides.

(2) The Chief Justice and the other judges of the Supreme Court shall be appointed by the Yang di-Pertuan Agong.

(3) In appointing the Chief Justice the Yang di-Pertuan Agong shall act on the advice of the Prime Minister, after consulting the Conference of Rulers, and in appointing the other judges of the Supreme Court he shall act on the advice of the Prime Minister, after consulting the Conference of Rulers and considering the advice of the Chief Justice."

2. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

3. In the shoulder note of Clauses (1), (1A) and (2), the word "Federal" substituted for the word "Supreme" by Act A885, section 14, in force from 24-06-1994.

4. In Clause (1), the words "Chief Justice of the Federal Court, of the President of the Court of Appeal, of the Chief Judges of the High Courts" substituted respectively for the words "Lord President of the Supreme Court, of the Chief Justices of the High Courts" by Act A885, section 14, in force from 24-06-1994.

5. In Clause (1A), the words "Chief Justice of the

Federal Court" substituted for the words "Lord President of the Supreme Court" by Act A885, section 14, in force from 24-06-1994. 5A. In the proviso to Clause (1A), the words "sixty-six years" substituted for "sixty-five years" by Act A1239, section 2, in force from 21-03-2005.

6. In Clause (2), the words "the Court of Appeal other than the President of the Court of Appeal" and "Chief Justice" substituted respectively for the words "a High Court other than the Chief Justice" and "Lord President" by Act A885, section 14, in force from 24-06-1994.

Art 122A: Added by Act 26/1963, section 16, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, repealed Clause (1)(c) which read as follows:

"(c) in the High Court in Singapore, eight."

Clause (1): The words "the Yang di-Pertuan Agong by order otherwise provides" substituted for "Parliament otherwise determines" by Act A354, section 27, in force from 27-08-1976.

Clause (2): See Art. 122B(5).

Clause (2): See Art. 122B(5)

Clause (3): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Clause (5) added by Act A354, section 27, in force from 27-08-1976.

Clauses (3) and (5): The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

This Article which read as follows was substituted by Act A885, section 15, in force from 24-06-1994:

"122A. (1) Each of the High Courts shall consist of a Chief Justice and not less than four other judges; but the number of other judges shall not, until the Yang di-Pertuan Agong by order otherwise provides, exceed-

(a) in the High Court in Malaya, twelve; and

(b) in the High Court in Borneo, eight

(c) (Repealed).

Constitution of the High Courts

122AA.(1) Each of the High Courts shall consist of a Chief Judge and not less than four other judges; but the number of other judges shall not, until the Yang di-Pertuan Agong by order otherwise provides, exceed

(a) in the High Court in Malaya, forty-seven; and

(b) in the High Court in Sabah and Sarawak, ten.

(2) Any person qualified for appointment as a judge of a High Court may sit as a judge of that Court if designated for the purpose (as occasion requires) in accordance with Article 122B.

Appointment of judicial commissioner

122AB.(1) For the despatch of business of the High Court in Malaya and the High Court in Sabah and Sarawak, the Yang di-Pertuan Agong acting on the advice of the Prime Minister, after consulting the Chief Justice of the Federal Court, may by order appoint to be judicial commissioner for such period or such purposes as may be specified in the order any person qualified for appointment as a judge of a High Court; and the person so appointed shall have power to perform such functions of a judge of the High Court as appear to him to require to be performed; and anything done by him when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that Court, and in respect thereof he shall have the same

powers and enjoy the same immunities as if he had been a judge of that Court.

(2) The provisions of Clauses (2) and (5) of Article 124 shall apply to a judicial commissioner as they apply to a judge of a High Court.

Appointment of judges of Federal Court, Court of Appeal and of High Courts

122B.(1) The Chief Justice of the Federal Court, the President of the Court of Appeal and the Chief Judges of the High Courts and (subject to Article 122C) the other judges of the Federal Court, of the Court of Appeal and of the High Courts shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Prime Minister, after consulting the Conference of Rulers.

(2) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Chief Justice of the Federal Court, the Prime Minister shall consult the Chief Justice.

(3) Before tendering his advice as to the appointment under Clause (1) of the Chief Judge of a High Court, the Prime Minister shall consult the Chief Judge of each of the High Courts and, if the appointment is to the High Court in Sabah and Sarawak, the Chief Minister of each of the States of Sabah and Sarawak.

(4) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Chief Justice, President or a Chief Judge, the Prime Minister shall consult, if the appointment is to the Federal Court, the Chief Justice of the

Art 122A : (2) Any person qualified for appointment as a judge of a High Court may sit as a judge of that court, if designated for the purpose (as occasion requires) in accordance with Article 122B.

(3) For the despatch of business of the High Court in Borneo in an area in which a judge of the Court is not for the time being available to attend to business of the court, the Yang di-Pertuan Agong acting on the advice of the Lord President of the Supreme Court, or for an area in either State the Yang di-Pertua Negeri of the State acting on the advice of the Chief Justice of the court, may by order appoint to be judicial commissioner in that area for such period or for such purposes as may be specified in the order an advocate or person professionally qualified to be admitted an advocate of the court.

(4) Subject to any limitations or conditions imposed by the order appointing him, a judicial commissioner shall have power, in the area for which he is appointed, to perform such functions of a judge of the High Court in Borneo as appear to him to require to be performed without delay; and anything done by a judicial commissioner when acting in accordance with his appointment

shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court.

(5) For the despatch of business of the High Court in Malaya, the Yang di-Pertuan Agong acting on the advice of the Lord President of the Supreme Court, may by order appoint to be judicial commissioner for such period or such purposes as may be specified in the order any person qualified for appointment as a judge of a High Court; and the person so appointed shall have power to perform such functions of a judge of the High Court in Malaya as appear to him to require to be performed; and anything done by him when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court."

Art. 122AA & 122AB:

Added by Act A885, section 16, in force from 24-06-1994.

Federal Court, if the appointment is to the Court of Appeal, the President of the Court of Appeal and, if the appointment is to one of the High Courts, the Chief Judge of that Court.

- (5) This Article shall apply to the designation of a person to sit as judge of a High Court under Clause (2) of Article 122AA as it applies to the appointment of a judge of that court other than the Chief Judge.
- (6) Notwithstanding the dates of their respective appointments as judges of the Federal Court, of the Court of Appeal or of the High Courts, the Yang di-Pertuan Agong, acting on the advice of the Prime Minister given after consulting the Chief Justice, may determine the order of precedence of the judges among themselves.

Transfer of judge of one High Court to another

122C. Article 122B shall not apply to the transfer to a High Court, otherwise than as a Chief

Judge, of a judge of another High Court other than the Chief Judge; and such a transfer may be made by the Yang di-Pertuan Agong, on the recommendation of the Chief Justice of the Federal Court, after consulting the Chief Judges of the two High Courts.

Qualifications of judges of Federal Court, Court of Appeal and of High Courts

123. A person is qualified for appointment under Article 122B as a judge of the Federal Court, as a judge of the Court of Appeal or as a judge of any of the High Courts if
- he is a citizen; and
 - for the ten years preceding his appointment he has been an advocate of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one and sometimes another.

Art. 122B: 1. Added by Act 26/1963, section 17, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, amended-

(a) Clause (3), by deleting the words "or in Singapore" which appeared after "High Court in Borneo" and the words "or of Singapore as the case may be" which appeared at the end of the Clause. The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

(b) Clause (4), by substituting the words "Chief Justice of each of the High Courts" for "Chief Justices of all the High Courts".

2. See Articles 122A(2), 122c, 123.

3. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

4. Clause (6): Inserted by Act A566, subsection 16(2), in force from 01-01-1985.

5. In the shoulder note, the words "Federal Court, Court of Appeal and" substituted for the words "Supreme Court and of by Act A885, section 17, in force from 24-06-1994.

6. Clauses (1) and (4): Substituted by Act A885, section 17, in force from 24-06-1994. The original Clauses read as follows:

"(1) The Lord President of the Supreme Court, the Chief Justices of the High Courts and (subject to Article 122c) the other judges of the Supreme Court and of the High Courts shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Prime Minister, after consulting the Conference of Rulers.

(4) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President or a Chief Justice, the Prime Minister shall consult, if the appointment is to the Supreme Court, the Chief Justice of each of the High Courts and, if the appointment is to one of the High Courts, the Chief Justice of that court."

7. Clause (2): The words "Chief Justice" and "Federal" substituted respectively for the words "Lord President" and "Supreme" by Act A885, section 17, in force from 24-06-1994.

8. Clause (3): The words "Judge" and "Sabah and Sarawak" substituted respectively for the words "Justice" and "Borneo" by Act A885, section 17, in force from 24-06-1994.

9. Clause (5): The words "Article 122AA(2)" and "Judge" substituted respectively for the words "Article 122A(2)" and "Justice" by Act A885, section 17, in force from 24-06-1994.

10. Clause (6): The words "Federal Court, of the Court of Appeal" and "Chief Justice" substituted respectively for the words "Supreme Court" and "Lord President" by Act A885, section 17, in force from 24-06-1994.

Art. 122C: 1. Added by Act 26/1963, section 18, in force from 16-09-1963.

2. See Art. 112A (1).

3. The word "Supreme" substituted for "Federal" by Act A566 subsection 16(1) in force from 01-01-1985.

4. The Words "Judge", "Chief Justice of the Federal Court" and "Judges" substituted respectively for the words "justice", "Lord President of the Supreme Court" and "Justices" by Act A885, section 18, in force from 24-06-1994.

Art. 123: 1. The present Article was inserted by Act 26/1963, section 19, in force from 16-09-1963, and replaced the earlier Article which read as follows:

"123. A person is qualified for appointment as a judge of the Supreme Court if-

(a) he is a citizen; and

(b) he has been an advocate of the Supreme Court or a member of the judicial and legal service of the Federation for a period of not less than ten years, or has been the one for part and the other for the remainder of that period."

2. The word "Supreme" substituted for "Federal" by Act A566, subsection 16 (1), in force from 01-01-1985.

3. The words "Federal Court, Court of Appeal and" and "Federal Court, as a judge of the Court of Appeal" substituted respectively for the words "Supreme Court and of" and "Supreme Court" by Act A885, section 19, in force from 24-06-1994.

Oath of office of judges

124. (1) The Chief Justice of the Federal Court shall before exercising the functions of his office take and subscribe the oath of office and allegiance set out in the Sixth Schedule, and shall do so in the presence of the Yang di-Pertuan Agong.
- (2) A judge of the Federal Court, the Court of Appeal or a High Court, other than the Chief Justice of the Federal Court, shall before exercising the functions of a judge take and subscribe the oath of office and allegiance set out in the Sixth Schedule in relation to his judicial duties in whatever office.
- (2A) A person taking the oath on becoming the President of the Court of Appeal shall do so in the presence of the senior judge available of the Court of Appeal.
- (3) A person taking the oath on becoming Chief Judge of a High Court shall do so in the presence of the senior judge available of that High Court.
- (4) A person taking the oath on becoming a judge of the Federal Court shall do so in the presence of the Chief Justice or, in his absence, the next senior judge available of the Federal Court.
- (4A) A person taking the oath on becoming a judge of the Court of Appeal shall do so

in the presence of the President of the Court of Appeal or, in his absence, the next senior judge available of the Court of Appeal.

- (5) A person taking the oath on becoming a judge of a High Court (but not Chief Judge) shall do so in the presence of the Chief Judge of that Court or, in his absence, the next senior judge available of that Court.

Tenure of office and remuneration of judges of Federal Court

125. (1) Subject to the provisions of Clauses (2) to (5), a judge of the Federal Court shall hold office until he attains the age of sixty-six years or such later time, not being later than six months after he attains that age, as the Yang di-Pertuan Agong may approve.
- (2) A judge of the Federal Court may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong but shall not be removed from office except in accordance with the following provisions of this Article.
- (3) If the Prime Minister, or the Chief Justice after consulting the Prime Minister, represents to the Yang di-Pertuan Agong that a judge of the Federal Court ought to

Art. 124: 1. The present Article was inserted by Act 26/1963, section 20, in force from 16-09-1963, and replaced the earlier Article which read as follows:

"124. The Chief Justice and any other judge of the Supreme Court shall before exercising the functions of his office take and subscribe the oath of office and allegiance set out in the Sixth Schedule-

(a) the Chief Justice in the presence of the Yang di-Pertuan Agong, and

(b) any other judge in the presence of the Chief Justice or, in his absence, the next senior judge of the Supreme Court available."

2. The words "Supreme" substituted for "Federal" by Act A566, subsection 16 (1), in force from 01-01-1985.

3. Clause (1): The words "Chief Justice of the Federal Court" substituted for the words "Lord President of the Supreme Court" by Act A885, section 20, in force from 24-06-1994.

4. Clause (2): Substituted by Act A885, section 20, in force from 24-06-1994. The original Clause read as follows:

"(2) A judge of the Supreme Court or a High Court, other than the Lord President of the Supreme Court, shall before exercising the functions of a judge take and subscribe that oath in relation to his judicial duties in whatever office, and, having done so, shall not be required to take that oath again on appointment or transfer to another judicial office, not being that of Lord President."

5. Clause (2A): Inserted by Act A1260, paragraph 4(a), in force from 19-01-2006.

6. Clause (3): The words "Judge" substituted for the word "Justice"; and the words ", unless he takes it in accordance with Clause (4) as a judge of the Supreme Court" deleted by Act A885,

section 20, in force from 24-06-1994.

7. Clause (4):(a) The words, "Federal" and "Chief Justice" substituted respectively for the words "Supreme" and "Lord President" by Act A885, section 20, in force from 24-06-1994.

(b) The words "A person" substituted for the words "Subject to clause (3), a person" by Act A1260, paragraph 4(b), in force from 19-01-2006.

8. Clause (4A): Inserted by Act A1260, paragraph 4(c), in force from 19-01-2006.

9 Clause (5):

(a) The words "the Court of Appeal or" inserted after the words "a judge of"; and the word "Judge" substituted for the word "Justice", by Act A885, section 20, in force from 24-06-1994.

(b) The words "the Court of Appeal or" deleted by Act A1260, paragraph 4(d), in force from 19-01-2006.

Art. 125: Clause (1): 1. Act 14/1962, Sch. section 9, in force from 21-06-1962, substituted the words "the provisions of Clauses (2) to (5)" for the words "the following provisions of this Article" and Act 26/1963, paragraph 22(2)(a), in force from 16-09-1963, substituted the words "Federal Court" for "Supreme Court". Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985. The words "Federal" was substituted for "supreme" by Act A885, section 21, in force from 24-06-1994.

2. The words "sixty-six years" substituted for "sixty-five years" by Act A1239, section 3, in force from 21-03-2005.

Clause (2): The words "Federal" substituted for "Supreme" by Act 26/1963, paragraph 22(2)(a), in force from 16-09-1963. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

- be removed on the ground of any breach of any provision of the code of ethics prescribed under Clause (3B) or on the ground of inability, from infirmity of body or mind or any other cause, properly to discharge the functions of his office, the Yang di-Pertuan Agong shall appoint a tribunal in accordance with Clause (4) and refer the representation to it; and may on the recommendation of the tribunal remove the judge from office.
- (3A) Where a judge has committed a breach of any provisions of the code of ethics prescribed under Clause (3B) but the Chief Justice is of the opinion that the breach does not warrant the judge being referred to a tribunal appointed under Clause (4), the Chief Justice may refer the judge to a body constituted under federal law to deal with such breach.
- (3B) The Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts may, after

consulting the Prime Minister, prescribe in writing a code of ethics which shall also include provisions on the procedure to be followed and sanctions which can be imposed other than the removal of a judge from office under Clause (3), in relation to a breach of any provision of the code of ethics.

- (3C) The code of ethics prescribed under Clause (3B) shall be observed by every judge of the Federal Court and every judicial commissioner.
- (4) The tribunal appointed under Clause (3) shall consist of not less than five persons who hold or have held office as judge of the Federal Court, the Court of Appeal or a High Court, or, if it appears to the Yang di-Pertuan Agong expedient to make such appointment, persons who hold or have held equivalent office in any other part of the Commonwealth, and shall be presided over by the member first in the following order, namely, the Chief Justice of the Federal Court, the President and

Art. 125: Clause (3): 1. The words "Lord President" and "Federal Court" were substituted for "Chief Justice" and "Supreme Court" respectively by Act 26/1963, paragraph 22(2)(a), in force from 16-09-1963. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

2. See Art. 65(3).

3. The words "Clause (3B)" substituted for the words "Clause 3A" by Act A1260, paragraph 5(a), in force from 19-01-2006.

Clause (3A): Substituted by Act A1260, paragraph 5(b), in force from 19-01-2006. The original Clause read as follows: "(3A) The Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, may, after consulting the Prime Minister, prescribe in writing a code of ethics which shall be observed by every judge of the Federal Court."

Clauses (3B) and (3C): Inserted by Act A1260, paragraph 5(c), in force from 19-01-2006.

Clause (4): 1. The words "appointed on the recommendations of the Judicial and Legal Service Commission, being persons" which appeared after "not less than five persons" were deleted and the words "Yang di-Pertuan Agong expedient to make such appointment" were substituted for "Commission expedient so to recommend" by Act 10/1960, paragraph 16(a) and (b), in force from 31-05-1960. The words "and shall be presided over by the member first in the following order, namely, the Lord President of the Federal Court, the Chief Justices according to their precedence among themselves, and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the younger of two members with appointments of the same date)" at the end were substituted for "and shall be presided over by the Chief Justice, if he is a member, and, in any other case, by the person first appointed to the said office" by Act 26/1963, paragraph 22(2)(b), in force from 16-09-1963, which also inserted the words "of the Federal

Court or a High Court or have before Malaysia Day held office as judge" which appear after "or have held office as judge". The words ", or have before Malaysia Day held office as judge of the Supreme Court" were deleted by Act A566, subsection 16(3), in force from 01-01-1985.

2. The words "The tribunal appointed under Clause (3)" were substituted for "The said tribunal" by Act A1260, paragraph 5(d), in force from 19-01-2006.

Clause (5): The words "Prime Minister, or the Prime Minister after consulting the Chief Justice" were substituted for "Judicial and Legal Service Commission" by Act 10/1960, paragraph 16(c), in force from 31-05-1960. Act 26/1963, paragraph 22(a), in force from 16-09-1963, substituted the words "Lord President" and "Federal Court" for "Chief Justice" and "Supreme Court" respectively and by paragraph 22(c) substituted the words "and, in the case of any other judge" for the words "or the Prime Minister" shown in italics above. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

Clause (6): 1. The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, paragraph 22(2)(a), in force from 16-09-1963. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

2. See Judges' Remuneration Act 1971 [Act 45]. Clause (6A): Added by Act 14/1962, section 23, in force from 21-06-1962. The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, paragraph 22(2)(a), in force from 16-09-1963. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

Clauses (7) and (8): The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, paragraph 22(2)(a), in force from 16-09-1963. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

- the Chief Judges according to their precedence among themselves, and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the younger of two members with appointments of the same date).
- (5) Pending any reference and report under Clause (3) the Yang di-Pertuan Agong may on the recommendation of the Prime Minister and, in the case of any other judge after consulting the Chief Justice, suspend a judge of the Federal Court from the exercise of his functions.
- (6) Parliament shall by law provide for the remuneration of the judges of the Federal Court, and the remuneration so provided shall be charged on the Consolidated Fund.
- (6A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of the judges of the Federal Court other than their remuneration.
- (7) The remuneration and other terms of office (including pension rights) of a judge of the Federal Court shall not be altered to his disadvantage after his appointment.
- (8) Notwithstanding Clause (1), the validity of anything done by a judge of the Federal Court shall not be questioned on the ground that he had attained the age at which he was required to retire.
- (9) This Article shall apply to a judge of the Court of Appeal and to a judge of a High Court as it applies to a judge of the Federal Court, except that the Yang di-Pertuan Agong before suspending under Clause (5) a judge of the Court of Appeal or a judge of a High Court other than the President of the Court of Appeal or the Chief Judge of a High Court shall consult the President of the Court of Appeal or the Chief Judge of that High Court instead of the Chief Justice of the Federal Court.
- (10) The President of the Court of Appeal and the Chief Judges of the High Courts shall be responsible to the Chief Justice of the Federal Court.

Exercise of powers by judges

125A.(1) Notwithstanding anything contained in this Constitution, it is hereby declared that

- (a) the Chief Justice of the Federal Court and a judge of the Federal Court may exercise all or any of the powers of a judge of the Court of Appeal and of a judge of a High Court;
- (aa) the President of the Court of Appeal and a judge of the Court of Appeal may exercise all or any of the powers of a judge of a High Court; and
- (b) a judge of the High Court in Malaya may exercise all or any of the powers of a judge of the High Court in Sabah and Sarawak, and vice versa.

Art. 125: Clause (9): Added by Act 26/1963, subsection 22(3), in force from 16-09-1963.

Clause (10): Added by Act 59/1966, section 2, in force from 19-09-1966 and it was deleted by Act A31, section 4, in force from 19-09-1966 and read as follows:

"(10) A judge of the High Court who is appointed to be a judge of the Federal Court shall cease to be a judge of the said High Court:

Provided that any such judge of a High Court who is so appointed shall continue to be a judge of such High Court for the purpose only of giving judgment in any case tried by him prior to his appointment as a judge of the Federal Court."

Clauses (1), (2), (3), (4), (5), (6), (6A), (7) and (8): The word "Federal" substituted for the word "Supreme" by Act A885, section 21, in force from 24-06-1994.

Clause (3): The words "Chief Justice" and "any breach of any provision of the code of ethics prescribed under Clause (3A) or on the ground" substituted respectively for the words "Lord President" and "misbehavior or" by Act A885, section 21, in force from 24-06-1994., Clause(3A): Added by Act A885, section 21, in force from 24-06-1994.

Clause (4): The words "Chief Justice of the Federal Court, the President and the Chief Judges" substituted for the words "Lord President of the Supreme Court, the Chief Justices" by Act A885, section 21, in force from 24-06-1994.

Clause (5): The words "Chief Justice" substituted for the words "Lord President" by Act A885,

section 21, in force from 24-6-1994.

Clause (9): Substituted by Act A885, section 21, in force from 24-06-1994. The original Clause read as follows:

"(9) This Article shall apply to a judge of a High Court as it applies to a judge of the Supreme Court, except that the Yang di-Pertuan Agong before suspending under Clause (5) a judge of a High Court other than the Chief Justice shall consult the Chief Justice of that Court instead of the Lord President of the Supreme Court."

Clause (10): Added by Act A885, section 21, in force from 24-06-1994.

Art. 125A: 1. The present Article was inserted by Act A354, section 28, in force from 16-09-1963.

2. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

3. The words "Exercise of powers by judges" substituted for the shoulder note by Act A885, section 22, in force from 24-06-1994.

4. Paragraph (a) of Clause (1) substituted by Act A885, section 22, in force from 24-06-1994.

The original paragraph (a) read as follows:

"(a) the Lord President of the Supreme Court and a judge of the Supreme Court may exercise all or any of the powers of a judge of a High Court."

5. Paragraph (aa) of Clause (1) added by Act A885, section 22, in force from 24-06-1994.

6. In Paragraph (b) of Clause (1), the words "Sabah and Sarawak" substituted for the word "Borneo" by Act A885, section 22, in force from 24-06-1994.

- (2) The provisions of this Article shall be deemed to have been an integral part of this Constitution as from Malaysia Day.

Power to punish for contempt

126. The Federal Court, the Court of Appeal or a High Court shall have power to punish any contempt of itself.

Restriction on Parliamentary discussion of conduct of judge

127. The conduct of a judge of the Federal Court, the Court of Appeal or a High Court shall not be discussed in either House of Parliament except on a substantive motion of which notice has been given by not less than one quarter, of the total number of members of that House, and shall not be discussed in the Legislative Assembly of any State.

Jurisdiction of Federal Court

128. (1) The Federal Court shall, to the exclusion of any other court, have jurisdiction to determine in accordance with any rules of court regulating the exercise of such jurisdiction

- (a) any question whether a law made by Parliament or by the Legislature of a State is invalid on the ground that it makes provision with respect to a matter with respect to which Parliament or, as the case may be,

the Legislature of the State has no power to make laws; and

- (b) disputes on any other question between States or between the Federation and any State.
- (2) Without prejudice to any appellate jurisdiction of the Federal Court, where in any proceedings before another court a question arises as to the effect of any provision of this Constitution, the Federal Court shall have jurisdiction (subject to any rules of court regulating the exercise of that jurisdiction) to determine the question and remit the case to the other court to be disposed of in accordance with the determination.
- (3) The jurisdiction of the Federal Court to determine appeals from the Court of Appeal, a High Court or a judge thereof shall be such as may be provided by federal law.

129. (Repealed).

Advisory jurisdiction of Federal Court

130. The Yang di-Pertuan Agong may refer to the Federal Court for its opinion any question as to the effect of any provision of this Constitution which has arisen or appears to him likely to arise, and the Federal Court shall pronounce in open court its opinion on any question so referred to it.

Art. 126: 1. The words "Federal Court or a High Court" were substituted for "Supreme Court" by Act 26/1963, subsection 22(4), in force from 16-09-1963.

2. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

3. The words "Power to punish for contempt" substituted for the shoulder note; and the words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court", by Act A885, section 23, in force from 24-06-1994.

Art. 127: 1. The words "Federal Court or a High Court" were substituted for "Supreme Court" by Act 26/1963, subsection 22(4), in force from 16-09-1963.

2. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

3. The words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 24, in force from 24-06-1994.

Art. 128: 1. The present Article was inserted by Act 26/1963, section 14, in force from 16-09-1963, and replaced the earlier Article which read as follows:

"128. (1) The Supreme Court shall have such original, appellate and revisional jurisdiction as may be provided by federal law.

(2) The Supreme Court shall, to the exclusion of any other court, have jurisdiction in any dispute between States or between the Federation and any State."

2. See Art. 121(2)(b).

Clause (1): The words "in accordance with any rules of court regulating the exercise of such jurisdiction" inserted after "determine" by Act A354, section 29, in force from 27-08-1976.

Clause (2): See Art. 161(4), 161B(2).

3. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

4. In Clauses (1) and (2), the word "Federal" substituted for the word "Supreme" by Act A885, section 25, in force from 24-06-1994.

5. Clause (3) substituted by Act A885, section 25, in force from 24-06-1994. The original Clause (3) read as follows:

"(3) The jurisdiction of the Supreme Court to determine appeals from a High Court or a judge thereof shall be such as may be provided by federal law."

Art. 129: This Article which read as follows was repealed by Act 26/1963, section 14, in force from 16-09-1963:

"129. Without prejudice to any appellate or revisional jurisdiction of the Supreme Court, where in any proceedings before another court a question arises as to the effect of any provision of this Constitution, the Supreme Court may, on the application of either party to the proceedings, determine that question and either dispose of the case or remit it to the other court to be disposed of in accordance with the determination."

Art. 130: 1. The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, subsection 22(5), in force from 16-09-1963. Subsequently, the word "Supreme" was substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

2. See Art. 121(2)(b).

3. The word "Federal" substituted for the "Supreme" by Act A885, section 26, in force from 24-06-1994.

131. (Repealed).

Provision for incapacity, etc., of Chief Justice, President or Chief Judge

131A.(1) Any provision made by federal law for the functions of the Chief Justice of the Federal Court or the President of the Court of Appeal or the Chief Judge of a High Court to be performed, in the event of a vacancy or in the office or of his inability to act, by a judge of the Federal Court may extend to his functions under this Constitution.

- (2) Any provision made by federal law for the functions of the President of the Court of Appeal or the Chief Judge of a High Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of the Court of Appeal or the High Court, as the case may be, may extend to his functions under this Constitution other than functions as judge of the Federal Court.

**PART X
PUBLIC SERVICES**

Public services

132. (1) For the purposes of this Constitution, the public services are

- (a) the armed forces;
 - (b) the judicial and legal service;
 - (c) the general public service of the Federation;
 - (d) the police force;
 - (e) (Repealed);
 - (f) the joint public services mentioned in Article 133;
 - (g) the public service of each State; and
 - (h) the education service.
- (2) Except as otherwise expressly provided by this Constitution, the qualifications for appointment and conditions of service of persons in the public services other than those mentioned in paragraph (g) of Clause (1) may be regulated by federal law and, subject to the provisions of any such law, by the Yang di-Pertuan Agong; and the qualifications for appointment and conditions of service of persons in the public service of any State may be regulated by State law and, subject to the provisions of any such law, by the Ruler or Yang di-Pertua Negeri of that State.

(2A) Except as expressly provided by this Constitution, every person who is a member of any of the services mentioned in paragraphs (a), (b), (c), (d), (f) and

Art. 131: 1. Act 25/1963, section 8, in force from 29-08-1963 deleted the words "or by Clause (2)" which appeared after "allowed by federal law" and Act 26/1963, subsection 22(6), in force from 16-09-1963, substituted "Federal Court" for "Supreme Court".

2. Clause (2) of this Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(2) Until Parliament otherwise provides, an appeal is allowed under this Article in the following cases, that is to say:

(a) in the case of any decision from which an appeal from the Supreme Court of the Federation would have been entertained by Her Majesty in Council (with or without special leave) immediately before Merdeka Day; and

(b) in the case of any decision as to the effect of any provision of this Constitution, including any opinion pronounced on a reference under Article 130."

3. Subsequently, Clauses (1), (3) and (4) which read as follows were repealed by Act A566, section 17, in force from 01-01-1985:

"(1) The Yang di-Pertuan Agong may make arrangements with Her Majesty for the reference to the Judicial Committee of Her Majesty's Privy Council of appeals from the Federal Court; and, subject to the provisions of this Article, an appeal shall lie from that Court to the Yang di-Pertuan Agong in any case in which such an appeal is allowed by federal law, and in respect of which provision for reference to the said Committee is made by or under the enactments regulating the proceedings of the said Committee.

(3) Any appeal under this Article shall be subject to such conditions as to leave or otherwise as may be prescribed by federal law or by or under the enactment regulating the proceedings of the

Judicial Committee of Her Majesty's Privy Council. (4) On receiving from Her Majesty's Government in the United Kingdom the report or recommendation of the said Committee in respect of an appeal under this Article, the Yang di-Pertuan Agong shall make such order as may be necessary to give effect thereto."

4. See G.N. 1254/1958, L.N. 30/1964 and Courts of Judicature Act [Act 91], sections 74 to 79.

Art. 131A: 1. Added by Act 26/1963, section 21, in force from 16-09-1963.

2. The word "Supreme" substituted for "Federal" by Act A566, subsection 16(1), in force from 01-01-1985.

3. In the shoulder note, the words "Chief Justice, President or Chief Judge" substituted for the words "Lord President or Chief Justice" by Act A885, section 27, in force from 24-06-1994.

4. In Clause (1), the words "Chief Justice of the Federal Court or the President of the Court of Appeal or the Chief Judge of a High Court", "a" and "Federal" substituted respectively for the words "Lords President of the Supreme Court", "another" and "Supreme" by Act A885, section 27, in force from 24-06-1994.

5. In Clause (2), the words "President of the Court of Appeal or Chief Judge", "the Court of Appeal or the High Court, as the case may be" and "Federal" substituted respectively for the words "Chief Justice", "that Court" and "Supreme" by Act A885, section 27, in force from 24-06-1994.

Part X: See Art. 153(3), 160(2) definition of "Office of profit".

Art. 132(1): 1. The words "police force" in paragraph (d) were substituted for "police service" by Act 10/1960, paragraph 17(a), in force from 31-05-1960.

2. See Art. 134(1), 135(1), (3), 139(1).

3. Clause(1): The words "and" deleted at the end of paragraph (f) and new paragraph (h) inserted by Act A193, section 2, in force from 01-01-1974.

- (h) of Clause (1) holds office during the pleasure of the Yang di-Pertuan Agong, and, except as expressly provided by the Constitution of the State, every person who is a member of the public service of a State holds office during the pleasure of the Ruler or Yang di-Pertua Negeri.
- (3) The public service shall not be taken to comprise
- (a) the office of any member of the administration in the Federation or a State; or
 - (b) the office of President, Speaker, Deputy President, Deputy Speaker or member of either House of Parliament or of the Legislative Assembly of a State; or
 - (c) the office of judge of the Federal Court, the Court of Appeal or a High Court; or
 - (d) the office of member of any Commission or Council established by this Constitution or any corresponding Commission or Council established by the Constitution of a State; or
 - (e) such diplomatic posts as the Yang di-Pertuan Agong may by order prescribe, being post which but for the order would be posts in the general public service of the Federation.
- (4) References in the Part, except in Articles 136 and 147, to person in the public

service or to members of any of the public service shall not apply to

- (a) (Repealed);
- (b) the Attorney General or, if provisions for the manner of his appointment and removal from office is specifically included in the Constitution of the State, or if he is appointed otherwise than from among the members of the judicial and legal service or of the public service of the State, the legal adviser of any State; or
- (c) a member of the personal staff of the Yang di Pertuan Agong or of a Ruler or Yang di-Pertua Negeri; or
- (d) in the case of Malacca and Penang, if provision is made by State law for their appointment-
 - (i) the President of the Religious Affairs Department;
 - (ii) the Secretary of the Religious Affairs Department;
 - (iii) the Mufti;
 - (iv) the Kadi Besar; or
 - (v) a Kadi.

Joint services, etc.

133. (1) Joint services, common to the Federation and one or more of the States or, at the request of the States concerned, to two or more States, may be established by federal law.

Art. 132(2):1. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976

2. See Public Officers (Conduct and Discipline) Regulations 1993 P.U. (A) 395/1993.

Art. 132(2A):1. Added by Act 10/1960, paragraph 17(b), in force from 31-05-1960.

2. The words "(e), (f) and (h)" substituted for "(e) and (f)" by Act A193, section 2, in force from 01-01-1974. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Art. 132(3):1. The present Clause was inserted by Act 26/1963, section 58, in force from 16-09-1963 and replaced the earlier Clause which stood as follows at the date of the repeal:

"(3) Subject to Clause (4), references to persons in the public service or to members of any of the public services do not include references to the following, that is to say:

- (a) any Minister or Assistant Minister of the Federation and the Chief Minister or any other member of the Executive Council of a State;*
- (b) a member of either House of Parliament or of the Legislative Assembly of a State;*
- (c) the Clerk to either House of Parliament and any member of the staff of Parliament;*
- (d) unless he has been appointed from among the members of the judicial and legal service or of the public service of his State, the legal adviser of any State;*
- (e) a member of the personnel staff of the Yang di-Pertuan Agong or of a Ruler or Governor;*
- (f) persons holding such diplomatic posts in the*

general public service of the Federation as the Yang di-Pertuan Agong may by order prescribe; nor to a member of any Commission or Council established by this Constitution except that if he is a member of any of the public service in some other capacity, the said references include reference to him in that capacity."

Art. 132(4):1. The present Clause was inserted by Act 26/1963, section 58, in force from 16-09-1963.

Paragraph (d) was added by Act 31/1965, section 2, in force in so far as it relates to Malacca as from 01-05-1960 and in so far as it relates to Penang as from 01-11-1959. In paragraph (c) the words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

2. The earlier Clause read as follows:

"(4) Clause (3) does not restrict the application of Articles 136 and 147."

3. Paragraph (a) in Clause (4) repealed by Act A837, section 6, in force from 20-11-1992.

Art. 132(1), (2A) & (3):

1. In Clause (1), paragraph (e) deleted by Act A885, section 28, in force from 24-06-1994.

The original paragraph (e) read as follows:

"(e) the railway service;"

2. In Clause (2A), the letter and punctuation marks "(e)," deleted by Act A885, section 28, in force from 24-06-1994.

3. In Clause (3), the words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 28, in force from 24-06-1994.

Art. 133: See Art. 132 (1)(f).

Clause (2): See Art. 179.

- (2) Where a member of any of the public services is employed
- (a) partly for federal purposes and partly for State purposes;
 - or
 - (b) for the purposes of two or more States, the proportion, if any, of his remuneration payable by the Federation and the State or States concerned or, as the case may be, by each of the States concerned, shall, subject to federal law, be determined by agreement or, in default of agreement, by the Commission whose jurisdiction extends to him.

Secondment of officers

134. (1) The Federation may, at the request of a State, local authority, or statutory authority or of any organization, in or outside Malaysia, second any member of its public services to the service of that State, authority or organization, as the case may be; and a State may, at the request of the Federation, another State, a local authority or a statutory authority or of any organization, in or outside Malaysia, second any member of its own public service to the service of the Federation, other State, authority or organization, as the case may be.
- (2) A person seconded under this Article shall remain a member of the service to which he belongs, but his remuneration shall be paid by the Federation, State, authority or organization, as the case may be, to whose service he is seconded.

Restriction on dismissal and reduction in rank

135. (1) No member of any of the services mentioned in paragraphs
- (b) to (h) of Clause (1) of Article 132 shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member of that service of equal rank:

Provided that in its application to members of the services mentioned in paragraph (g) of Clause (1) of Article 132 this Clause shall not apply to any law which the legislature of any State, other than Penang and Malacca, may make to provide that all powers and functions of a Public Service Commission of such State, other than the power of first appointment to the permanent or pensionable establishment, be exercised by a Board appointed by the Ruler of such State:

And provided further that this Clause shall not apply to a case where a member of any of the services mentioned in this Clause is dismissed or reduced in rank by an authority in pursuance of a power delegated to it by a Commission to which this Part applies, and this proviso shall be deemed to have been an integral part of this Clause as from Merdeka Day.

Art. 134: This present Article was inserted by Act A885, section 29, in force from 24-06-1994, and replaced the earlier article which read as follows:

"134. (1) The Federation may, at the request of a State, second any member of any of the services mentioned in paragraph (a), (b), (c), (d) or (f) of Clause (1) of Article 132 to the service of that State; and a State may at the request of the Federation or of another State second any member of its own public service to the service of the Federation or, as the case may be, of that other State.

(2) A person seconded under this Article shall remain a member of the service to which he belongs, but his remuneration shall be paid by the State to whose service he is seconded or, if he is seconded to the service of the Federation, by the Federation."

Art. 134(2): See Art. 146D(1).

Art. 135(1): 1. See Art. 144 (5A) and (5B).

2. The word "(g)" substituted for (h) by Act A193, section 3, in force from 01-01-1974.

3. Proviso to Clause (1) inserted by Act 27/1968, section 2, in force from 09-09-1968 and Act A31,

section 5, in force from 24-03-1971.

4. Further proviso to Clause (1) inserted by Act A354, section 30, in force from Merdeka Day.

Art. 135(2): 1. Proviso inserted by Act A354, section 30, in force from 27-08-1976. Further proviso inserted by Act A442, section 3, in force from Merdeka Day.

2. See Art. 160(5)(b).

Art. 135(3): The present Clause was inserted by Act 26/1963, subsection 53 (1), in force from 16-09-1963.

The words "paragraph (c)" substituted for "paragraph (e)" by Act A31, section 5, in force from 24-03-1971. The earlier Clause which was repealed by Act 10/1960, section 18, in force from 31-05-1960, read as follows:

"(3) No member of any of the services mentioned in paragraph (e), (f) or (g) of Clause (1) of Article 132 shall, without the concurrence of the Judicial and Legal Service Commission, be dismissed or reduced in rank or suffer any other disciplinary measure for anything done or omitted by him in the exercise of a judicial function conferred on him by law."

- (2) No member of such a service as aforesaid shall be dismissed or reduced in rank without being given a reasonable opportunity of being heard:

Provided that this clause shall not apply to the following cases:

- (a) where a member of such a service is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him; or
- (b) where the authority empowered to dismiss or reduce in rank a member of such a service is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to carry out the requirements of this Clause; or
- (c) where the Yang di-Pertuan Agong, or, in the case of a member of the public service of a State, the Ruler or Yang di-Pertua Negeri of that State, is satisfied that in the interests of the security of the Federation or any part thereof it is not expedient to carry out the requirements of this Clause; or
- (d) where there has been made against a member of such a service any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such a member any form of restriction or supervision by bond or otherwise, under any law relating to the security of the Federation or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls:

Provided further that for the purpose of this Article, where the service of a member of such a service is terminated in the public interest under any law for the time being in force or under any regulation

made by the Yang di-Pertuan Agong under Clause (2) of Article 132, such termination of service shall not constitute dismissal whether or not the decision to terminate the service is connected with the misconduct of or unsatisfactory performance of duty by such member in relation to his office or the consequences of the termination involved an element of punishment; and this proviso shall be deemed to have been an integral part of this Article as from Merdeka Day.

- (3) No member of any of the services mentioned in paragraph (c), (f) or (g) of Clause (1) of Article 132 shall, without the concurrence of the Judicial and Legal Service Commission, be dismissed or reduced in rank or suffer any other disciplinary measure for anything done or omitted by him in the exercise of a judicial function conferred on him by law.

Impartial treatment of Federal employees

136. All persons of whatever race in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially.

Armed Forces Council

137. (1) There shall be an Armed Forces Council, which shall be responsible under the general authority of the Yang di-Pertuan Agong for the command, discipline and administration of, and all other matters relating to, the armed forces, other than matters relating to their operational use.
- (2) Clause (1) has effect subject to the provisions of any federal law, and any such law may provide for the vesting in the Armed Forces Council of any functions with respect to the armed forces.
- (3) The Armed Forces Council shall consist of the following members, that is to say:
- (a) the Minister for the time being charged with responsibility for defence, who shall be Chairman;

Art. 136: See Art. 132 (4), 153 (5).

Art. 137(3):1. The present Clause was inserted by Act 10/1960, section 19, in force from 31-05-1960. The words "Federation Navy" in paragraph (f) and "Federation Air Force" in paragraph (g) were substituted for "Royal Malayan Navy" and "Royal Malayan Air Force" by Act 26/1963, section 70, in force from 16-09-1963. The words "Their Royal Highnesses" in paragraph (b) substituted for "Their Highnesses" by Act A31, section 2, in force from 24-03-1971. The earlier Clause read as follows:

"(3) The Armed Forces Council shall consist of the following members, that is to say-

(a) the Minister for the time being charged with responsibility for defence, who shall be chairman;

(b) one member representing Their Highnesses, who shall be appointed by the Conference of Rulers;

(c) the General Officer Commanding the Federation Army, who shall be appointed by Yang di-Pertuan Agong and shall be Chief of Staff of the Federation Armed Forces;

- (b) one member representing Their Royal Highnesses, who shall be appointed by the Conference of Rulers;
 - (c) the Chief of Defence Forces who shall be appointed by the Yang di-Pertuan Agong;
 - (d) a civilian member, being the person performing the duties of the office of Secretary General for Defence, who shall act as Secretary to the Council;
 - (e) two senior staff officers of the Federation Armed Forces, appointed by the Yang di-Pertuan Agong;
 - (f) a senior officer of the Federation Navy, appointed by the Yang di-Pertuan Agong;
 - (g) a senior officer of the Federation Air Force, appointed by the Yang di-Pertuan Agong;
 - (h) two, if any, additional members, whether military or civilian, appointed by the Yang di-Pertuan Agong.
- (4) The Armed Forces Council may act notwithstanding a vacancy in its membership and may, subject to this Constitution and to federal law, provide for all or any of the following matters:
- (a) the organization of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
 - (b) the duties and responsibilities of the several members of the Council, including the delegation to any member of the Council of any of its powers or duties;
 - (c) the consultation by the Council with persons other than its members;
- (d) the procedure to be followed by the Council in conducting its business (including the fixing of a quorum), the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman;
 - (e) any other matters for which the Council considers it necessary or expedient to provide for the better performance of its functions.

Judicial and Legal Service Commission

138. (1) There shall be a Judicial and Legal Service Commission, whose jurisdiction shall extend to all members of the judicial and legal service.
- (2) The Judicial and Legal Service Commission shall consist of
- (a) the Chairman of the Public Services Commission, who shall be Chairman;
 - (b) the Attorney General or, if the Attorney General is a member of Parliament or is appointed otherwise than from among members of the Judicial and Legal Service, the Solicitor General; and
 - (c) one or more other members who shall be appointed by the Yang di-Pertuan Agong, after consultation with the Chief Justice of the Federal Court, from among persons who are or have been or are qualified to be a judge of the Federal Court, Court of Appeal or a High Court or shall before Malaysia Day have been a judge of the Supreme Court.
- (3) The person who is secretary to the Public Services Commission shall be secretary

Art. 137(3):(c) *the General Officer Commanding the Federation Army, who shall be appointed by Yang di-Pertuan Agong and shall be Chief of Staff of the Federation Armed Forces;*

(d) the senior staff officer of the Federation Army responsible for personnel and the senior staff officer of the Federation Army responsible for stores, equipment and staff quarters;

(e) any officer appointed by the Yang di-Pertuan Agong to command the Federation Navy or the Federation Air Force;

(f) a civilian member, being the person performing the duties of the office of Secretary for Defence, who shall act as secretary to the Council;

(g) one, if any, additional member, whether military or civilian, appointed by the Yang di-Pertuan Agong."

2. See Armed Forces Act 1972 [Act 77].

3. The words "Chief of Defence Forces" were substituted for the words "Chief of the Armed Forces Staff" by Act A1130, section 10, in force from 28-09-2001.

Notes:

1. Upon the coming into operation of Act A1130, every reference to the "Chief of the Armed Forces Staff" in all written laws shall be construed as a

reference to the "Chief of Defence Forces".

2. Any action taken by, in the name of or against the "Chief of Defence Forces" prior to the coming into operation of Act A1130 shall be deemed to have been validly and lawfully taken if the action could have been validly and lawfully taken by, in the name of or against the Chief of the Armed Forces Staff.

Art. 138: 1. This Article was inserted by Act 26/1963, section 52, in force from 16-09-1963.

Clause (2): The word "The" substituted for "subject to Article 146A, the" by Act A354, section 31, in force from 27-08-1976. In paragraph (b), the words "or, if the Attorney General is a member of Parliament or is appointed otherwise than from among members of the Judicial and Legal Service, the Solicitor General" were inserted after "Attorney General" and in paragraph

(c) the words "or are qualified to be" inserted after "who are or have been" by Act A354, section 31, in force from 27-08-1976. The earlier Article which was repealed by Act 10/1960, section 20, in force from 31-05-1960, read as follows:

"138. (1) There shall be a Judicial and Legal Service Commission.

also to the Judicial and Legal Service Commission.

Public Services Commission

139. (1) There shall be a Public Services Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the services mentioned in paragraphs (c) and (f) of Clause (1) of Article 132, other than the Auditor General, to members of the public services of the State of Malacca and the State of Penang, and, to the extent provided by Clause (2), to members of the public service of any other State.

(1A) The jurisdiction of the Public Services Commission shall extend to

- (a) members of the general public service of the Federation who are employed in a federal department in the State of Sabah or Sarawak;
- (b) members of the public service of the State of Sabah or Sarawak who are seconded to the general public service of the Federation; and
- (c) members of the public service of the

State of Sabah or Sarawak serving in federal posts or in any posts which have become federal posts in that State and who have exercised the option to be members of the general public service of the Federation.

- (2) The Legislature of any State other than Malacca and Penang may by law extend the jurisdiction of the Public Services Commission to all or any persons in the public service of that State, but no such law shall take effect earlier than twelve months from the date of its passing; and if at any time there is not, in any such State in which no such law is in force, established and exercising its functions a State Public Service Commission, the jurisdiction of the Public Services Commission shall, if federal law so provides, extend to all members of the public service of that State.
- (3) Any extension of the jurisdiction of the Public Service Commission made by the Legislature of any State pursuant to Clause (2) may be revoked or modified by a law passed by the legislature of such State.

Art. 138: (2) Without prejudice to the function exercisable by the Judicial and Legal Service Commission under any other Article, the jurisdiction of the Commission shall extend to all members of the Judicial and Legal Service other than the Chief Justice and the other judges of the Supreme Court and the Attorney General.

(3) The Judicial and Legal Service Commission shall consist of-

- (a) the Chief Justice, who shall be the Chairman;
- (b) the Attorney General;
- (c) the senior puisne judge;
- (d) the deputy chairman of the Public Services Commission; and
- (e) one or more other members, who shall be appointed by the Yang di-Pertuan Agong, after consultation with the Chief Justice, from among judges or former judges of the Supreme Court."

2. See Art. 148(1).

Art. 138(2)(c):1. Subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

2. See also Notes on Article on the preceding page.

3. The words "Chief Justice of the Federal Court" and "Federal Court, Court of Appeal" substituted respectively for the words "Lord President of the Supreme Court" and "Supreme Court" by Act A885, section 30, in force from 24-06-1994.

Art. 139: See Art. 144(5B), 148(1).

Clause (1):1. The words "paragraphs (c) and (f)" in the original text were amended by Act 10/1960, paragraph 21(a), in force from, 31-05-1960, to read "paragraphs (b), (c) and (f)". Act 26/1963, subsection 53(2), in force from 16-09-1963, restored the original version "paragraphs (c) and (f)".

2. The words "to members of the public services of the State of Malacca and the State of Penang" were substituted for "or members of the public service of the State of Malacca or the State of Penang" by Act 10/1960, paragraph 21(b), in force from 31-05-1960.

3. The letter ", (e)" inserted after the letter "(c)" by Act A514, section 9, in force from 15-05-1981.

4. In Clause (1), the words "paragraph (c) and (f)" substituted for the words "paragraph (c), (e) and (f)" by Act A885, section 31, in force from 24-06-1994.

Art. 139(1A): Added by Act A514, section 9, in force from 15-05-1981.

Subsection 9(2) of Act A514, in force from 15-05-1981 read as follows:

"(2) Notwithstanding anything in the Constitution or the Constitution of the State of Sabah or Sarawak, any member of the public services of the State of Sabah or Sarawak serving in any federal posts or in any posts which have become federal posts in that State and who has exercised, in whatever manner or form, any option offered by the Federal Government to be a member of the general public service of the Federation shall be deemed to have opted and accordingly transferred to or appointed as a member of the public service of the Federation."

Art. 139(2):1. The words "after the relevant date" which appeared after "and if at any time" were deleted by Act 25/1963, section 8, in force from 29-08-1963.

The words "State Public Service Commission" were substituted for "Commission corresponding in status and jurisdiction to the Public Services Commission" by Act 26/1963, section 70, in force from 16-09-1963.

2. See Art. 146D(3).

Art. 139(3):1. This Clause which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(3) The relevant date referred to in Clause (2) is whichever of the following is the earlier-

- (a) the thirty-first day of December, nineteen hundred and sixty-two; or
- (b) the date on which there are first in operation as part of the Constitution of the State all the provisions set out in Part I of the Eighth Schedule or provisions substantially to the same effect."

2. This new Clause inserted by Act 27/1968, section 3, in force from 09-09-1968.

- (4) The Public Services Commission shall consist of the following members appointed by the Yang di-Pertuan Agong in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a chairman, a deputy chairman and not less than four other members; but the number of the other members shall not, until the Yang di-Pertuan Agong by order otherwise provides, exceed thirty.
- (5) Either the chairman or the deputy chairman shall be, and both may be, appointed from among persons who are, or have at any time within the period of five years immediately preceding the date of their first appointment been, members of any of the public services.
- (6) A member of any of the public services appointed to be chairman or deputy chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

Police Force Commission

140. (1) There shall be a Police Force Commission whose jurisdiction shall extend to all persons who are members of the police

force and which, subject to the provisions of any existing law, shall be responsible for the appointment, confirmation, emplacement on the permanent or pensionable establishment, promotion, transfer and exercise of disciplinary control over members of the police force:

Provided that Parliament may by law provide for the exercise of such disciplinary control over all or any of the members of the police force in such manner and by such authority as may be provided in that law, and in that event, if the authority is other than the Commission, the disciplinary control exercisable by such authority shall not be exercised by the Commission; and no provision of such law shall be invalid on the ground of inconsistency with any provision of this Part.

- (2) Federal law may provide for the exercise of other functions by the Police Force Commission.
- (3) The Police Force Commission shall consist of the following members, that is to say:
 - (a) the Minister for the time being charged with responsibility for the police, who shall be Chairman;

Art. 139(4):1. The words "Subject to Article 146B" appearing at the commencement were inserted by Act 26/1963, subsection 59(1), in force from 16-09-1963. The Act also substituted for the words "eight other members" which appeared at the end of the Clause "ten other members".

Act 59/1966, section 2, in force from 19-09-1966, substituted the word "twelve" for "ten".

2. The word "The" substituted for "Subject to Article 146B the" and the word "thirty" substituted for "twelve" by Act A514, section 9, in force from 15-05-1981.

3. Subsection 9(2) of Act A514, in force from 15-05-1981, read as follows:

"(2) Notwithstanding anything in the Constitution or the Constitution of the State of Sabah or Sarawak, any member of the public services of the State of Sabah or Sarawak serving in any federal posts or in any posts which have become federal posts in that State and who has exercised, in whatever manner or form, any option offered by the Federal Government to be a member of the general public service of the Federation shall be deemed to have opted and accordingly transferred to or appointed as a member of the public service of the Federation."

4. The words "other members; but the number of other members shall not, until the Yang di-Pertuan Agong by order otherwise provides, exceed thirty" substituted for the words

"nor more than thirty other members" by Act A767, section 3, in force from 11-05-1990.

5. See P.U. (A) 149/1990.

Art. 140: 1. The present Article was substituted by Act 10/1960, section 22, in force from 01-04-1961. The earlier Article read as follows:

"140. (1) There shall be a Police Service Commission, whose jurisdiction shall, subject to

Article 144, extend to all persons who are members of the police service.

(2) The Police Service Commission shall consist of the following members, that is to say-

(a) a Chairman appointed by the Yang di-Pertuan Agong, who shall be either the Chairman or the Deputy Chairman of the Public Services Commission;

(b) a member possessing legal qualifications, who shall be appointed by the Yang di-Pertuan Agong after consultation with the Chief Justice;

(c) not less than two nor more than four other members appointed by the Yang di-Pertuan Agong at his discretion but after considering the advice of the Minister for the time being charged with responsibility for the police."

2. Clause (1): Proviso inserted by Act A354, section 32, in force from 27-08-1976.

3. Clauses (3) and (4):

(a) Act 26/1963, section 70, in force from 16-09-1963, amended-

Clause (3) by substituting the words "officer of police in general command of the police force" for "Commissioner of Police" in paragraph (b); and by substituting the words "not less than two nor more than four" for "two" at the commencement of paragraph (e);

Clause (4) by inserting the words "or superior" after "similar".

(b) Act A354, section 32, in force from 27-08-1976, amended-

Clause (3)(e) by substituting the word "six" for "four";

Clause (4) by substituting the words "Inspector General of Police, Deputy Inspector General of Police" for "Commissioner of Police, Deputy Commissioner of Police".

4. Clause (3)(a): See Art.142(1).

- (b) the officer of police in general command of the police force;
 - (c) the person performing the duties of the office of Secretary General to the Ministry under the Minister for the time being charged with responsibility for the police;
 - (d) a member of the Public Services Commission appointed by the Yang di-Pertuan Agong;
 - (e) not less than two nor more than six other members, appointed by the Yang di-Pertuan Agong.
- (4) The Yang di-Pertuan Agong may designate as special posts the posts of Inspector General of Police, Deputy Inspector General of Police and any other posts in the police force which in his opinion are of similar or superior status; and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Yang di-Pertuan Agong on the recommendation of the Police Force Commission.
- (5) Before acting in accordance with Clause
- (4) on the recommendation of the Police Force Commission, the Yang di-Pertuan Agong shall consider the advice of the Prime Minister, and may once refer the recommendation back to the Commission in order that it may be reconsidered.
 - (6) The Police Force Commission may provide for all or any of the following matters:
 - (a) the organization of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
 - (b) the duties and responsibilities of the several members of the Commission, including the delegation to any member of the Commission or the police force or board of officers of such force or a committee consisting of members of the Commission and of the force of its powers or duties;
 - (c) the consultation by the Commission with persons other than its members;
 - (d) the procedure to be followed by the Commission in conducting its business (including the fixing of a quorum),

Art. 140: 5. Clause (6)(b): The words "or a committee consisting of members of Commission and of the force" were inserted after the words "officers of such force" by Act A585, section 26, in force from 14-04-1984.

6. See Art. 148(1).

7. See Police Act 1967 [Act 344].

Art. 141: See Art. 148(1).

Clause (2): The words "in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers", as shown in italics below, were inserted by Act 10/1960, section 23, in force from 31-05-1960.

This Article which read as follows was repealed by Act A514, section 10, in force from 15-05-1981:

141. (1) Subject to Clause (4), there shall be a Railway Service Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the railway service.

(2) The Railway Service Commission shall consist of the following members appointed by the Yang di-Pertuan Agong in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a chairman, a deputy chairman and not less than two nor more than six other members; and either the chairman or the deputy chairman shall be, and both may be, appointed from among person who are, or have at any time within the period of five years immediately preceding the date of their first appointment been, members of any of the public services.

(3) One of the members of the Railway Services Commission shall be appointed from among the members of the Public Services Commission and two of the other members shall, if suitable persons having experience in railway service or railway administration are available, be appointed from among such persons.

(4) A member of any of the public services appointed to be chairman or deputy chairman shall not be eligible for any further appointment in the

service of the Federation other than as a member of a Commission to which this Part applies.

(5) If the railway service ceases to be a public service of the Federation Parliament may by law abolish the Railway Service Commission."

Act A514, section 10, in force from 15-05-1981, which repealed Article 141 made provision in subsection (2) as follows:

"(2) Upon the coming into force of this Act-

(a) any matter or proceeding in respect of any member of the railway service which is pending before the Railway Service Commission shall be proceeded with by the Public Services Commission;

(b) any delegation made to any person or Board by the Railway Service Commission under Clause (6) of Article 144 shall continue to have full force and effect unless otherwise revoked;

(c) the appointment of any person as a member of the Railway Service Commission shall cease to have effect; and

(d) any reference to the Railway Service Commission in any written law shall be construed as reference to the Public Services Commission."

Act A514, section 10, in force from 15-05-1981, which repealed Article 141 made provision in subsection (2) as follows:

"(2) Upon the coming into force of this Act-

(a) any matter or proceeding in respect of any member of the railway service which is pending before the Railway Service Commission shall be proceeded with by the Public Services Commission;

(b) any delegation made to any person or Board by the Railway Service Commission under Clause (6) of Article 144 shall continue to have full force and effect unless otherwise revoked;

(c) the appointment of any person as a member of the Railway Service Commission shall cease to have effect; and

(d) any reference to the Railway Service Commission in any written law shall be construed as reference to the Public Services Commission."

the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman;

(e) any other matters for which the Commission considers it necessary or expedient to provide for the better performance of its functions.

(7) In this Article "transfer" does not include transfer without change of rank within the police force.

141. (Repealed).

Education Service Commission

141A.(1) There shall be an Education Service Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the service mentioned in paragraph (h) of Clause (1) of Article 132.

(2) The Education Service Commission shall consist of the following members appointed by the Yang di-Pertuan Agong in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a Chairman, a Deputy Chairman and not less than four other members; but the number of the other members shall not, until the Yang di-Pertuan Agong by order otherwise provides, exceed eight.*

(3) A member of any of the public services appointed to be Chairman or Deputy

Chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

General provisions relating to Commissions

142. (1) Subject to paragraph (a) of Clause (3) of Article 140, a member of either House of Parliament or of the Legislative Assembly of a State shall not be or be appointed to be a member of a Commission to which this Part applies.

(2) Subject to Clause (3), a person shall not be appointed to be a member of any of the Commissions to which this Part applies if he is, and shall be removed by order of the Yang di-Pertuan Agong if he becomes

(a) a member of any of the public services;

(b) an officer or employee of any local authority, or of any body, whether corporate or otherwise, or of any body or authority established by law for public purposes;

(c) a member of a trade union or of a body or association affiliated to a trade union.

(2A) In addition to any disqualification provided under Clause (2), the chairman or deputy chairman of any of the Commissions to which this Part applies shall be disqualified from holding such office if after three months of his

Art. 141A:

See Art. 148(1).

This new Article was inserted by Act A193, section 4, in force from 01-01-1974.

Clause (2): (a) The words "not less than four but not more than eight other members" substituted

for "four members" by Act A354, section 33, in force from 27-08-1976, and the words ", a Deputy Chairman" inserted after "Chairman" by Act A442, section 4, in force from 31-12-1978.

(b) The words "others members; but the number of the other members shall not, until the Yang di-Pertuan Agong by order otherwise provides, exceed eight" were substituted for the words "but not more than eight other members" by Act A767, section 4, in force from 11-05-1990.

Clause (3): The words "or Deputy Chairman" inserted after "Chairman" by Act A442, section 4, in force from 31-12-1978.

Art. 142(1):1. The words "Subject to paragraph (a) of Clause (3) of Article 140," were inserted by Act 10/1960, section 24, in force from 01-04-1961.

2. The words "shall not be or be appointed" substituted for the words "shall not be appointed" by Act A885, section 32, in force from 24-06-1994.

Art. 142(2): The words "and shall be removed by order of the Yang di-Pertuan Agong" substituted for "and shall not remain such a member" by Act A514, section 11, in force from 15-05-1981. Paragraph

(b) which reads as follows was substituted by Act A514, section 11, in force from 15-05-1981:

"(b) an officer or employee of any local authority or of a body corporate or authority established by law for public purposes".

Art. 142(2)(b): The present paragraph was inserted by Act A566, paragraph 19(1)(a), in force from 16-12-1983, and replaced the earlier Article which read as follows:

"(b) a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it";.

Art. 142(2A):1. The present Clause was inserted by Act A566, paragraph 19(1)(a), in force from 16-12-1983, and replaced the earlier Clause which was inserted by Act A514, section 11, in force from 15-05-1981, which read as follows:

"(2A) The disqualification in paragraph (b) of Clause (2) shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it".

2. The words "or deputy chairman" inserted immediately after the word "Chairman" by Act A704, section 9, in force from 10-06-1988.

appointment to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.

- (3) Clause (2) does not apply to ex officio members; and a member of any of the public services may be appointed to be and remain Chairman or Deputy Chairman and, if he is on leave prior to retirement, he may be appointed to be another member, of any of the said Commissions.
- (3A) Where, during any period, the chairman of any of the said Commissions has been granted leave of absence by the Yang di-Pertuan Agong or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions, the Deputy Chairman of that Commission shall discharge the functions of the Chairman during that period, and if the Deputy Chairman is also absent or unable to discharge such functions, a member of the Commission may be appointed by the Yang di-Pertuan Agong to discharge the functions of the chairman during that period.
- (4) Where, during any period, a member of any of the said Commissions has been granted leave of absence by the Yang di-Pertuan Agong or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions as a member, then
- (a) if he is an appointed member, the Yang di-Pertuan Agong may appoint to exercise his functions during that period any person who would be qualified to be appointed in his place, and the appointment of such a person shall be made in the same manner as that of the member whose functions he is to exercise;
- (b) if he is an ex officio member, any person authorized under federal law to perform the functions of his office may during that period perform also his functions as a member of the Commission.
- (5) A Commission to which this Part applies may act notwithstanding a vacancy in its membership, and no proceedings of such a Commission shall be invalidated by reason only that some person not entitled thereto has taken part in them.
- (6) Before exercising his functions as a member of any of the said Commissions or under Clause (4) any person other than an ex officio member shall take and subscribe before a judge of the Federal Court, of the Court of Appeal or of a High Court the oath of office and allegiance set out in the Sixth Schedule.

Conditions of service of members of Commissions

143. (1) Save as provided under Clause (2) of Article 142, a member of a Commission to which this Part applies, other than an ex officio member-
- (a) shall be appointed for a term of five years or, if the Yang di-Pertuan

Art. 142(3A): Added by Act A514, section 11, in force from 15-05-1981.

Note: The amendments made in Article 142(2)(b) and (2A) by Act A566 shall apply only to a person who is appointed a member of any of the Commissions on or after 16-12-1983.

Art. 142(4)(b): See Art. 146C(2).

Art. 142(6): 1. The words "Federal Court or of a High Court" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963. Subsequently, subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

2. The words "Federal Court, of the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 32, in force from 24-06-1994.

Art. 143(1): The words "Save as provided under Clause (2) of Article 142, a" were substituted for the word "A" at the beginning of the Clause by Act A514, section 12, in force from 15-05-1981.

Art. 143(1)(c): 1. The words "Federal Court" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963. Subsequently, subsection 18(2) of Act A566 in force from 01-01-1985 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

2. The word "Federal" substituted for the word "Supreme" by Act A885, section 33, in force from 24-06-1994.

Art. 143(2): 1. See Art. 146c(2).

2. See Service Commissions Act 1957 [Act 393].

Agong, acting in his discretion but after considering the advice of the Prime Minister, in a particular case so determines, for such shorter term as he may so determine;

- (b) may, unless disqualified, be reappointed from time to time; and
 - (c) may at any time resign his office but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.
- (2) Parliament shall by law provide for the remuneration of any member of the said Commission other than a member for whose remuneration as holder of any other office provision is made by federal law; and the remuneration so provided shall be charged on the Consolidated Fund.
- (3) The remuneration and other terms of office of a member of a Commission to which this Part applies shall not be altered to his disadvantage after his appointment.

Functions of Service Commissions

144. (1) Subject to the provisions of any existing law and to the provisions of this Constitution, it shall be the duty of a Commission to which this Part applies to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the service or services to which its jurisdiction extends.
- (2) Federal law may provide for the exercise of other functions by any such Commission.
- (3) The Yang di-Pertuan Agong may designate as special posts any post held by the head or deputy head of a department or by an officer who in his opinion is of similar status; and the appointment to any post so designated shall not be made

in accordance with Clause (1) but shall be made by the Yang di-Pertuan Agong on the recommendation of the Commission whose jurisdiction extends to the service in which the post is held.

- (4) The Ruler or Yang di-Pertua Negeri of a State may designate as special posts any posts in the public service of his State held by the head or deputy head of a department or by an officer who in his opinion is of similar status; and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Ruler or Yang di-Pertua Negeri on the recommendation of the Public Services Commission (or, if there is in the State a State Public Service Commission, on the recommendation of that Commission).
- (5) Before acting, in accordance with Clause (3) or (4), on the recommendation of the Commission therein mentioned
- (a) the Yang di-Pertuan Agong shall consider the advice of the Prime Minister; and
 - (b) the Ruler or Yang di-Pertua Negeri shall consider the advice of the Chief Minister of his State, and may once refer the recommendation back to the Commission in order that it may be reconsidered.
- (5A) Save as provided in Clause (5B), federal law and, subject to the provisions of any such law, regulations made by the Yang di-Pertuan Agong may, notwithstanding the provisions of Clause (1) of Article 135, provide for the exercise by any officer in a service to which the jurisdiction of a Commission to which this Part applies extends, or by any board of such officers, of any of the functions of the Commission under Clause (1):

Provided that

- (a) no such law or regulation may

Art. 144: See Art. 139, 144(1).

Clause (3): 1. The words "other than posts in the judicial and legal service" which appear after "similar status" were deleted by Act 10/1960, paragraph 25(a), in force from 31-05-1960, but were restored by Act 26/1963, subsection 53(3), in force from 16-09-1963. The words "other than posts in the judicial and legal service" were deleted by Act A354, section 34, in force from 27-08-1976.

2. For list of designated posts see L.N. (N.S) 119/1957, 397/1958.

Clause (4): The words "a State Public Service Commission" were substituted for "of any Ruler a Commission of corresponding status and

jurisdiction" by Act 26/1963, section 70, in force from 16-09-1963. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Clause (5)(b): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Clause (5A): Added by Act 10/1960, paragraph 25(b), in force from 31-05-1960. The words "Save as provided in Clause (5B)," at the commencement were inserted by Act 59/1966, section 2, in force from 19-09-1966. In the proviso to paragraph (a), the words "or of any power of promotion" substituted for "or to any power of promotion" by Act A31, section 6, in force from 24-03-1971.

- provide for the exercise by any such officer or board of officers of any power of first appointment to the permanent or pensionable establishment, or of any power of promotion (other than promotion to an acting appointment); and
- (b) any person aggrieved by the exercise by any such officer or board of officers of any power of disciplinary control may appeal to the Commission within such time and in such manner as may be prescribed by any such law or regulations, and the Commission may make such order thereon as it may consider just.
- (5B) (i) Notwithstanding the provisions of Clause (1) of Article 135 and Article 139 and Article 141A, all the powers and functions of the Public Services Commission or the Education Service Commission established under Article 139 and Article 141A, other than the power of first appointment to the permanent or pensionable establishment, may be exercised by a board appointed by the Yang di-Pertuan Agong.
- (ii) Any person aggrieved by the exercise by the board of any of the aforesaid powers or functions may appeal to an Appeal Board appointed by the Yang di-Pertuan Agong.
- (iii) The Yang di-Pertuan Agong may by regulations provide for matters relating to the appointments of the members of, and the procedure to be followed by, the board or the Appeal Board under this Clause.
- (iv) Where the Yang di-Pertuan Agong has appointed the board under paragraph (i) of this Clause for the purpose of exercising any of the powers or functions referred to under that paragraph, such power or function shall so long as it remains a power or function to be exercised by the board, cease to be exercisable by the said Commission.
- (6) A Commission to which this Part applies may delegate to any officer in a service to which its jurisdiction extends, or to any board of such officers appointed by it, any of its functions under Clause (1) in respect of any grade of service, and that officer or board shall exercise those functions under the direction and the control of the Commission.
- (6A) In respect of members of the general public service of the Federation who are employed in posts ancillary to the armed forces or any of them or to the police force, or in respect of any grade of members of that service who are so employed, functions of the Public Services Commission may, under Clause (5A) or (6), be made exercisable by an officer or board of officers of the armed forces or police force, as the case may be, as if he or they were members of the general public service of the Federation.
- (7) In this Article "transfer" does not include transfer without change of rank within a department of Government.
- (8) A Commission to which this Part applies may, subject to the provisions of this Constitution and of federal law, make rules regulating its procedure and specifying the number of its members which are to constitute a quorum.

Attorney General

145. (1) The Yang di-Pertuan Agong shall, on the advice of the Prime Minister, appoint a person who is qualified to be a judge of the Federal Court to be the Attorney General for the Federation.
- (2) It shall be the duty of the Attorney General to advise the Yang di-Pertuan Agong or the Cabinet or any Minister

See- (a) *Public Services Promotion Board Regulations 1967*, in P.U. 291/1967, as amended by P.U. 180/1968, 249/1968, P.U. (A) 285/1969.

(b) *Public Services Disciplinary Board Regulations 1967*, in P.U. 292/1967, as amended by P.U. 181/1968, 249/1968, P.U. (A) 284/1969.

(c) *Public Services Commission (Promotion) (Appeal Board) Rules 1968*, in P.U. 386/1968.

Clause (5B): Added by Act 59/1966, section 2, in force from 19-09-1966. Paragraph (i) was substituted by Act A193, section 5, in force from 01-01-1974. The earlier paragraph read as follows:

"(i) Notwithstanding the provision of Clause (1) of Article 135 and Article 139, all the powers and functions of the Public Services Commission established under Article 139, other than the

power of first appointment to the permanent or pensionable establishment, may be exercised by a board appointed by the Yang di-Pertuan Agong.".

Clause (6A): Added by Act 25/1963, section 4, in force from 29-08-1963.

Clause (8): See Art. 146C(3).

Art. 145: The present Article was inserted by Act 10/1960, section 26, in force from 16-09-1963.

Act 26/1963, section 70, in force from 16-09-1963, amended it as follows:

(a) Clauses (1) and (6), by substituting the words "Federal Court" for "High Court". Subsequently subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

- upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Yang di-Pertuan Agong or the Cabinet, and to discharge the functions conferred on him by or under this Constitution or any other written law.
- (3) The Attorney General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a Syariah court, a native court or a court-martial.
- (3A) Federal law may confer on the Attorney General power to determine the courts in which or the venue at which any proceedings which he has power under Clause (3) to institute shall be instituted or to which such proceedings shall be transferred.
- (4) In the performance of his duties the Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal in the Federation.
- (5) Subject to Clause (6), the Attorney General shall hold office during the pleasure of the Yang di-Pertuan Agong and may at any time resign his office and, unless he is a member of the Cabinet, shall receive such remuneration as the Yang di-Pertuan Agong may determine.
- (6) The person holding the office of Attorney General immediately prior to the coming into operation of this Article shall continue to hold the office on terms and conditions not less favourable than those applicable to him immediately before such coming into operation and shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court. Reports of Commissions
146. (1) Each of the Commissions to which this Part applies shall make an annual report on its activities to the Yang di-Pertuan Agong and copies of those reports shall be laid before both Houses of Parliament.
- (2) The Public Services Commission shall send a copy of every report made under this Article to the Ruler or Yang di-Pertua Negeri of each State to members of whose public service their jurisdiction extends, and the Ruler or Yang di-Pertua Negeri shall lay it before the Legislative Assembly.
- 146A. (Repealed).

Art. 145: (b) Clauses (3), by inserting the words "a native court" "Muslim court"; words "Syariah Court" substituted for "Muslim Court", by Act A354, section 45, in force from 27-08-1976.

The earlier Article (as amended by Act 26/1963, subsection 53(4) and section 70, in force from 16-09-1963) read as follows:

"145. (1) The Yang di-Pertuan Agong shall, after consultation with the Judicial and Legal Service Commission, appoint from among the members of the Judicial and Legal Service an Attorney General, who shall be a person qualified to be judge of the Federal Court.

(2) The Attorney General shall advise on legal matters referred to him by the Yang di-Pertuan Agong or the Cabinet, and shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a Muslim court, a native court or a court-martial.

(3) The Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal.

(4) Subject to Clause (5), the Attorney General shall hold office until he attains the age of sixty-five years or such later time, not later than six months after he attains the age, as the Yang di-Pertuan Agong may approve.

(5) The Attorney General may at any time resign his office but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court."

Clause (3A): Added by Act A704, section 10, in force from 10-06-1988.

Clauses (1) and (6): The word "Federal" substituted for the word "Supreme" by Act A885, section 34, in force from 24-06-1994.

Art. 146: Clause (2): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.
See Art. 146C(3).

Art. 146A: 1. Added by Act 26/1963, section 54, in force from 16-09-1963.

This Article with was repealed by Act A354, section 35, in force from 27-08-1976, read as follows:

146A. (1) In respect of members of the judicial and legal service who are employed in the Borneo States, the Functions to be discharged by the Judicial and Legal Service Commission shall, so long as this Article has effect, be discharged by a branch of that Commission established for the Borneo States.

(2) The branch of the Judicial and Legal Service Commission for the Borneo States shall consist of-

(a) The Chief Justice of the High Court in Borneo, who shall be Chairman;

(b) the legal advisers of the Borneo States;

(c) the Chairman of the State Public Service Commission (if any) in each of the Borneo States; and

(d) two persons designated by the Federal Government from among the members of the main body of the Judicial and Legal Service Commission or Public Service Commission.

(3) (Repealed).

(4) (Repealed).

(5) Notwithstanding Clause (2) of Article 134, so long as there is for the Borneo States a branch of Judicial and Legal Commission under this Article, the jurisdiction of the Commission shall extend to members of the public service of a Borneo States who are seconded to the Judicial and legal service, and for the purpose of the Judicial and Legal Service Commission they shall be deemed to be members of that service.

146B. (Repealed).

Art. 146A: (6) This Article shall have effect, until the end of August 1968, and thereafter in relation to the Borneo States, until the Federal Government determines to the contrary."

2. See Art. 138(2). 146C(1), (2), (3).

Clause (1): The words "or in Singapore" and "or for Singapore, as the case may be" which appeared after "Borneo States" were deleted by Act 59/1966, section 2, in force from 19-09-1966.

Clause (3): This Clause which read as follows was repealed by Act 59/1966, section 2, in force from 19-09-1966:

"(3) The branch of the Judicial and Legal Service Commission for Singapore shall consist of-

(a) The Chief Justice of the High Court in Singapore, who shall be Chairman;

(b) the legal adviser of the State;

(c) the chairman of the State public Service Commission in Singapore;

(d) a Judge of the High Court in Singapore designated by the Chief Justice;

(e) not more than two members of the public Services Commission, being the member or members of the main body serving under Clause (3) of Article 146B on the branch for Singapore of that Commission or, if that Clause is not in operation, a member or members designated by the Federal Government."

Clause (4): This Clause which read as follows was repealed by Act 31/1965, subsection 2(2), in force from 01-07-1965:

"(4) At any time when the branch of the Judicial and Legal Service Commission for the Borneo State includes among its members more than one chairman of a State Public Service Commission the following provision shall apply:

(a) not more than one of those chairmen shall attend any meeting of the branch, and the one entitled to attend and be summoned to any meeting shall be determined by or in accordance with the rules of the branch and (subject to the rules) any general or special directions of the chairman of the branch; and

(b) the branch shall not make appointments to posts in the State of either of those chairmen at a meeting which he does not attend and has not been summoned to, unless he consents to their doing so."

Clause (5): The words "or for Singapore" which appeared after "for the Borneo States" and the words "or of Singapore, as the case may be," which appeared after "of a Borneo State" were deleted by Act 59/1966, section 2, in force from 19-09-1966.

Clause (6): This Clause was inserted by Act 59/1966, section 2, in force from 19-09-1966, and replaced the earlier Clause which reads as follows:

"(6) This Article shall have effect until the end of August 1968, and thereafter-

(a) in relation to the Borneo States, until the Federal Government determines to the contrary; and

(b) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor."

Art. 146B: 1. Added by Act 26/1963, section 55, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, amended it as follows:

(a) Clause (1): By deleting the words "or in Singapore" which appeared after "a Borneo State". The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

(b) Clause (2): This Clause was substituted by Act A354, section 36, in force from 27-08-1976. The earlier Clause read as follows:

"(2) Subject to Clause (3), the branch of the Public Services Commission established for a State

146C. (Repealed).

under Clause (1) shall consist of such members of the main body of the Commission as may be designated by the Federal Government and such special member as the Yang di-Pertuan Agong may appoint; and the Yang di-Pertuan Agong in making any appointment under this Clause shall act in his discretion, after considering the advice of the Prime Minister and consulting the Governor of the State."

(c) Clause (3): This Clause repealed by Act A354, section 36, in force from 27-08-1976, read as follows:

"(3) So long as this Clause has effect, in any State in which there is for the time being a State Public Service Commission, the members of that Commission shall ex officio be members of the branch for the State of the Public Services Commission, and that branch shall consist of those members and not more than two members of the main body of the Public Services Commission designated by the Federal Government."

(d) Clause (6): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

(e) Clause (7): By deleting the words "or Singapore" which appeared after "a Borneo State".

The words "the State of Sabah and Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976 and the words "and the branch is constituted in accordance with Clause (3)" after "Public Services Commission under this Article" deleted by Act A354, section 36, in force from 27-08-1976. The words "Yang di-Pertuan Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

(f) Clause (8): By substituting the present Clause for the earlier Clause which read as follows:

"(8) Clauses (1) and (3) shall have effect until the end of August, 1968, and thereafter either shall continue to have effect-

(a) in relation to a Borneo State, until the Federal Government determines to the contrary; and
(b) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor."

The words "This Article shall have effect until the end of August, 1968 and thereafter it" substituted for "Clause (1) and (3) shall have effect until the end of August, 1968, and thereafter either", and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A354, section 36, 43, in force from 27-08-1976.

2. See Art. 139(4), 146(1), (2), (3).

3. Added by Act 26/1963, section 55, in force from 16-09-1963. This Article which was repealed by Act A514, section 13, in force from 15-05-1981, read as follows:

146B. (1) In respect of members of the general public service of the Federation who are employed in a federal department in the State of Sabah or Sarawak the functions to be discharged by the Public Services Commission shall, so long as this Clause has effect, be discharged by a branch of that Commission established for the State.

(2) The branch of the Public Services Commission established for a State under Clause (1) shall consist of six members (of whom two shall be from amongst the members of the main body of the Public Services Commission) to be appointed by the Yang di-Pertuan Agong acting in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers.

(3) (Repealed).

(4) Such member of a branch of the Public Services Commission established under Clause (1) as may be designated by the Chairman of the Commission shall be chairman of the branch.

Jurisdiction of Police Force Commission over seconded members of State service in States of Sabah and Sarawak

146D. Notwithstanding Clause (2) of Article 134, the jurisdiction of the Police Force Commission shall extend to members of the public service of the State of Sabah or Sarawak who are seconded to the police force; and for purposes of the Police Force Commission they shall be deemed to be members of the police force.

- (2) (Repealed).
(3) (Repealed).

Protection of pension rights

147. (1) The law applicable to any pension, gratuity or other like allowance (in this Article referred to as an "award") granted to a member of any of the public services, or to his widow, children, dependant or personal representatives, shall be that in force on the relevant day or any later

Art. 146B: (5) *The number of members of the Public Services Commission required by Clause (4) of Article 139 shall be the number of the members of the main body, exclusive of those who are members of a branch but not of the main body.*

(6) *Where a post in a federal department in the State of Sabah or Sarawak entails duties in or in respect of the other of those States, the branch of the Public Services Commission whose jurisdiction is to extend to that post shall be the branch for the State in which the head of the department is normally stationed or, in any case of doubt or difficulty, whichever branch the Federal Government may determine.*

(7) *Notwithstanding Clause (2) of Article 134, so long as there is for the State of Sabah or Sarawak a branch of the Public Services Commission under this Article, the jurisdiction of the Public Services Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of the State who are seconded to the general public service of Federation, other than members in or below such grade as the Yang di-Petuan Agong, with the concurrence of the Governor, may direct; and for purposes of the Public Services Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the general public service of the Federation.*

(8) *This Article shall have effect until the end of August, 1968, and thereafter it shall continue to have effect in relation to the State of Sabah or Sarawak until the Federal Government determines to the contrary.*

Art. 146C: *Added by Act 26/1963, section 56, in force from 16-09-1963, and amended by Act 59/1966, section 2, in force from 09-08-1965 as follows:*

(a) *Clause (1): By substituting with effect from 09-08-1965 the words " , or to the Borneo States" for the words "or Singapore, or to two or more of those States". The words "Public Services Commission" substituted for "Commissions" in the shoulder note, the words "the Judicial and Legal Service Commission or" were deleted after "jurisdiction in respect of that service on" and "146A or" were deleted after "Article", by Act A354, section 37, in force from 27-08-1976 and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.*

(b) *Clause (2): The words "Judicial and Legal Service Commission or" were deleted after "members of a branch of the" and "146A or" were deleted after "Article" by Act A354, section 37, in force from 27-08-1976.*

(c) *Clause (3): By substituting, with effect from 19-09-1965, the word "or" for the word "or" which appeared after "Judicial and Legal Service Commission". The words "Judicial and Legal Service Commission or" were deleted after "a branch of the" and "146A or" were deleted after "established under Article" by Act A354, section 37, in force from 27-08-1976.*

Added by Act 26/1963, section 56, in force from 16-09-1963. This Article which was repealed by

Act A514, section 13, in force from 15-05-1981, read as follows:

146C. (1) *If provision is made by federal law for establishing a joint service common to the Federation and to a Borneo State or Singapore, or to two or more of those States with or without the Federation, and for conferring jurisdiction in respect of that service on the Judicial and Legal Service Commission or the Public Services Commission, federal law may provide for functions of the Commission in relation to that service to be exercised by any branch for the time being established under Article 146A or 146B for the State or any of the States in question.*

(2) *In Article 142, paragraph (b) of Clause (4) and, in Article 143, Clause (2) shall have effect in relation to members of a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if the references to federal law included references to State law.*

(3) *Clause (8) of Article 144 shall apply to a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if it were a separate Commission to which this Part applies; but nothing in those Article shall be taken to require such a branch to make a separate annual report under Article 146.*

Art. 146D: *Added by Act 26/1963, section 57, in force from 16-09-1963.*

Clause (1): "(1)" at the beginning of the Clause was deleted and the words "(except as regards the exercise of disciplinary control over them)" were deleted after "Police Force Commission shall extend" and "(except as regards the exercise of disciplinary control over them)" were deleted after "Police Force Commission they shall be deemed" by Act A354, section 38, in force from 27-08-1976, and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Clauses (2) and (3): These Clauses which were repealed by Act A354, section 38, in force from 27-08-1976, read as follows:

"(2) If in a Borneo State there is not a board exercising disciplinary control over the said persons and having the following membership, that is to say:

(a) *the Chairman of a State Public Service Commission in the State; and*
(b) *the legal adviser of the State; and*
(c) *the senior police officer of the State; and*
(d) *a representative of the officer of police in general command of the police force;*
then Clause (1) shall apply as if it made no exception for the exercise of disciplinary control.

(3) So much of Clause (2) of Article 139 as provided for extending the jurisdiction of the Public Services Commission in certain circumstances to members of the public service of a State shall not apply to members of the public service of a Borneo State who are seconded to the police force."

Art. 147: *See Art. 132(4), 182(2).*

- law not less favourable to the person to whom the award is made.
- (2) For the purposes of this Article the relevant day is
- (a) in relation to an award made before Merdeka Day, the date on which the award was made;
 - (b) in relation to an award made after Merdeka Day to or in respect of any person who was a member of any of the public services before Merdeka Day, the thirtieth day of August, nineteen hundred and fifty-seven;
 - (e) in relation to an award made to or in respect of any person who first became a member of any of the public services on or after Merdeka Day, the date on which he first became such a member.
- (3) For the purposes of this Article, where the law applicable to an award depends on the option of the person to whom it is made, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

Interpretation of Part X

148. (1) References in this Constitution to a Commission to which this Part applies are, unless the context otherwise requires, references to any of the Commissions established under Articles 138 to 141A.
- (2) In this Part "ex officio member" includes a Minister and a judge of the Federal Court, of the Court of Appeal or of a

High Court and "State Public Service Commission" means, in relation to any State, a Commission exercising functions in respect of members of the public service of the State and corresponding in status and jurisdiction to the Public Services Commission.

PART XI SPECIAL POWERS AGAINST SUBVERSION, ORGANIZED VIOLENCE, AND ACTS AND CRIMES PREJUDICIAL TO THE PUBLIC AND EMERGENCY POWERS

Legislation against subversion, action prejudicial to public order, etc.

149. (1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, whether inside or outside the Federation
- (a) to cause, or to cause a substantial number of citizens to fear, organized violence against persons or property; or
 - (b) to excite disaffection against the Yang di-Pertuan Agong or any Government in the Federation; or
 - (c) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence; or
 - (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or
 - (e) which is prejudicial to the maintenance or the functioning of any supply or

Art. 147: Clause (2): See Art. 182(3).

Art. 148(1):1. The words " , unless the context otherwise requires," were inserted by Act 10/1960, paragraph 27(a), in force from 01-04-1961. Paragraph 27(b) of the same Act, in force from 31-05-1960, substituted the figure "139" for "138"; Act 26/1963, subsection 53(5), in force from 16-09-1963, restored the original figure "138".
2. The figure "141A" substituted for "141" by Act A354, section 39, in force from 27-08-1976.

Art. 148(2):1. The present Clause was inserted by Act 14/1962, Sch. section 11, in force from 21-06-1962. Act 26/1963, subsection 59(2) and section 70, in force from 16-09-1963, substituted the words "Federal Court or of a High Court" for "Supreme Court" and added thereafter the words "and 'State Public Service Commission' means, in relation to any State, a Commission exercising functions in respect of members of the public service of the State and corresponding in status and jurisdiction to the Public Services Commission". Act 59/1966, section 2, in force from 19-09-1966, corrected an error in the 1964 Reprint. The earlier Clause read as follows:

"(2) In this Part "ex officio member" includes a Minister, the Chief Justice and other judges of the Supreme Court, and the Attorney-General." Subsequently, subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference

to the Federal Court shall now be construed as a reference to the Supreme Court.

2. The words "Federal Court, of the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 35, in force from 24-06-1994.

Part XI: The heading "SPECIAL POWERS AGAINST SUBVERSION, ORGANIZED VIOLENCE, AND ACTS AND CRIMES PREJUDICIAL TO THE PUBLIC, AND EMERGENCY POWER" substituted for "SPECIAL POWERS AGAINST SUBVERSION, AND EMERGENCY POWERS" by Act A442, section 5, in force 31-12-1978.

Art. 149: 1. The present Article was inserted by Act 10/1960, paragraphs 28(a) and (b), in force from 31-05-1960, and replaced the original Article which read as follows:

"149. (1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, whether inside or outside the Federation, to cause, or to cause a substantial number of citizens to fear, organized violence against persons or property, any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Article 5, 9, or 10, or would apart from this Article be outside the legislative power of Parliament; and Article 79 shall not apply to a Bill for such an Act or any amendment to such a Bill.

- service to the public or any class of the public in the Federation or any part thereof; or
- (f) which is prejudicial to public order in, or the security of, the Federation or any part thereof, any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Article 5, 9, 10 or 13, or would apart from this Article be outside the legislative power of Parliament; and Article 79 shall not apply to a Bill for such an Act or any amendment to such a Bill.
- (2) A law containing such a recital as is mentioned in Clause (1) shall, if not sooner repealed, cease to have effect if resolutions are passed by both Houses of Parliament annulling such law, but without prejudice to anything previously done by virtue thereof or to the power of Parliament to make a new law under this Article.

Proclamation of emergency

150. (1) If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security, or the economic life, or public order in the Federation or any part thereof is threatened, he may issue a Proclamation of Emergency making therein a declaration to that effect.
- (2) A Proclamation of Emergency under Clause (1) may be issued before the actual occurrence of the event which threatens the security, or the economic life, or public order in the Federation or any part thereof if the Yang di-Pertuan Agong is satisfied that there is imminent danger of the occurrence of such event.

- (2A) The power conferred on the Yang di-Pertuan Agong by this Article shall include the power to issue different Proclamations on different grounds or in different circumstances, whether or not there is a Proclamation or Proclamations already issued by the Yang di-Pertuan Agong under Clause (1) and such Proclamation or Proclamations are in operation.
- (2B) If at any time while a Proclamation of Emergency is in operation, except when both Houses of Parliament are sitting concurrently, the Yang di-Pertuan Agong is satisfied that certain circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as circumstances appear to him to require.
- (2C) An ordinance promulgated under Clause (2B) shall have the same force and effect as an Act of Parliament, and shall continue in full force and effect as if it is an Act of Parliament until it is revoked or annulled under Clause (3) or until it lapses under Clause (7); and the power of the Yang di-Pertuan Agong to promulgate ordinances under Clause (2B) may be exercised in relation to any matter which respect to which Parliament has power to make laws, regardless of the legislative or other procedures required to be followed, or the proportion of the total votes required to be had, in either House of Parliament.
- (3) A Proclamation of Emergency and any ordinance promulgated under Clause (2B) shall be laid before both Houses of Parliament and, if not sooner revoked, shall cease to have effect if resolutions are passed by both Houses annulling such Proclamation or ordinance, but without prejudice to anything previously

Art. 149: (2) A law containing such a recital as is mentioned in Clause (1) shall if not sooner repealed, cease to have effect on the expiration of a period of one year from the date on which it comes into operation, without prejudice to the power of Parliament to make a new law under this Article."

2. See Internal Security Act 1960 [Act 82].

3. The words ", action prejudicial to public order, etc." inserted after "subversion" in shoulder note by Act A442, section 5, in force from 31-12-1978. Clause (1): Paragraph (e) substituted by Act A442, section 5, in force from 31-12-1978. The original paragraph read as follows:

"(e) which is prejudicial to the security of the Federation or any part thereof;".

4. Paragraph (f) added by Act A442, section 5, in force from 31-12-1978.

Art. 149(1): The words ", 10 or 13" substituted for the words "or 10" by Act A514, section 14, in force from 15-05-1981.

Art. 150: Clause (1):

1. The words "whether by war or external aggression or internal disturbance," which appeared after "is threatened," were deleted by

Act 26/1963, subsection 39(1), in force from 16-09-1963.

2. Clauses (1) and (2): Substituted by Act A514, section 15, in force from 15-05-1981. The earlier Clauses (1) and (2) read as follows:

"Proclamation of emergency.
150. (1) If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, whether by war or external aggression or internal disturbance, he may issue a Proclamation of Emergency.

(2) If a Proclamation of Emergency is issued when Parliament is not sitting, the Yang di-Pertuan Agong shall summon Parliament as soon as may be practicable, and may, until both Houses of Parliament are sitting, promulgate ordinances having the force of law, if satisfied that immediate action is required."

3. The words "Prime Minister" were substituted for the words "Yang di-Pertuan Agong" and the words "shall advise the Yang di-Pertuan Agong accordingly and the Yang di-Pertuan Agong shall then " substituted for the word "may" both by Act A566, section 20, in force from 16-12-1983.

- done by virtue thereof or to the power of the Yang di-Pertuan Agong to issue a new Proclamation under Clause (1) or promulgate any ordinance under Clause (2B).
- (4) While Proclamation of Emergency is in force the executive authority of the Federation shall, notwithstanding anything in this Constitution, extend to any matter within the legislative authority of a State and to the giving of directions to the Government of a State or to any officer or authority thereof.
- (5) Subject to Clause (6A), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution make laws with respect to any matter, if it appears
- to Parliament that the law is required by reason of the emergency; and Article 79 shall not apply to a Bill for such a law or an amendment to such a Bill, nor shall any provision of this Constitution or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a Bill to the Yang di-Pertuan Agong for his assent.
- (6) Subject to Clause (6A), no provision of any ordinance promulgated under this Article, and no provision of any Act of Parliament which is passed while a Proclamation of Emergency is in force and which declares that the law appears

Art. 150: 3. The words "Prime Minister" were substituted for the words "Yang di-Pertuan Agong" and the words "shall advise the Yang di-Pertuan Agong accordingly and the Yang di-Pertuan Agong shall then " substituted for the word "may" both by Act A566, section 20, in force from 16-12-1983.

4. See Proclamation in L.N. 271/1964, P.U. 339A/1966, P.U. (A) 145/1969.

Clause (2): The words "Prime Minister" substituted for the words "Yang di-Pertuan Agong" and the words "and advises the Yang di-Pertuan Agong accordingly" inserted after the words "such event" both by Act A566, section 20, in force from 16-12-1983.

Clause (2A): Added by Act A514, section 15, in force from 15-05-1981. The words "to issue on Proclamation of Emergency" were inserted after the words "by this Article"; the words "as may be advised by the Prime Minister," were inserted after the words "different circumstances".

The words "by the Yang di-Pertuan Agong" were deleted. These amendments were made by Act A566, section 20, in force from 16-12-1983.

Clause (2B): Added by Act A514, section 15, in force from 15-05-1981. The words "the Prime Minister is satisfied that certain circumstances exist which render it necessary that immediate action be taken, he shall advise the Yang di-Pertuan Agong to promulgate such ordinances as the Prime Minister deems necessary, and the Yang di-Pertuan Agong shall then accordingly promulgate such ordinances" substituted for the words "the Yang di-Pertuan Agong is satisfied that certain circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as circumstances appear to him to require" by Act A566, section 20, in force from 16-12-1983.

Clause (2C): Added by Act A514, section 15, in force from 15-05-1981. The words "of the Yang di-Pertuan Agong" were deleted by Act A566, section 20, in force from 16-12-1983.

Clause (3):

1. The present Clause was inserted by Act 10/1960, section 29, in force from 31-05-1960, and replaced the original Clause which read as follows:

"(3) A Proclamation of Emergency and any ordinance promulgated under Clause (2) shall be laid before both Houses of Parliament and, if not sooner revoked, shall cease to be in force-

(a) a Proclamation at the expiration of a period of two months beginning with the date on which it was issued; and

(b) an ordinance at the expiration of a period of fifteen days beginning with the date on which both Houses are first sitting, unless, before the expiration of that period, it has been approved by

a resolution of each House of Parliament."

2. The words "Clause (2B)" substituted for "Clause (2)" by Act A514, section 15, in force from 15-05-1981.

3. The words "of the Yang di-Pertuan Agong" were deleted by Act A566, section 20, in force from 16-12-1983.

Clause (8) paragraph (a): The words "Prime Minister mentioned in Clauses (1), (2) and (2B)" substituted for the words "Yang di-Pertuan Agong mentioned in Clauses (1) and (2B)" by Act A566, section 20, in force from 16-12-1983.

Clause (8) paragraph (b)(i): The words "whether or not arising under Clause (2)" inserted after the words "stated in Clause (1)" by Act A566, section 20, in force from 16-12-1983.

Note: Art. 150 was again amended by Act A584 which restored the original provisions as it was before the amendment made by Act A566 as it now appears.

Art. 150(5): The present Clause was inserted by Act 26/1963, subsection 39(2), in force from 16-09-1963. The words "or in the Constitutions of the State of Sarawak" were inserted by Act 68/1966, section 3, after the word "Constitution" where it first occurs, in force from 20-09-1966, and will cease to have effect six months after the date on which the Proclamation of Emergency issued by the Yang di-Pertuan Agong on 14-09-1966 in P.U. 339A/1966 ceases to have effect.

The original Clause read as follows:

"(5) While a Proclamation of Emergency is in force Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter enumerated in the State List (other than any matter of Muslim law or the custom of the Malays), extend the duration of Parliament or of a State Legislature, suspend any election, and make any provision consequential upon or incidental to any provision made in pursuance of this Clause."

Art. 150(6): The present Clause was inserted by Act 26/1963, subsection 39(2), in force from 16-09-1963. The words "or of the Constitutions of the State of Sarawak" were inserted by Act 68/1966, section 3, after the word "Constitution" at the end thereof, in force from 20-09-1966, and will cease to have effect six months after the date on which the Proclamation of Emergency issued by the Yang di-Pertuan Agong on 14-09-1966 in P.U. 339A/1966 ceases to have effect. The original Clause read as follows:

"(6) No provision of any law or ordinance made or promulgated in pursuance of this Article shall be invalid on the ground of any inconsistency with the provisions of Part II, and Article 79 shall not apply to any Bill for such a law or any amendment to such a Bill."

- to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution.
- (6A) Clause (5) shall not extend the powers of Parliament with respect to any matter of Islamic law or the custom of the Malays, or with respect to any matter of native law or customs in the State of Sabah or Sarawak; nor shall Clause (6) validate any provision inconsistent with the provisions of this Constitution relating to any such matter or relating to religion, citizenship, or language.
- (7) At the expiration of a period of six months beginning with the date on which a Proclamation of Emergency ceases to be in force, any ordinance promulgated in pursuance of the Proclamation and, to the extent that it could not have been validly made but for this Article, any law made while the Proclamation was in force, shall cease to have effect, except as to things done or omitted to be done before the expiration of that period.
- (8) Notwithstanding anything in this Constitution
- (a) the satisfaction of the Yang di-Pertuan Agong mentioned in Clause (1) and Clause (2B) shall be final and conclusive and shall not be challenged or called in question in any court on any ground; and
- (b) no court shall have jurisdiction to entertain or determine any application, question or proceeding, in whatever form, on any ground, regarding the validity of
- (i) a Proclamation under Clause (1) or of a declaration made in such Proclamation to the effect stated in Clause (1);
- (ii) the continued operation of such Proclamation;
- (iii) any ordinance promulgated under Clause (2B); or
- (iv) the continuation in force of any such ordinance.
- (9) For the purpose of this Article the Houses of Parliament shall be regarded as sitting only if the members of each House are respectively assembled together and carrying out the business of the House.

Restrictions on preventive detention

151. (1) Where any law or ordinance made or promulgated in pursuance of this Part provides for preventive detention

- (a) the authority on whose order any person is detained under that law or ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to Clause (3) the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be;

Art. 150(6A):1. Added by Act 26/1963, subsection 39(2), in force from 16-09-1963.

2. The words "Islamic law" substituted for "Muslim law" by Act A354, section 45, in force from 27-08-1976 and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Art. 150(8) & (9):

Added by Act A514, section 15, in force from 15-05-1981.

Art. 151: Clause (1)(b):

1. The original paragraph which read as follows, was substituted by Act 10/1960, section 30, in force from 31-05-1960:

"(b) no citizen shall be detained under the law or ordinance for a period exceeding three months unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and has reported, before the expiration of that period, that there is in its opinion sufficient cause for the detention."

2. Act 10/1960, section 30, in force from 31-05-1960, substituted the original paragraph (b) with the following:

"(b) no citizen shall be detained under that law or ordinance for a period exceeding three months unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the Yang di-Pertuan Agong."

3. The present paragraph as it now appears, was substituted by Act A354, section 40, in force from 27-08-1976.

Art. 151(2):1. The words "and who shall be or have been, or be qualified to be, a judge of the Federal Court or a High Court, and shall before Malaysia Day have been a judge of the Supreme Court, and" were substituted for "from among persons who are or have been judges of the Supreme Court or are qualified to be judges of the Supreme Court, and" and the words "Lord President of the Federal Court" were substituted for "Chief Justice or, if at the time another judge of the Supreme Court is acting for the Chief Justice, after consultation with the judge" by Act 26/1963, section 70, in force from 16-09-1963.

2. Subsequently subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

3. This Clause which read as follows was substituted by Act A767, section 5, in force from 11-05-1990.

"(2) An advisory board constituted for the purposes of this Article shall consist of a chairman, who shall be appointed by the Yang di-Pertuan Agong and who shall be or have been, or be qualified to be, a judge of the Supreme Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court, and two other members, who shall be appointed by the Yang di-Pertuan Agong after consultation with the Lord President of the Supreme Court."

- (b) no citizen shall continue to be detained under that law or ordinance unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the Yang di-Pertuan Agong within three months of receiving such representations, or within such longer period as the yang di-Pertuan Agong may allow.
- (2) An advisory board constituted for the purposes of this Article shall consist of a chairman, who shall be appointed by the Yang di-Pertuan Agong and who shall be or have been, or be qualified to be, a judge of the Federal Court, the Court of Appeal or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court, and two other members who shall be appointed by the Yang di-Pertuan Agong.
- (3) This Article does not require any authority to disclose facts whose disclosure would in its opinion be against the national interest.
- (2) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, the English language may be used in both Houses of Parliament, in the Legislative Assembly of every State, and for all other official purposes.
- (3) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, the authoritative texts-
- (a) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament; and
- (b) of all Acts of Parliament and all subsidiary legislation issued by the Federal Government, shall be in the English language.
- (4) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, all proceedings in the Federal Court, the Court of Appeal or a High Court shall be in the English language:

Provided that, if the Court and counsel on both sides agree, evidence taken in the language spoken by the witness need not be translated into or recorded in English.

- (5) Notwithstanding the provisions of Clause (1), until Parliament otherwise provides, all proceedings in subordinate courts, other than the taking of evidence, shall be in the English language.
- (6) In this Article, "official purpose" means any purpose of the Government, whether Federal or State, and includes any purpose of a public authority.

PART XII

GENERAL AND MISCELLANEOUS

National language

152. (1) The national language shall be the Malay language and shall be in such script as Parliament may by law provide:
Provided that
- (a) no person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and
- (b) nothing in this Clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.

Art. 152: 4. The words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court" where they first appear by Act A885, section 36, in force from 24-06-1994.

1. See Art. 161(5).

2. See National Language Act 1963/1967 [Act 32].

Clauses (2) and (3): See Art. 161(1).

Clause (4): 1. The words "Federal Court or a High Court" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-

1963. Subsequently subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

2. See Art. 161(1).

3. The words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 37, in force from 24-06-1994.

Clause (5): See Art. 161(1).

Clause (6): Inserted by Act A30, section 5, in force from 10-03-1971.

Reservation of quotas in respect of services, permits, etc., for Malays and natives of any of the States of Sabah and Sarawak

153. (1) It shall be the responsibility of the Yang di-Pertuan Agong to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article.

(2) Notwithstanding anything in this Constitution, but subject to the provisions of Article 40 and of this Article, the Yang di-Pertuan Agong shall exercise his functions under this Constitution and federal law in such manner as may be necessary to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and to ensure the reservation for Malays and natives of any of the States of Sabah and Sarawak of such proportion as he may deem reasonable of positions in the public service (other than the public service of a State) and of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by the Federal Government and, when any permit or license for the operation of any trade or business is required by federal law, then, subject to the provisions of that law and this Article, of such permits and licenses.

(3) The Yang di-Pertuan Agong may, in order to ensure in accordance with Clause (2) the reservation to Malays and natives of any of the States of Sabah and Sarawak of positions in the public service and of scholarships, exhibitions and other educational or training privileges or special facilities, give such general directions as may be required for that purpose to any Commission to which Part X applies or to any authority charged with responsibility for the grant

of such scholarships, exhibitions or other educational or training privileges or special facilities; and the Commission or authority shall duly comply with the directions.

(4) In exercising his functions under this Constitution and federal law in accordance with Clauses (1) to (3) the Yang di-Pertuan Agong shall not deprive any person of any public office held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.

(5) This Article does not derogate from the provisions of Article 136.

(6) Where by existing federal law a permit or license is required for the operation of any trade or business the Yang di-Pertuan Agong may exercise his functions under that law in such manner, or give such general directions to any authority charged under that law with the grant of such permits or licences, as may be required to ensure the reservation of such proportion of such permits or licences for Malays and natives of any of the States of Sabah and Sarawak as the Yang di-Pertuan Agong may deem reasonable; and the authority shall duly comply with the directions.

(7) Nothing in this Article shall operate to deprive or authorize the deprivation of any person of any right, privilege, permit or license accrued to or enjoyed or held by him or to authorize a refusal to renew to any person any such permit or license or a refusal to grant to the heirs, successors or assigns of a person any permit or license when the renewal or grant might reasonably be expected in the ordinary course of events.

(8) Notwithstanding anything in this Constitution, where by any federal law any permit or license is required for the

Art. 153: See Art. 38(5), 159(5), 161A(2), (3), (4).
 Clause (2): See Art. 161A(1), (2).
 Clauses (3) to (5): See Art. 161A(1).
 Clauses (1), (2), (3), (6) and (8): The words "and natives of any of the Borneo States" inserted after "Malays" by Act A30, section 6, in force from 10-03-1971, and "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.
 Clause (8A): Inserted by Act A30, section 6, in force from 10-03-1971, and the words "State of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force 27-08-1976.
 Clause (9): The words "and natives of any of the

Borneo States" inserted after "Malays" by Act A30, section 6, in force 10-03-1971, and "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Clause (9A): Inserting by Act A30, section 6, in force from 10-03-1971, and the words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

operation of any trade or business, that law may provide for the reservation of a proportion of such permits or licences for Malays and natives of any of the States of Sabah and Sarawak; but no such law shall for the purpose of ensuring such a reservation

- (a) deprive or authorize the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him; or
 - (b) authorize a refusal to renew to any person any such permit or license or a refusal to grant to the heirs, successors or assigns of any person any permit or license when the renewal or grant might in accordance with the other provisions of the law reasonably be expected in the ordinary course of events, or prevent any person from transferring together with his business any transferable licence to operate that business; or
 - (c) where no permit or license was previously required for the operation of the trade or business, authorize a refusal to grant a permit or licence to any person for the operation of any trade or business which immediately before the coming into force of the law he had been bona fide carrying on, or authorize a refusal subsequently to renew to any such person any permit or license, or a refusal to grant to the heirs, successors or assigns of any such person any such permit or license when the renewal or grant might in accordance with the other provisions of that law reasonably be expected in the ordinary course of events.
- (8A) Notwithstanding anything in this Constitution, where in any University, College and other educational institution providing education after Malaysian Certificate of Education or its equivalent, the number of places offered by the authority responsible for the management of the University,

College or such educational institution to candidates for any course of study is less than the number of candidates qualified for such places, it shall be lawful for the Yang di-Pertuan Agong by virtue of this Article to give such directions to the authority as may be required to ensure the reservation of such proportion of such places for Malays and natives of any of the States of Sabah and Sarawak as the Yang di-Pertuan Agong may deem reasonable; and the authority shall duly comply with the directions.

- (9) Nothing in this Article shall empower Parliament to restrict business or trade solely for the purpose of reservations for Malays and natives of any of the States of Sabah and Sarawak.
- (9A) In this Article the expression "natives" in relation to the State of Sabah or Sarawak shall have the meaning assigned to it in Article 161A.
- (10) The Constitution of the State of any Ruler may make provision corresponding (with the necessary modifications) to the provisions of this Article.

Federal capital

154. (1) Until Parliament otherwise determines, the municipality of Kuala Lumpur shall be the federal capital.
- (2) Notwithstanding anything in Part VI, Parliament shall have exclusive power to make laws with respect to the boundaries of the federal capital.
- (3) (Repealed).

Commonwealth reciprocity

155. (1) Where the law in force in any other part of the Commonwealth confers upon citizens of the Federation any right or privilege it shall be lawful, notwithstanding anything in this Constitution, for Parliament to confer a similar right or privilege upon citizens of that part of the Commonwealth who are not citizens of the Federation.
- (2) The reference in Clause (1) to citizens of a part of the Commonwealth shall be construed, in relation to the United

Art. 154: See Federal Capital Act 1960 [Act 190].
 Clause (3): Repealed by Act 10/1960, section 31, in force from 08-08-1960 which also deleted in Clause (2) the words "but subject to Clause (3)" which followed the words "Part VI". The original Clause (3) read as follows:
 "(3) In relating to the municipality of Kuala Lumpur, Clause (2) shall not apply until such date as may be appointed by the Yang di-Pertuan

Agong with the concurrence of the Ruler of the State of Selangor in pursuance of arrangements made between the Federal Government and the Government of that State for the establishment elsewhere of the State capital; and until the date so appointed the Federal List shall have effect as if item (c) of section 6, and in item (h) of section 7 the words "rates in the federal capital", were omitted."

Kingdom or to any other part of the Commonwealth not being a Commonwealth country or a territory administered by the Government of a Commonwealth country other than the United Kingdom, as a reference to citizens of the United Kingdom and Colonies.

- (3) This Article applies in relation to the Republic of Ireland as it applies in relation to a Commonwealth country.

Contributions in aid of rates in respect of federal and State property

156. Where lands, buildings, or hereditaments are occupied for public purposes by or on behalf of the Federation, a State or a public authority, the Federation, State or public authority shall not be liable to pay local rates in respect thereof but shall in aid of those rates make such contributions in respect thereof as may be agreed between the Federation, State or public authority, as the case may be, and the authority levying the rates or as may in default of agreement be determined by a tribunal consisting of the chairman of the Lands Tribunal established under Article 87, who shall preside, and two other members of whom each of the parties concerned shall appoint one.

Delegation of State functions to another State

157. Subject to any provisions of State law, arrangements may be made between any two States for the performance of any functions by the authorities of the one on behalf of the authorities of the other, and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

158. (Repealed).

Amendment of the Constitution

159. (1) Subject to the following provisions of this Article and to Article 161E the provisions of this Constitution may be amended by federal law.

- (2) (Repealed).
- (3) A Bill for making any amendment to the Constitution (other than an amendment excepted from the provisions of this Clause) and a Bill for making any amendment to a law passed under Clause (4) of Article 10 shall not be passed in either House of Parliament unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members of that House.
- (4) The following amendments are excepted from the provisions of Clause (3), that is to say:
- (a) any amendment to Part III of the Second or to the Sixth or Seventh Schedule;
- (b) any amendment incidental to or consequential on the exercise of any power to make law conferred on Parliament by any provision of this Constitution other than Articles 74 and 76;
- (bb) subject to Article 161E any amendment made for or in connection with the admission of any State to the Federation or its association with the States thereof, or any modification made as to the application of this Constitution to a State previously so admitted or associated;
- (c) any amendment consequential on an amendment made under paragraph (a).

Art. 155(2): The present Clause was inserted by Act 14/1962, Sch. Subsection 12(1), in force from 01-10-1962, and replaced the original Clause which read as follows:

'(2) In this Article "part of the Commonwealth" means any Commonwealth country, any colony, protectorate or protected state, and any other territory administered by the Government of any Commonwealth country; and in relation to the United Kingdom and any other part of the Commonwealth (not being a Commonwealth country or a territory administered by the Government of a Commonwealth country other than the United Kingdom) the reference to citizens of that part shall be construed as a reference to citizens of the United Kingdom and Colonies.'

Art. 158: Act 26/1963, section 70, in force from 16-09-1963, substituted the word "Brunei" for "any territory to which this Article applies" which appeared at the end of paragraphs (a), (b) and (c) of Clause (1) and repealed Clause (2) which read as follows: "(2) This Article applies to Singapore, Sarawak, Brunei and North Borneo."

This Article which read as follows was repealed by Act A704, section 11, in force from 10-06-1988:

"158. (1) Nothing in this Constitution shall be taken to prohibit the making or continuance of arrangement whereby-

(a) departments, authorities or services are maintained by the Federal Government in common with the Government of Brunei; or

(b) the Federal Government or any officer or authority thereof acts as agent for the Government of Brunei; or

(c) any part of the executive authority of the Federation is exercised, with the consent of the Federation Government, by any Officer or authority of the Government of Brunei.

(2) (Repealed)."

Art. 159: See Art. 159A.

Clause (1): The words "and to Articles 161E and 161H" were inserted after "this Article" by Act 26/1963, section 70, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, replaced them by the words "and to Article 161E".

- (5) A law making an amendment to Clause (4) of Article 10, any law passed thereunder, the provisions of Part III, Article 38, 63(4), 70, 71(1), 72(4), 152, or 153 or to this Clause shall not be passed without the consent of the Conference of Rulers.
- (6) In this Article "amendment" includes addition and repeal; and in this Article and in Article 2(a) "State" includes any territory.

Operation of transitional provisions of Malaysia Act

159A. The provisions of Part IV of the Malaysia Act (which contains temporary and transitional provisions in connection with the operation of that Act) shall have effect as if embodied in this Constitution, and shall have effect notwithstanding anything in this Constitution as amended by that Act; and the provisions of this Constitution,

and in particular Clause (1) of Article 4 and Articles 159 and 161E shall have effect in relation thereto accordingly.

Interpretation

160. (1) The Interpretation and General Clauses Ordinance 1948 [M.U. 7 of 1948], as in force immediately before Merdeka Day shall, to the extent specified in the Eleventh Schedule, apply for the interpretation of this Constitution as it applies for the interpretation of any written law within the meaning of that Ordinance, but with the substitution of references to the Yang di-Pertuan Agong for references to the High Commissioner.
- (2) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say

Art. 159: Clause (2): This Clause which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(2) No amendments to this Constitution shall be made before Parliament is constituted in accordance with Part IV, except such as the Legislative Council may deem necessary to remove any difficulties in the transition from the constitutional arrangements in operation immediately before Merdeka Day to those provided for by this Constitution; but any law made in pursuance of this Clause shall, unless sooner repealed, cease to have effect at the expiration of a period of twelve months beginning with the day on which Parliament first meets."

Clause (3): See Art. 62(3), 68(5), 161E(1). The words "and a Bill for making any amendment to a law passed under Clause (4) of Article 10" inserted after "excepted from the provisions of this Clause" by Act A30, section 7, in force from 10-03-1971.

Clause (4)(a): The words "Part III of the Second or to the" were substituted for "the Second" by Act 26/1963, paragraph 24(1)(b), in force from 16-09-1963. In paragraph (c) the words "incidental to or consequential on the repeal of a law made under Clause (2) or" deleted after "any amendment" by Act A31, section 7, in force from 24-03-1971.

Clause (4)(bb):

1. Added by Act 14/1962, section 24, in force from 31-08-1957. The words "subject to Article 161E" which appear at the commencement were inserted by Act 26/1963, section 70, in force from 16-09-1963.

2. See Art. 161E(1).

Clause (5): The words "Clause (4) of Article 10, any law passed thereunder, the provisions of Part III," inserted after "amendment to", the figure "63(4)" inserted after "38,", "72(4), 152," inserted after "71(1)," and the words "or to this Clause" inserted after "153" by Act A30, section 7, in force from 10-03-1971.

Clause (6): The words 'and "State" includes any territory' were added by Act 14/1962, section 24, in force from 31-08-1957. The words "repeal; and in this Article and in Article 2(a) "State" includes any territory' substituted for 'repealed and "State" includes any territory' by Act A31, section 7, in force from 24-03-1971.

Art. 159A: Added by Act 26/1963, section 71, in force from 16-09-1963. The words "Articles 159 and 161E" were substituted for "Articles 159, 161E and 161H"

by Act 59/1966, section 2, in force from 19-09-1966.

Art. 160: See Art. 162(2).

Clause (2):

Definition of "Aborigine": Added by Act 26/1963, section 70, in force from 16-09-1963.

Definition of "Attorney General": Added by Act 26/1963, section 5, in force from 16-09-1963.

Definition of "Borrow": The words "or entering into any arrangement requiring the payment before the due date of any taxes, rates, royalties, fees or any other payments or by entering into any agreement whereby the Government has to repay or refund any benefits that it has enjoyed under that agreement" inserted after "grant of annuities" by Act A31, section 8, in force from 24-03-1971. Definition of "Casual vacancy": The words "arising in the Senate otherwise than by the expiry of the term of office of a member, or a vacancy" which appeared after "means a vacancy" were deleted by Act 31/1965, subsection 2(2), in force from 01-07-1965.

Definition of "Chief Minister" and "Menteri Besar": The present definition was inserted by Act 26/1963, section 5, in force from 16-09-1963. It was amended by Act 59/1966, section 2, in force from 09-08-1965, by the deletion of the words "(and in particular "Chief Minister" includes the Prime Minister in Singapore)" which appeared at the end. The original definition read as follows:

" "Chief Minister" includes Menteri Besar";

Definition of "Civil List": The words "Yang di-Pertuan Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Definition of "Commonwealth country": The present definition was inserted by Act 31/1965, subsection 2(2), in force from 01-07-1965. The earlier definition, as it stood at the date of repeal, read as follows:

" "Commonwealth country" means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Nigeria, Cyprus, Sierra Leone, Tanganyika and any other country declared by Act of Parliament to be a Commonwealth country and "part of the Commonwealth" means any Commonwealth country, any colony, protectorate or protected state, or any other territory administered by the Government of any Commonwealth country";

"Aborigine" means an aborigine of the Malay Peninsula;

"Act of Parliament" means a law made by Parliament;

"Attorney General" means the Attorney General of the Federation;

"Borrow" includes the raising of money by the grant of annuities or by entering into any arrangement requiring the payment before the due date of any taxes, rates, royalties, fees or any other payments or by entering into any agreement whereby the Government has to repay or refund any benefits that it has enjoyed under that agreement, and "loan" shall be construed accordingly;

"Casual vacancy" means a vacancy arising in the House of Representatives or a Legislative Assembly otherwise than by a dissolution of Parliament or of the Assembly;

"Chief Minister" and "Menteri Besar" both mean the president, by whatever style known, of the Executive Council in a State;

"Citizen" means a citizen of the Federation;

"Civil List" means the provision made for the maintenance of the Yang di-Pertuan Agong, his Consort, a Ruler or Yang di-Pertua Negeri out of public funds;

"Commonwealth country" means any country recognized by the Yang di-Pertuan Agong to be a Commonwealth country; and "part of the Commonwealth" means any Commonwealth country, any colony, protectorate or protected state or any other territory administered by the Government of any Commonwealth country;

"Concurrent List" means the Third List set out in the Ninth Schedule;

"Debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

"Elector" means a person who is entitled to vote in an election to the House of Representatives or the Legislative Assembly of a State;

"Enactment", where the expression occurs in the Eighth Schedule, means a law made by the Legislature of a State;

"Executive Council" means the Cabinet or other body, however called, which in the Government of a State corresponds, whether or not the members of it are Ministers, to the Cabinet of Ministers in the Government of the Federation (and in particular includes the Supreme Council in Sarawak);

"Existing law" means any law in operation in the Federation or any part thereof immediately before Merdeka Day;

"Federal law" means

(a) any existing law relating to a matter with respect to which Parliament has power to make laws, being a law continued in operation under Part XIII; and

(b) any Act of Parliament;

"Federal List" means the First List set out in the Ninth Schedule;

"Federal purposes" includes the purposes of the Federation in connection with matters enumerated in the Concurrent List and with any other matters with

Art. 160: See Art. 162(2).

Clause (2):

Definition of "Aborigine": Added by Act 26/1963, section 70, in force from 16-09-1963.

Definition of "Attorney General": Added by Act 26/1963, section 5, in force from 16-09-1963.

Definition of "Borrow": The words "or entering into any arrangement requiring the payment before the due date of any taxes, rates, royalties, fees or any other payments or by entering into any agreement whereby the Government has to repay or refund any benefits that it has enjoyed under that agreement" inserted after "grant of annuities" by Act A31, section 8, in force from 24-03-1971.

Definition of "Casual vacancy": The words "arising in the Senate otherwise than by the expiry of the term of office of a member, or a vacancy" which appeared after "means a vacancy" were deleted by Act 31/1965, subsection 2(2), in force from 01-07-1965.

Definition of "Chief Minister" and "Menteri Besar": The present definition was inserted by Act 26/1963, section 5, in force from 16-09-1963. It was amended by Act 59/1966, section 2, in force

from 09-08-1965, by the deletion of the words "(and in particular 'Chief Minister' includes the Prime Minister in Singapore)" which appeared at the end. The original definition read as follows:

' "Chief Minister" includes Menteri Besar;'

Definition of "Civil List": The words "Yang di-Pertuan Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Definition of "Commonwealth country": The present definition was inserted by Act 31/1965, subsection 2(2), in force from 01-07-1965. The earlier definition, as it stood at the date of repeal, read as follows:

' "Commonwealth country" means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Nigeria, Cyprus, Sierra Leone, Tanganyika and any other country declared by Act of Parliament to be a Commonwealth country and "part of the Commonwealth" means any Commonwealth country, any colony, protectorate or protected state, or any other territory administered by the Government of any Commonwealth country;'

respect to which Parliament has power to make laws otherwise than by virtue of Article 76;

"Foreign country" does not include any part of the Commonwealth or the Republic of Ireland;

"Governor" (Repealed);

"Law" includes written law, the common law in so far as it is in operation in the Federation or any part thereof, and any custom or usage having the force of law in the Federation or any part thereof;

"Legislative Assembly" means the representatives assembly, however called, in the Legislature of a State (and in particular includes the Council Negri in Sarawak), but except in the Eighth Schedule includes also a Legislative Council, however called;

"Legislative Council" (Repealed);

"Legislature", in relation to a State, means the authority having power under the Constitution of that State to make laws for the State;

"Local rates" (Repealed);

"Malay" means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom and

(a) was before Merdeka Day born in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or is on that day domiciled in the Federation or in Singapore; or

(b) is the issue of such a person;

"Member of the administration" means, in relation to the Federation, a person

holding office as Minister, Deputy Minister, Parliamentary Secretary or Political Secretary and, in relation to a State, a person holding a corresponding office in the State or holding office as member (other than an official member) of the Executive Council;

"Merdeka Day" means the thirty-first day of August, nineteen hundred and fifty-seven;

"Office of profit" means any whole time office in any of the public services, and includes

(a) the office of any judge of the Federal Court, of the Court of Appeal or of a High Court; and

(b) the office of Auditor General; and

(c) the office of a member of the Election Commission, of a member (other than an ex officio member) of a Commission to which Part X applies, or of a member (other than an ex officio member) of any corresponding Commission established by the Constitution of a State; and

(d) any other office not specified in Clause (3) of Article 132 which may be declared by Act of Parliament to be an office of profit;

"Pension rights" includes superannuation rights and provident fund rights;

"Public authority" means the Yang di-Pertuan Agong, the Ruler or Yang di-Pertuan Negeri of a State, the Federal Government, the Government of a State, a local authority, a statutory authority exercising powers vested in it by federal or State law, any court or tribunal other

Art. 160(2):*Definition of "Executive Council": Added by Act 26/1963, section 5, in force from 16-09-1963.*

Definition of "Federal law": See Art. 162(2).

Definition of "Federal purposes": This definition was inserted by Act 25/1963, section 5, in force from 31-08-1957, and replaced the original definition which read as follows:

' "Federal purposes" includes all purposes in connection with matters with respect to which Parliament has power to make laws otherwise than by virtue of Article 76;'

Definition of "Federal purposes": The words "of the Constitution" deleted after "Article 76" by Act A31, section 8, in force from 24-03-1971.

Definition of "Governor": Added by Act 26/1963, section 5, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, deleted the words "and the Yang di-Pertuan Negara in Singapore" which appeared at the end of the definition and corrected an error in the 1964 Reprint by substituting the words "Yang di-Pertuan Negara in Sabah" for "Yang di-Pertuan Negara in Sabah".

Definition of "Governor": Deleted by Act A354, section 41, in force from 27-08-1976. The earlier

definition read as follows:

' "Governor" means the Head of State, by whatever style known, in a State not having a Ruler (and in particular includes the Yang di-Pertuan Negara in Sabah);'

Definition of "Legislative Assembly": The present definition was inserted by Act 26/1963, section 5, in force from 16-09-1963; and replaced the original definition which read as follows:

' "Legislative Assembly" except in the Seventh and Eighth Schedules, includes a Council of State;'

Definition of "Legislative Council": This definition which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

' "Legislative Council" means the Legislative Council continued under Article 164;'

Definition of "Local rates": This definition which was added by Act 26/1963, section 70, in force from 16-09-1963, and repealed by Act 59/1966, section 2, in force from 09-08-1965, read as follows:

' "Local rates", in relation to Singapore, includes the property tax levied for local purposes by the State;'

than the Federal Court, the Court of Appeal and High Courts, or any officer or authority appointed by or acting on behalf or any of those persons, courts, tribunals or authorities;

"Remuneration" includes salary or wages, allowances, pension rights, free or subsidized housing, free or subsidized transport, and other privileges capable of being valued in money;

"Rule Committee" (Repealed);

"Ruler"-

(a) in relation to Negeri Sembilan, means the Yang di-Pertuan Besar acting on behalf of himself and the Ruling Chiefs in accordance with the Constitution of that State; and

(b) in the case of any State, includes except in Clause (2) of Article 181 and the Third and Fifth Schedules, any person who in accordance with the Constitution of that State exercises the functions of the Ruler;

"State" means a State of the Federation;

"State law" means-

(a) any existing law relating to a matter with respect to which the Legislature of a State has power to make law, being a law continued in operation under Part XIII; and

(b) a law made by the Legislature of a State;

"State List" means the Second List set out in the Ninth Schedule;

"State purposes" includes, in relation to any State, the purposes of the State in connection with matters enumerated in the Concurrent List and with any other matters with respect to which the

Legislature of the State has power to make laws;

"Tax" includes an impost or a duty but does not include a rate levied for local purposes or a fee for services rendered;

"The Federation" means the Federation established under the Federation of Malaya Agreement 1957;

"Written law" includes this Constitution and the Constitution of any State;

"Yang di-Pertua Negeri" means the Head of State in a State not having a Ruler.

(3) Unless the context otherwise requires, any reference in this Constitution to a specified Part, Article or Schedule is a reference to that Part or Article of, or that Schedule to, this Constitution, any reference to a specified chapter, clause, section or paragraph is a reference to that chapter of the Part, that clause of the Article, that section of the Schedule, or that paragraph of the clause or section, in which the reference occurs; and any reference to a group of Articles, sections or divisions of Articles or sections shall be construed as including both the first and the last member of the group referred to.

(4) Where under this Constitution a person is required to take and subscribe an oath he shall be permitted, if he so desires, to comply with that requirement by making and subscribing an affirmation.

(5) References in this Constitution to the Federation and its States and to the territories of the Federation or any of its States, and to any officer holding office under the Federation or any authority or body in or for the Federation shall be construed

Art. 160(2): Definition of "Malay": The words "or in Singapore" which appear after "Federation" (in three places) in paragraph (a) were inserted by Act 26/1963, section 70, in force from 16-09-1963, and the words "religion of islam" substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976;".

Definition of "Member of the administration": Added by Act 26/1963, section 5, in force from 16-09-1963, and amended by Act 19/1964, subsection 5(2), in force from 16-09-1963, by substituting the words "Assistant Minister, Parliamentary Secretary or Political Secretary" for "or Assistant Minister" and by deleting the words " and includes in Singapore political secretaries as well as parliamentary secretaries" which appeared at the end. The words "Deputy Minister" substituted for "Assistant Minister" by Act A31, section 10, in force from 24-03-1971.

Definition of "Office of profit": 1. The present definition was inserted by Act 26/1963, section 5, in force from 16-09-1963. The earlier definition, as it stood at the date of repeal, read as follows:

"Office of profit" means any whole-time office in

*any of the public services, and includes the office of the Chief Justice or other judge of the Supreme Court, Auditor General, member of the Election Commission or of any Commission to which Part X applies, and any other office declared by Act of Parliament to be an office of profit;'.
2. Subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.*

3. The words "Federal Court, of the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 38, in force from 24-06-1994.

Definition of "Public authority": The words "Federal Court and High Courts" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976. Subsequently subsection 18(2) of Act A566 provides that a reference to the Federal Court shall be construed as a reference to the Supreme Court. The words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 38, in force from 24-06-1994.

- (a) in relation to any time after the coming into operation of the Federation of Malaya Agreement 1948, and before Merdeka Day, as references to the Federation established under that Agreement, and the States and Settlements comprising it and to the territories of that Federation or any of the States and Settlements comprising it, and to the corresponding officer holding office thereunder or the corresponding authority or body in or for that Federation;
- (b) in relation to any time before the coming into operation of the said Agreement (so far as the context admits) as references to such of the countries, territories, offices, authorities or bodies for the construction of references to which provision was made by Clause 135(2) of the said Agreement, as may be appropriate.
- (6) References in this Constitution to any period shall be construed, so far as the context admits, as including references to a period beginning before Merdeka Day.
- (7) References in this Constitution to the Federation of Malaya Agreement 1948, shall be construed, except where the context otherwise requires, as references to that Agreement as in force immediately before Merdeka Day.

Reprint of the Constitution

- 160A. (1) The authority appointed under federal law for the purpose of revising laws may, with consent of the Yang di-Pertuan Agong, authorize the printing of copies of this Constitution, including all amendments in force at the date of such authorization; and any copy of this Constitution so printed shall be deemed for all purposes to be a true and correct copy of the Federal Constitution.

Art. 160(2): Definition of "Executive Council": Added by Act 26/1963, section 5, in force from 16-09-1963.

Definition of "Federal law": See Art. 162(2).

Definition of "Federal purposes": This definition was inserted by Act 25/1963, section 5, in force from 31-08-1957, and replaced the original definition which read as follows:

' "Federal purposes" includes all purposes in connection with matters with respect to which Parliament has power to make laws otherwise than by virtue of Article 76;'

Definition of "Federal purposes": The words "of the Constitution" deleted after "Article 76" by Act A31, section 8, in force from 24-03-1971.

Definition of "Governor": Added by Act 26/1963, section 5, in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, deleted the words "and the Yang di-Pertuan Negara in Singapore" which appeared at the end of the definition and corrected an error in the 1964 Reprint by substituting the words "Yang di-Pertuan Negara in Sabah" for "Yang di-Pertuan Negara in Sabah".

Definition of "Governor": Deleted by Act A354, section 41, in force from 27-08-1976. The earlier definition read as follows:

' "Governor" means the Head of State, by whatever style known, in a State not having a Ruler (and in particular includes the Yang di-Pertuan Negara in Sabah);'

Definition of "Legislative Assembly": The present definition was inserted by Act 26/1963, section 5, in force from 16-09-1963; and replaced the original definition which read as follows:

' "Legislative Assembly" except in the Seventh and Eighth Schedules, includes a Council of State;'

Definition of "Legislative Council": This definition which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

' "Legislative Council" means the Legislative Council continued under Article 164;'

Definition of "Local rates": This definition which was added by Act 26/1963, section 70, in force from 16-09-1963, and repealed by Act 59/1966, section 2, in force from 09-08-1965, read as follows:

' "Local rates", in relation to Singapore, includes the property tax levied for local purposes by the State;'

Definition of "Malay": The words "or in Singapore" which appear after "Federation" (in three places) in paragraph (a) were inserted by Act 26/1963, section 70, in force from 16-09-1963, and the words "religion of Islam" substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976;'

Definition of "Member of the administration": Added by Act 26/1963, section 5, in force from 16-09-1963, and amended by Act 19/1964, subsection 5(2), in force from 16-09-1963, by substituting the words "Assistant Minister, Parliamentary Secretary or Political Secretary" for "or Assistant Minister" and by deleting the words " and includes in Singapore political secretaries as well as parliamentary secretaries" which appeared at the end. The words "Deputy Minister" substituted for "Assistant Minister" by Act A31, section 10, in force from 24-03-1971.

Definition of "Office of profit": 1. The present definition was inserted by Act 26/1963, section 5, in force from 16-09-1963. The earlier definition, as it stood at the date of repeal, read as follows:

' "Office of profit" means any whole-time office in any of the public services, and includes the office of the Chief Justice or other judge of the Supreme Court, Auditor General, member of the Election Commission or of any Commission to which Part X applies, and any other office declared by Act of Parliament to be an office of profit;'

2. Subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

3. The words "Federal Court, of the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 38, in force from 24-06-1994.

Definition of "Public authority": The words "Federal Court and High Courts" were substituted for "Supreme Court" by Act 26/1963, section 70, in force from 16-09-1963. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976. Subsequently subsection 18(2) of Act A566 provides that a reference to the Federal Court shall be construed as a reference to the Supreme Court. The words "Federal Court, the Court of Appeal" substituted for the words "Supreme Court" by Act A885, section 38, in force from 24-06-1994.

Authoritative text

160B. Where this Constitution has been translated into the national language, the Yang di-Pertuan Agong may prescribe such national language text to be authoritative, and thereafter if there is any conflict or discrepancy between such national language text and the English language text of this Constitution, the national language text shall prevail over the English language text.

PART XIII**ADDITIONAL PROTECTIONS FOR STATES OF SABAH AND SARAWAK****Use of English and of native languages in States of Sabah and Sarawak**

161. (1) No Act of Parliament terminating or restricting the use of the English language for any of the purposes mentioned in Clauses (2) to (5) of Article 152 shall come into operation as regards the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.

- (2) Clause (1) applies
- (a) to the use of the English language in either House of Parliament by a member for or from the State of Sabah or Sarawak; and
- (b) to the use of the English language for proceedings in the High Court in Sabah

and Sarawak or in a subordinate court in the State of Sabah or Sarawak, or for such proceedings in the Federal Court or the Court of Appeal as are mentioned in Clause (4); and

- (c) to the use of the English language in the State of Sabah or Sarawak in the Legislative Assembly or for other official purposes (including the official purposes of the Federal Government).
- (3) Without prejudice to Clause (1), no such Act of Parliament as is there mentioned shall come into operation as regards the use of the English language for proceedings in the High Court in Sabah and Sarawak or for such proceedings in the Federal Court or the Court of Appeal as are mentioned in Clause (4), until the Act or the relevant provision of it has been approved by enactments of the Legislatures of the States of Sabah and Sarawak; and no such Act shall come into operation as regards the use of the English language in the State of Sabah or Sarawak in any other case mentioned in paragraph (b) or (c) of Clause (2), until the Act or the relevant provision of it has been approved by an enactment of the Legislature of that State.
- (4) The proceedings in the Federal Court or the Court of Appeal referred to in

Art. 160(2): "Definition of "Rule Committee": This definition which read as follows was repealed by Act 26/1963, section 70, in force from 16-09-1963:

"Rule Committee" means the Rule Committee or other authority having power under written law to make rules or orders regulating the practice and procedure of the Supreme Court;".

Definition of "State purposes": Added by Act 25/1963, subsection 5(2), in force from 31-08-1957.

Definition of "Yang di-Pertua Negeri": Inserted by Act A354, section 41, in force from 27-08-1976.

Art. 160(7): Added by Act 59/1966, section 2, in force from 09-08-1965.

Art. 160A: This new Article was inserted by A1130, section 12, in force from 28-09-2001.

At the moment, the Federal Constitution is reprinted from time to time under the authority of the Commissioner of Law Revision pursuant to the Revision of Laws Act 1968. In view of the status of the Federal Constitution as the supreme law of the Federation, it is only proper that specific provision for such reprint be included in the Constitution itself.

Note: Any copy of a reprint of the Federal Constitution under the Revision of Laws Act 1968 [Act 1], which is deemed to be the authentic text of the Federal Constitution under that Act shall continue to be such authentic text until the coming into existence of copies of the Federal Constitution printed under Article 160A as inserted into the Federal Constitution by Act A1130.

Art. 160B: This new Article was also inserted by Act A1130, section 12, in force from 28-09-2001, to enable the Yang di-Pertuan Agong to prescribe the national language translation of the Federal Constitution to be the authoritative text.

Part XIII: The heading "AND SINGAPORE" deleted after "BORNEO STATES" by Act 59/1966, Sch. section 2, in force from 19-09-1966, and the "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Art. 161: The present Article was inserted by Act 26/1963, in force from 16-09-1963. The original Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"161. Except as otherwise expressly provided, this Constitution shall come into operation on Merdeka Day."

Shoulder Note: The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Clauses (2), (3), (4) and (5): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Clause (3): The words "the State of Sabah and Sarawak" substituted for "the Borneo States" by Act A354, section 43, in force from 27-08-1976.

Subsection 18(2) of Act A566, in force from 01-01-1985, provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

Clauses (2) and (3) are any proceedings on appeal from the High Court in Sabah and Sarawak or a judge thereof, and any proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Sabah and Sarawak or a subordinate court in the State of Sabah or Sarawak.

- (5) Notwithstanding anything in Article 152, in the State of Sabah or Sarawak a native language in current use in the State may be used in native courts or for any code of native law and custom, and in the case of Sarawak, until otherwise provided by enactment of the Legislature, may be used by a member addressing the Legislative Assembly or any committee thereof.

Special position of natives of States of Sabah and Sarawak

161A.(1)(Repealed).

(2) (Repealed).

(3) (Repealed).

(4) The Constitutions of the States of Sabah and Sarawak may make provision corresponding (with the necessary modifications) to Article 153.

(5) Article 89 shall not apply to the State of Sabah or Sarawak, and Article 8 shall not invalidate or prohibit any provision of State law in the State of Sabah or

Sarawak for the reservation of land for natives of the State or for alienation to them, or for giving them preferential treatment as regards the alienation of land by the State.

(6) In this Article "native" means

(a) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and

(b) in relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth.

(7) The races to be treated for the purposes of the definition of "native" in Clause (6) as indigenous to Sarawak are the Bukitans, Bisayahs, Dusuns, Sea Dayaks, Land Dayaks, Kadayans, Kalabits, Kayans, Kenyahs (including Sabups and Sipengs), Kajangs (including Sekapans, Kejamans, Lahanans, Punans, Tanjongs and Kanowits), Lugats, Lisums, Malays, Melanos, Muruts, Penans, Sians, Tagals, Tabuns and Ukits.

Art. 161(4): Subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

Art. 161(2)(a), (3) & (4):

The words "Sabah and Sarawak" and "Federal Court or the Court of Appeal" substituted respectively for the words "Borneo" and "Supreme Court" by Act A885, section 39, in force from 24-06-1994.

Art. 161A: 1. Added by Act 26/1963, section 62, in force from 16-09-1963.

2. See Art. 89(7).

3. Clauses (1), (2) and (3) which were repealed by Act A30, section 8, in force from 10-03-1971, read as follows:

"Special position of natives of Borneo States.

161A. (1) Subject to Clause (2), the provisions of Clauses (2) to (5) of Article 153, so far as they relate to the reservation of positions in the public service, shall apply in relation to natives of any of the Borneo States as they apply in relation to Malays.

(2) In a Borneo State Article 153 shall have effect with the substitution of references to natives of the State for the references to Malays, but as regards scholarships, exhibitions and other educational or training privileges and facilities Clause (2) of that Article shall not require the reservation of a fixed proportion for natives.

(3) Before advice is tendered to the Yang di-Pertuan Agong as to the exercise of his powers under Article 153 in relation to a Borneo State, the Chief Minister of the State in question shall be consulted."

Clause (4): The words "which the changes made by Clause (2)" deleted after "Article 153" by Act A30, section 8, in force from 10-03-1971; and the words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Shoulder Note and Clause (5): The words "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

Note:

1. Clause (5) of Article 161 of the Constitution shall, in so far as it relates to the use of a native language in native courts or for any code of native law and customs, apply in the Federal Territory of Labuan in the like manner that it applies in the State of Sabah.

2. The reference in Clause (6)(b) of Article 161A of the Constitution to "Sabah" shall be construed as including a reference to the Federal Territory of Labuan. [See Act A585].

Restriction on extension to non-residents of right to practise before courts in States of Sabah and Sarawak

161B.(1) In so far as any provision made by or under an Act of Parliament, by removing or altering a residence qualification, confers a right to practise before a court in the States of Sabah and Sarawak or either of them on persons not previously having the right, that provision shall not come into operation until adopted in the States or State in question by an enactment of the legislature.

- (2) This Article shall apply to the right to practise before the Federal Court or the Court of Appeal when sitting in the States of Sabah and Sarawak and entertaining proceedings on appeal from the High Court in Sabah and Sarawak or a judge thereof or proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Sabah and Sarawak or a subordinate court in the State of Sabah or Sarawak.

161C. (Repealed).

161D. (Repealed).

Safeguards for constitutional position of States of Sabah and Sarawak

161E.(1) As from the passing of the Malaysia Act no amendment to the Constitution made in connection with the admission to the Federation of the State of Sabah or Sarawak shall be excepted from Clause (3) of Article 159 by Clause (4)(bb) of that Article; nor shall any modification made as to the application of the Constitution to the State of Sabah or Sarawak be so excepted unless the modification is such as to equate or assimilate the position of that State under the Constitution to the position of the States of Malaya.

- (2) No amendment shall be made to the Constitution without the concurrence of the Yang di-Pertua Negeri of the State of Sabah or Sarawak or each of the States of Sabah and Sarawak concerned, if the amendment is such as to affect the operation of the Constitution as regards any of the following matters:
- (a) the right of persons born before Malaysia Day to citizenship by reason of a connection with the State, and

Art. 161B: 1. Added by Act 26/1963, section 63, in force from 16-09-1963.

2. Shoulder Note: The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

3. Clauses (1) and (2): The words "State of Sabah and Sarawak" substituted for "Borneo States" and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force 27-08-1976.

4. Subsection 18(2) of Act A566 provides that a reference to the Federal Court shall now be construed as a reference to the Supreme Court.

5. In Clause (2), the words "Federal Court or the Court of Appeal" and "Sabah and Sarawak" substituted respectively for the words "Supreme Court" and "Borneo" by Act A885, section 40, in force from 24-06-1994.

Art. 161C: Added by Act 26/1963, section 64, in force from 16-09-1963; and repealed by Act A354, section 46, in force from 27-08-1976, read as follows:

Muslims Education in Borneo State.

161C. (1) No Act of Parliament which provides as respects a Borneo State for special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion of persons professing that religion shall be passed without the consent of the Governor.

(2) Where under any provision of federal law not having effect as respects Sabah, or not having effect as respects Sarawak, any such aid as aforesaid is given by way of grant out of public funds in any year, there shall be paid by the Federation to the Government of Sabah or Sarawak, as the case may be, and applied for social welfare purposes in that State, amounts which bear to the revenue derived by the Federation from that State in the year the same proportion as the grant bears to the revenue derived by the Federation from other States in that year.

(3) For the purposes of Clause (2) the revenue derived by the Federation from any State or States

shall be the amount after deduction of any sums assigned to States under Article 110 or the Tenth Schedule; and there shall be disregarded any contributions received by the Federation out of the proceeds of lotteries conducted by the Social and Welfare Services Lotteries Board together with any amounts applied to such aid as aforesaid out of or by reference to those contributions."

Art. 161D: Added by Act 26/1963, section 65, in force from 16-09-1963; and repealed by Act A354, section 46, in force from 27-08-1976, read as follows:

161D. Notwithstanding Clause (4) of Article 11, there may be included in the Constitution of a Borneo State provision that an enactment of the State Legislature controlling or restricting the propagation of any religious doctrine or belief among persons professing the Muslim religion shall not be passed unless it is agreed to in the Legislative Assembly on second or third reading or on both by a specified majority, not being a majority greater than two-thirds of the total number of members of the Assembly."

Art. 161E: 1. Added by Act 26/1963, section 66, in force from 16-09-1963.

2. See Art. 159(1), (4)(bb), 159A.

3. Shoulder Note and Clause (1): The words "States of Sabah and Sarawak" substituted for "Borneo States" and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

4. Clause (2): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976 and "State of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

5. Clause (2)(b): The words "Sabah and Sarawak" substituted for the word "Borneo" by Act A885, section 41, in force from 24-06-1994.

Clauses (3) and (4): The words "State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

(except to the extent that different provision is made by the Constitution as in force on Malaysia Day) the equal treatment, as regards their own citizenship and that of others, of persons born or resident in the State and of persons born or resident in the States of Malaya;

- (b) the constitution and jurisdiction of the High Court in Sabah and Sarawak and the appointment, removal and suspension of judges of that court;
 - (c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, and the executive authority of the State in those matters, and (so far as related thereto) the financial arrangements between the Federation and the State;
 - (d) religion in the State, the use in the State or in Parliament of any language and the special treatment of natives of the State;
 - (e) the allocation to the State, in any Parliament summoned to meet before the end of August 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that Day.
- (3) No amendment to the Constitution

which affects its operation as regards the quota of members of the House of Representatives allocated to the State of Sabah or Sarawak shall be treated for purposes of Clause (1) as equating or assimilating the position of that State to the position of the States of Malaya.

- (4) In relation to any rights and powers conferred by federal law on the Government of the State of Sabah or Sarawak as regards entry into the State and residence in the State and matters connected therewith (whether or not the law is passed before Malaysia Day) Clause (2) shall apply, except in so far as the law provides to the contrary, as if the law had been embodied in the Constitution and those rights and powers had been included among the matters mentioned in paragraphs (a) to (e) of that Clause.
- (5) In this Article "amendment" includes addition and repeal.

161F. (Repealed).

161G. (Repealed).

161H. (Repealed).

PART XIII TEMPORARY AND TRANSITIONAL PROVISIONS

Existing laws

162. (1) Subject to the following provisions of this Article and Article 163, the existing laws shall, until repealed by the authority having power to do so under

Art. 161F-161H:

These Articles which read as follows were added by Act 26/1963, sections 67, 68 and 69, in force from 16-09-1963, and were repealed by Act 59/1966, section 2, in force from 09-08-1965:

'161F. Notwithstanding anything in Article 152, until otherwise provided by enactment of the Legislature of Singapore, the English, Mandarin and Tamil languages may be used in the Legislative Assembly of Singapore, and the English language may be used for the authoritative texts of all Bills to be introduced or amendments thereto to be moved in that Assembly, and of all enactments of that Legislature, and of all subsidiary legislation issued by the government of Singapore.

161G. Nothing in Clause (2) of Article 8 or Clause (1) of Article 12 shall prohibit or invalidate any provision of State law in Singapore for the advancement of Malays; but there shall be no reservation for Malays in accordance with Article 153 of positions in the public service to be filled by recruitment in Singapore, or of permits or licences for the operation of any trade or business in Singapore.

161H. (1) No amendment shall be made to the Constitution without the concurrence of the Governor if the amendment is such as to affect the operation of the Constitution in relation to Singapore as regards any of the following matters:

(a) citizenship of Singapore, and the restriction to citizens of Singapore of the right to be a

member of either House of Parliament for or from Singapore, or to be a member of the Legislative Assembly of Singapore; or to vote at elections in Singapore;

(b) the constitution and jurisdiction of the High Court in Singapore and the appointment, removal and suspension of judges of that court;

(c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, the executive authority of the State in those matters, the borrowing powers of the State and the financial arrangements between the Federation and the State;

(d) the discharge of functions of the Public Services Commission or of the Judicial and Legal Service Commission by a branch established for the State, and the constitution of any such branch;

(e) religion in the State, the use in the State or in Parliament of any language and the special position of the Malays in Singapore;

(f) the allocation to the State, in any Parliament summoned to meet before the end of August 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(2) In this Article "amendment" includes addition and repeal.'

Part XIII: See Art. 160(2), definitions of "Federal law" and "State law".

this Constitution, continue in force on and after Merdeka Day, with such modifications as may be made therein under this Article and subject to any amendments made by federal or State law.

- (2) Where any State law amends or repeals an existing law made by the Legislature of a State, nothing in Article 75 shall invalidate the amendment or repeal by reason only that the existing law, relating to a matter with regard to which Parliament as well as the Legislature of a State has power to make laws, is federal law as defined by Article 160.
- (3) References in any existing law to the Federation established by the Federation of Malaya Agreement 1948, and its territories, and to any officer holding office under that Federation or to any authority or body constituted in or for that Federation (including any references falling to be construed as such references by virtue of Clause 135 of the said

Agreement) shall be construed, in relation to any time on and after Merdeka Day, as references to the Federation (that is to say, the Federation established under the Federation of Malaya Agreement 1957) and its territories and to the corresponding officer, authority or body respectively; and the Yang di-Pertuan Agong may by order declare what officer, authority or body is to be taken for the purposes of this Clause to correspond to any officer, authority or body referred to in any existing law.

- (4) (Repealed).
- (5) Any order made under Clause (4) may be amended or repealed by the authority having power to make laws with respect to the matter to which the order relates.
- (6) Any court or tribunal applying the provision of any existing law which has not been modified on or after Merdeka Day under this Article or otherwise may apply it with such modifications as may be necessary to bring it into accord with the provisions of this Constitution.

Art. 162(3): The words "and to any officer holding office" substituted for "and of any officer holding office" by Act A31, section 9, in force from 24-03-1971.

Art. 162(4): This Clause which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963, the repeal to be without prejudice to the operation of any order made under the Clause:

"(4) The Yang di-Pertuan Agong may, within a period of two years beginning with Merdeka Day, by order make such modifications in any existing law, other than the Constitution of any State, as appear to him necessary or expedient for the purpose of bringing the provisions of that law into accord with the provisions of this Constitution; but before making any such order in relation to a law made by the Legislature of a State he shall consult the Government of that State."

Art. 163-165:1. These Articles which read as follows were repealed by Act 25/1963, section 8, in force from 29-08-1963:

"163. (1) The Emergency Regulations Ordinance 1948, and all subsidiary legislation made thereunder shall, if not sooner ended by a Proclamation under Clause (2), cease to have effect on the expiration of one year beginning with Merdeka Day or, if continued under this Article, on the expiration of a period of one year from the date on which it would have ceased to have effect but for the continuation of last continuation.

(2) The Yang di-Pertuan Agong may at any time repeal the said Ordinance and any subsidiary legislation made thereunder by a Proclamation declaring that the need for the Ordinance has ended.

(3) The said Ordinance and subsidiary legislation may be continued from time to time by a resolution of each House of Parliament.

(4) While the said Ordinance continues in force any subsidiary legislation which could have been made thereunder immediately before Merdeka Day may be validly made thereunder notwithstanding that it is inconsistent with any provision of this Constitution, and Parliament may, notwithstanding anything in this Constitution, by law amend or repeal any provision thereof.

164. (1) The Legislative Council established under the Federation of Malaya Agreement 1948, shall

remain in being on and after Merdeka Day and shall not be dissolved before the first day of January, nineteen hundred and fifty-nine.

(2) If the Election Commission advises the Yang di-Pertuan Agong that it is not reasonably practicable to hold elections to Parliament in accordance with this Constitution before the first day of July, nineteen hundred and fifty-nine, the Yang di-Pertuan Agong may at any time after the first day of January, nineteen hundred and fifty-nine, by Proclamation continue the Legislative Council until such date, not being later than the end of that year, as may be specified in the Proclamation, and the Legislative Council shall continue accordingly and shall stand dissolved on that date.

(3) Until the dissolution of the Legislative Council Chapters 4 and 5 of Part IV shall not apply, and the powers of Parliament under this Constitution shall be exercisable by the Yang di-Pertuan Agong with the advice and consent of the Legislative Council; and accordingly, in relation to the period ending with the dissolution of the Legislative Council, references in this Constitution, other than references in Article 159, to Parliament, either or both Houses of Parliament and an Act of Parliament shall be construed respectively as references to the Yang di-Pertuan Agong with the advice and consent of the Legislative Council, the Legislative Council and an Ordinance enacted by the Yang di-Pertuan Agong with the advice and consent of that Council.

(4) Until the dissolution of the Legislative Council the provisions of the Federation of Malaya Agreement 1948, set out in the first column of the Twelfth Schedule shall continue in force, subject to the modifications set out in the second column of that Schedule and to the following further modifications, that is to say-

(a) for references to a Malay State or a Settlement there shall be substituted references to a State;

(b) for references to the High Commissioner there shall be substituted references to the Yang di-Pertuan Agong; and

(c) for references to the Federal Executive Council there shall be substituted references to the Cabinet, and Article 61 shall apply with necessary modifications.

(7) In this Article "modification" includes amendment, adaptation and repeal.

163. (Repealed).

164. (Repealed).

165. (Repealed).

Succession to property

166. (1) (Repealed).

(2) (Repealed).

(3) Any land vested in the State of Malacca or the State of Penang which immediately before Merdeka Day was occupied or used by the Federation Government or Her Majesty's Government or by any public authority for purposes which in accordance with the provisions of this Constitution become federal purposes shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said public authority, so long as

it is required for federal purposes, and

(a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government; and

(b) shall not be used for federal purposes different from the purposes for which it was used immediately before Merdeka Day without the consent of the Government of the State.

(4) (Repealed).

(5) (Repealed).

(6) (Repealed).

(7) (Repealed).

(8) Any property which was, immediately before Merdeka Day, liable to escheat to Her Majesty in respect of the Government of Malacca or the Government of Penang shall on that day be liable to escheat to the State of Malacca or the State of Penang, as the case may be.

Art. 163-165:165. (1) Subject to Clause (4), Part VII shall not come into operation until the first day of January nineteen hundred and fifty-nine, or such earlier date as may be provided by or under federal law.

(2) Until the coming into operation of Part VII, provisions of Part XI of and the Third, Fourth and Fifth Schedules to the Federation of Malaya Agreement 1948, shall continue in force, but with the following modifications, that is to say-

(a) references to a Malay State or a Settlement shall be construed as references to a State;

(b) references to the High Commissioner and to the High Commissioner in Council shall be construed as references to the Yang di-Pertuan Agong;

(c) references to the Government of a Settlement shall be deleted; and

(d) references to a Settlement Council shall be construed as references to a Council of State.

(3) Until the coming into operation of Part VII, any moneys which under this Constitution (including Part VII) are charged on the Consolidated Fund shall be charged on the revenues of the Federation, and payment thereof shall be made by virtue of this clause without further authority of federal law.

(4) Notwithstanding anything in Clause (1), the following provisions of Part VII shall come into operation on Merdeka Day, that is to say, Articles 96, 105 to 107 and 111."

2. There is a reference to repealed Art. 163 in Art. 162(1).

Art. 166(1) & (2):

These Clauses which read as follows were repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(1) Subject to the provisions of this Article, all property and assets which immediately before Merdeka Day were vested in Her Majesty for the purposes of the Federation or of the colony or Settlement of Malacca or the colony or Settlement of Penang, shall on Merdeka Day vest in the Federation or the State of Malacca or the State of Penang, as the case may be.

(2) Any land in the State of Malacca or the State of Penang which immediately before Merdeka Day was vested in Her Majesty shall on that day vest in the State of Malacca or the State of Penang, as the case may be."

Art. 166(4)-(7): These Clauses which read as follows were repealed by Act 25/1963, section 8, in force from 29-08-1963:

"(4) Any State land which, immediately before Merdeka Day, was occupied or used, without being reserved, by the Federation Government for

purposes which become federal purposes on that day, shall on that day be reserved for those federal purposes.

(5) All property and assets which immediately before Merdeka Day were vested in the Federation Government or some other person on its behalf for purposes which on that day continue to be federal purposes, shall on that day vest in the Federation.

(6) Property and assets which immediately before Merdeka Day were vested in the Federation Government or some other person on its behalf for purposes which on that day become purposes of any State shall on that day vest in that State.

(7) Property and assets other than land which immediately before Merdeka Day were used by a State for purposes which on that day become federal purposes shall on that day vest in the Federation."

Art.167(1)-(5): These Clauses which read as follows were repealed by Act 25/1963, section 8, in force from 29-08-1963:

"167. (1) Subject to the provisions of this Article, all rights, liabilities and obligations of-

(a) Her Majesty in respect of the government of the Federation; and

(b) the Government of the Federation or any public officer on behalf of the Government of the Federation, shall on and after Merdeka Day be the rights, liabilities and obligations of the Federation.

(2) Subject to the provisions of this Article, all rights, liabilities and obligations of-

(a) Her Majesty in respect of the government of Malacca or the government of Penang,

(b) His Highness the Ruler in respect of the government of any State, and

(c) the Government of any State, shall on and after Merdeka Day be the rights, liabilities and obligations of the respective States.

(3) All rights, liabilities and obligations relating to any matter which was immediately before Merdeka Day the responsibility of the Federation Government but which on that date becomes the responsibility of the Government of a State, shall on that day devolve upon that State.

(4) All rights, liabilities and obligations relating to any matter which was immediately before Merdeka Day the responsibility of the Government of a State but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation.

(5) In this Article, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 166 applies."

Rights, liabilities and obligations

167. (1) (Repealed).
 (2) (Repealed).
 (3) (Repealed).
 (4) (Repealed).
 (5) (Repealed).
 (6) The Attorney General shall, on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this Article a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.
 (7) The Federation shall make the like annual payments as fell to be made before Merdeka Day under Article II of the Treaty made on the sixth day of May, eighteen hundred and sixty-nine, between Her Majesty of the one part and the King of Siam of the other part relative to the State of Kedah.

168. (Repealed).

Art. 168: This Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"168. (1) Subject to the provisions of this Article, any legal proceedings pending in any court immediately before Merdeka Day in which Her Majesty or any servant of Her Majesty is a party in respect of the colony or Settlement of Malacca or the colony or Settlement of Penang shall continue on and after Merdeka Day with the State of Malacca or the State of Penang, as the case may be, substituted as a party.

(2) Subject to the provisions of this Article, any legal proceedings pending in any court immediately before Merdeka Day in which the Federation Government or a State Government or any officer of either Government is a party shall continue on and after Merdeka Day with the Federation or, as the case may be, the State substituted as a party.

(3) Any legal proceedings pending in any court immediately before Merdeka Day in which the Federation Government or any officer thereof is a party shall, if the subject matter falls within the executive authority of a State, be continued on and after that day with that State substituted as a party.

(4) Any legal proceedings pending in any court immediately before Merdeka Day in which a State or any officer thereof is a party shall, if the subject matter falls within the executive authority of the Federation, be continued on and after that day with the Federation substituted as a party.

(5) The Attorney General shall, on the application of any party to any proceedings referred to in this Article, certify whether the Federation or a State is in accordance with this Article to be substituted as a party in those proceedings, and any such certificate shall, for the purpose of those

International agreements, etc., made before Merdeka Day

169. For the purposes of Clause (1) of Article 76
- (a) any treaty, agreement or convention entered into before Merdeka Day between Her Majesty or her predecessors or the Government of the United Kingdom on behalf of the Federation or any part thereof and another country shall be deemed to be a treaty, agreement or convention between the Federation and that other country;
 - (b) any decision taken by an international organization and accepted before Merdeka Day by the Government of the United Kingdom on behalf of the Federation or any part thereof shall be deemed to be a decision of an international organization of which the Federation is a member;
 - (c) in relation to the States of Sabah and Sarawak paragraph (a) and (b) shall apply with the substitution of references to Malaysia Day for the references to Merdeka Day and of references to the territories comprised in those States or any of them for the references to the Federation or any part thereof.

proceedings, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves."

Art. 169(c):1. Added by Act 26/1963, section 41, in force from 16-09-1963.

2. The words "and to Singapore" which appeared after "Borneo States" were deleted by Act 59/1966, section 2, in force from 09-08-1965.

3. The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Art. 170: This Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"170. (1) Subject to the provisions of this Article, any person who, immediately before Merdeka Day, was qualified to make application for registration as a citizen of the Federation under Clause 126 of the Federation of Malaya Agreement 1948, shall be entitled, upon making application to the registration authority within the period of one year beginning with that day, to be registered as a citizen.

(2) A person who has absented himself from the Federation for a continuous period of five years within the ten years immediately preceding his application under this Article shall not be entitled to be registered thereunder unless it is certified by the Federal Government that he has maintained substantial connection with the Federation during that period.

(3) This Article shall be construed as one with Part III; and Articles 18 and 26 shall apply in relation to registration under this Article, and to persons registered as citizens thereunder, as they apply in relation to registration under Article 16 and to persons registered under that Article."

170. (Repealed).
 171. (Repealed).
 172. (Repealed).
 173. (Repealed).
 174. (Repealed).

Director of Audit to be first Auditor General

175. The person holding office as Director of Audit immediately before Merdeka Day shall, as from that day, hold office as Auditor General on terms and conditions not less favourable than those applicable to him immediately before Merdeka Day.

Transfer of officers

176. (1) Subject to the provisions of this Constitution and any existing law, all persons serving in connection with the affairs of the Federation immediately before Merdeka Day shall continue to have the same powers and to exercise the same functions on Merdeka Day on the same terms and conditions as were

applicable to them immediately before that day.

- (2) This Article does not apply to the High Commissioner or the Chief Secretary.

Waiver or postponement of oath of office where appointment continues under this Part

177. A person who, under any provisions of this Part, holds office under the Federation by virtue of having been the holder of a corresponding office immediately before Merdeka Day may, until Parliament otherwise provides, perform his functions without taking the oath required in the case of other holders of that office.

Remuneration after Merdeka Day

178. Until Parliament otherwise provides, the remuneration payable to the persons holding the offices of Prime Minister and other Ministers shall be the same as was payable, immediately before Merdeka Day, to the Chief Minister and other Ministers of the Federation respectively.

Art. 171: 1. This Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963, the repeal to be without prejudice to the operation of any law referring to the number of constituencies specified in Clause (2):
 "171. (1) Article 116 shall not apply to the first election to the House of Representatives, but for that election the Federation shall be divided into constituencies by dividing into two constituencies each of the constituencies delimited for the purpose of elections to the Legislative Council under the Federation of Malaya Agreement 1948.
 (2) The number of constituencies for the purpose of the first elections to be held after Merdeka Day to the Legislative Assemblies of the several States shall be as set out in the following Table, and those constituencies shall be delimited by dividing the constituencies delimited for the purpose of the first election to the House of Representatives.

Table			
Johore	32	Penang	24
Kedah	24	Perak	40
Kelantan	30	Perlis	12
Malacca	20	Selangor	28
Negeri Sembilan	24	Trengganu	24.
Pahang	24		

2. See 8th Sch. section 21(1).

Art. 172: This Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963, the repeal to be without prejudice to the continuance of any court referred to in the Article:

"172. The Supreme Court in existence immediately before Merdeka Day shall be the Supreme Court for the purposes of this Constitution; and, without prejudice to the generality of Article 162, any other court then exercising jurisdiction and functions shall, until federal law otherwise provides, continue to exercise them."

Art. 173: This Article which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"173. Any appeal or application for leave to appeal from the Supreme Court to Her Majesty in Council which is pending immediately before Merdeka Day

shall on and after Merdeka Day be treated as an appeal or application for leave to appeal under Article 131."

Art. 174: This Article which read as follows was repealed by Act 26/1963, section 70, in force from 16-09-1963:

"174. (1) The Chief Justice and other judges of the Supreme Court holding office immediately before Merdeka Day shall, notwithstanding anything in Article 123, be the Chief Justice and the other judges of the Supreme Court on that day and shall hold office on terms and conditions not less favourable than those applicable to them immediately before that day.

(2) The person holding the office of Attorney General immediately before Merdeka Day shall continue to hold that office on terms and conditions not less favorable than those applicable to him immediately before Merdeka Day and shall, notwithstanding anything in Article 123, be qualified for appointment as a judge of the Supreme Court.

(3) A person who immediately before Merdeka Day was a member of the judicial and legal service of the Federation and would be qualified for appointment as a judge of the Supreme Court if he were a citizen shall be so qualified notwithstanding that he is not a citizen.

(4) A person may, within a period of ten years beginning with Merdeka Day, be appointed to be a judge of the Supreme Court notwithstanding that he is not qualified for appointment under Article 123 if he is and has been for not less than five years qualified to practise as an advocate in a court in any Commonwealth country having unlimited jurisdiction in civil or criminal matters; and a person appointed by virtue of this Clause may be appointed for a fixed period (whether expiring before or after he attains the age of sixty-five).

(5) Without prejudice to the generality of Article 162, nothing in Part IX shall be taken to affect the provisions of the existing law relating to the sitting in the Supreme Court of judges from countries outside the Federation."

Contributions in respect of joint services

179. Any agreement in force immediately before Merdeka Day relating to the proportion of the remuneration payable by the Federation and any State in respect of any such employment as is mentioned in Clause (2) of Article 133 shall continue in force until superseded by a new agreement or federal law.

Preservation of pensions, etc.

180. (1) The Tenth Schedule to the Federation of Malaya Agreement 1948, shall continue in force on and after Merdeka Day, but with the modification that any reference therein to the High Commissioner shall be construed as a reference to the Yang di-Pertuan Agong.
- (2) The said Schedule shall for the purposes of this Constitution be deemed to be federal law and may, subject to the provisions of Article 147, be amended and repealed accordingly.
- (3) In its application to any law made under Clause (2) of Article 147 shall have effect as if references therein to an award included compensation.

PART XIV**SAVING FOR RULERS' SOVEREIGNTY, ETC.****Saving For Rulers' Sovereignty, etc.**

181. (1) Subject to the provisions of this Constitution, the sovereignty, prerogatives, powers and jurisdiction of the Rulers and the prerogatives, powers and jurisdiction of the Ruling Chiefs of Negeri Sembilan within their respective territories as hitherto had and enjoyed shall remain unaffected.
- (2) No proceedings whatsoever shall be brought in any court against the Ruler of a State in his personal capacity except in the Special Court established under Part XV.

PART XV**PROCEEDINGS AGAINST THE YANG DI-PERTUAN AGONG AND THE RULERS****The Special Court**

182. (1) There shall be a court which shall be known as the Special Court and shall consist of the Chief Justice of the Federal Court, who shall be the Chairman, the Chief Judges of the High Courts, and two other persons who hold or have held office as judge of the Federal Court or a High Court appointed by the Conference of Rulers.
- (2) Any proceedings by or against the Yang di-Pertuan Agong or the Ruler of a State in his personal capacity shall be brought in a Special Court established under Clause (1).
- (3) The Special Court shall have exclusive jurisdiction to try all offences committed in the Federation by the Yang di-Pertuan Agong or the Ruler of a State and all civil cases by or against the Yang di-Pertuan Agong or the Ruler of a State notwithstanding where the cause of action arose.
- (4) The Special Court shall have the same jurisdiction and powers as are vested in the inferior courts, the High Court and the Federal Court by this Constitution or any federal law and shall have its registry in Kuala Lumpur.
- (5) Until Parliament by law makes special provision to the contrary in respect of procedure (including the hearing of proceedings in camera) in civil or criminal cases and the law regulating evidence and proof in civil and criminal proceedings, the practice and procedure applicable in any proceedings in any inferior court, any High Court and the Federal Court shall apply in any proceedings in the Special Court.

Art. 181(2):1. See Article 160(2) definition of "Ruler".
2. See Federal Statute Law Revision (Suit Against the Ruling Houses) Act 1966 [Act 8/1966].
3. The words "except in the Special Court established under Part XV" inserted after the word "capacity" by Act A848, section 7, in force from 30-03-1993.

Part XV, Art. 182 & Art. 183:
Added by Act A848, section 7A, in force from 30-03-1993.

Note: No proceedings whatsoever shall be brought in any court in the Special Court against the Yang di-Pertuan Agong or the Ruler of a State in his personal capacity in respect of anything done or omitted to be done by him before the coming into force of the Constitution (Amendment) Act 1993- See section 8 of Act A848.

Art 182: Clause (1): The words "Chief Justice of the Federal Court", "Judges" and "Federal" substituted respectively for the words "Lord President of the Supreme Court", "Justices" and "Supreme" by Act A885, section 42, in force from 24-06-1994.
Clauses (4) and (5) : The word "Federal" substituted for the word "Supreme" by Act A885, section 42, in force from 24-06-1994.
Clause (7): The words "Chief Justice" substituted for the words "Lord President" by Act A885, section 42, in force from 24-06-1994.

- (6) The proceedings in the Special Court shall be decided in accordance with the opinion of the majority of the members and its decision shall be final and conclusive and shall not be challenged or called in question in any court on any ground.
- (7) The Yang di-Pertuan Agong may, on the advice of the Chief Justice, make such rules as he may deem necessary or expedient to provide for the removal of any difficulty or anomaly whatsoever in any written law or in the carrying out of any function, the exercise of any power, the discharge of any duty, or the doing of any act, under any written law, that may be occasioned by this Article; and for that purpose such rules may make any modification, adaptation, alteration, change or amendment whatsoever to any written law.

No action to be instituted against the Yang di-Pertuan Agong or a Ruler except with the consent of the Attorney General personally

183.No action, civil or criminal, shall be instituted against the Yang di-Pertuan Agong or the Ruler of a State in respect of anything done or omitted to be done by him in his personal capacity except with the consent of the Attorney General personally.

FIRST SCHEDULE

[Article 18(1), 19(9)]

Oath of Applicants for Registration or Naturalization

I.....of.....hereby declare on oath that I absolutely and entirely renounce and abjure all loyalty to any country or State outside the Federation, and I do swear that I will be faithful and bear true allegiance to His Majesty the Yang di-Pertuan Agong and be a true, loyal and faithful citizen of the Federation.

First Schedule:

The words "faithful and bear true allegiance to His Majesty the Yang di-Pertuan Agong and be a true, loyal and faithful citizen of the Federation" were substituted for the words "a true, loyal and faithful citizen of the Federation, and will give due obedience to all lawfully constituted authorities in the Federation" by Act 14/1962, section 26, in force from 01-10-1962.

SECOND SCHEDULE

[Article 39]

PART I

[Article 14(1)(a)]

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN BEFORE MALAYSIA DAY

1. (1) Subject to the provisions of Part III of this Constitution and anything done thereunder before Malaysia Day, the following persons born before Malaysia Day are citizens by operation of law, that is to say:
- (a) every person who immediately before Merdeka Day, was a citizen of the Federation by virtue of any of the provisions of the Federation of Malaya Agreement 1948, whether by operation of law or otherwise;
 - (b) every person born within the Federation on or after Merdeka Day and before October 1962;
 - (c) every person born within the Federation after September 1962, of whose parents one at least was at the time of the birth either a citizen or permanently resident in the Federation, or who was not born a citizen of any other country;
 - (d) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of his birth and either was born in the Federation or was at the time of the birth in service under the Government of the Federation or of a State;
 - (e) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of the birth if the birth was, or is, within one year of its occurrence or within such longer period as in any particular case was or is allowed by the Federal Government, registered at a consulate of the Federation or, if it occurred in Singapore, Sarawak, Brunei or North Borneo, registered with the Federal Government.

Second Schedule: PART I

1. Added by Act 26/1963, subsection 24(1), in force from 16-09-1963. Heading amended by Act 59/1966, section 2, in force from 09-08-1965, by the deletion of the words "other than Singapore citizens" which appeared at the end.

2. Section 2: The words "the State of Sabah or Sarawak" substituted for "a Borneo State" and "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

3. See Pt. III, sections 19A-19C.

- (2) A person is not a citizen by virtue of paragraph (b) or (c) of subsection (1) if, at the time of his birth, his father, not being a citizen, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong.
2. Subject to the provisions of Part III of this Constitution, a person ordinarily resident in the State of Sabah or Sarawak or in Brunei on Malaysia Day is a citizen by operation of law if he was immediately before that day a citizen of the United Kingdom and Colonies, and either
- was born in the territories comprised in the States of Sabah and Sarawak; or
 - became such a citizen by registration in those territories or by or in consequence of naturalization there.

PART II

[Article 14(1)(b)]

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN ON OR AFTER MALAYSIA DAY

1. Subject to the provisions of Part III of this Constitution, the following persons born on or after Malaysia Day are citizens by operation of law, that is to say:
- every person born within the Federation of whose parents one at least is at time of the birth either a citizen or permanently resident in the Federation; and
 - every person born outside the Federation whose father is at the time of the birth a citizen and either was born in the Federation or is at the time of the birth in the service of the Federation or of a State; and
 - every person born outside the Federation whose father is at the time of the birth a citizen and whose birth is, within one year of its occurrence or within such longer period as the Federal Government may in any particular case allow, registered at a consulate of the Federation or, if it occurs in Brunei or in a territory prescribed for this purpose by order of the Yang di-

Pertuan Agong, registered with the Federal Government; and

- every person born in Singapore of whose parents one at least is at the time of the birth a citizen and who is not born a citizen otherwise than by virtue of this paragraph; and
 - every person born within the Federation who is not born a citizen of any country otherwise than by virtue of this paragraph.
2. (1) A person is not a citizen by virtue of paragraph (a), (d) or (e) of section 1 if, at the time of his birth, his father, not being a citizen, possesses such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong, or if his father is then an enemy alien and the birth occurs in a place under the occupation of the enemy.
- (2) In section 1 the reference in paragraph (b) to a person having been born in the Federation includes his having been born before Malaysia Day in the territories comprised in the States of Sabah and Sarawak.
- (3) For the purposes of paragraph (e) of section 1 a person is to be treated as having at birth any citizenship which he acquires within one year afterwards by virtue of any provisions corresponding to paragraph (c) of that section or otherwise.

PART III

[Article 31]

SUPPLEMENTARY PROVISIONS RELATING TO CITIZENSHIP

The Minister

- The functions of the Federal Government under Part III of this Constitution shall be exercised by such Minister of that Government as the Yang di-Pertuan Agong may from time to time direct, and references in this Schedule to the Minister shall be construed accordingly.
- A decision of the Federal Government under Part III of this Constitution shall not be subject to appeal or review in any court.
- (Repealed).

Second Schedule: PART I

PART II

1. Added by Act 26/1963, subsection 24(1), in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, deleted the following references to Singapore and Singapore citizens:

- Heading-the words "OTHER THAN SINGAPORE" which appeared at the end thereof;
- Section 1(a) and (e)-the words "or outside Singapore" which appeared after "within the Federation";
- Section 1(a)-the words ", but not a Singapore

citizen," which appeared after "either a citizen"; (d) Sections 1(b),(c) and (d)-the words ", but not a Singapore citizen," which appeared after "of the birth a citizen";

(e) Section 2(2)-the words "or Singapore" which appeared at the end. The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

2. See Pt. III, section 19A-19C.

Section 1(a) and (d): See subsection 2(1).

Section 1(b): See subsection 2(2).

Section 1(c): See subsection 2(3).

Section 1(e): See subsection 2(1),(3).

4. (1) The Minister may delegate to any officer of the Federal Government or, with the consent of the Ruler or Yang di-Pertua Negeri of any State, to any officer of the Government of that State, any of his functions under Part III of this Constitution or this Schedule relating to citizenship by registration and the keeping of registers, and, in relation to orders under paragraph (c) of Clause (1) of Article 25 or under Article 26, any of his functions under Article 27 prior to determining whether to make such an order; but any person aggrieved by the decision of a person to whom the functions of the Minister are so delegated may appeal to the Minister.
- (2) The Minister may also, with the consent of the Yang di-Pertua Negeri of the State, delegate to an authority of the State of Sabah or Sarawak (subject or not to conditions providing for an appeal from that authority to the Minister) any of the Minister's functions under Clause (6) of Article 28A which are not required to be delegated by Clause (7) of that Article.
- (3) Subsection (1) shall apply to enrolments under Clause (2) of Article 19A as it applies to citizenship by registration, and to the cancellation under Clause
- (4) of Article 19A of an enrolment under that Article as it applies to an order under

Article 26.

5. (Repealed).

Functions of Minister

6. Subject to federal law, the Minister may make rules and prescribe forms for the purpose of the exercise of his functions under Part III of this Constitution.
7. Any power of the Federal Government to extend, for purposes of Part III of this Constitution, the period for registering a birth occurring outside the Federation may be exercised either before or after the registration has been effected.
8. (Repealed).
9. Any notice to be given by the Minister to any person under Article 27 may be sent to that person at his last known address, or, in the case of a person under the age of twenty-one years (not being a married woman), to his parent or guardian at the last known address of the parent or guardian; and if an address at which notice may be sent to any person under this section is not known and cannot after reasonable inquiry be ascertained, the notice may be given by publication in the Gazette.
10. (1) It shall be the duty of the Minister to compile and maintain
 - (a) a register of citizens by registration;
 - (b) a register of citizens by naturalization;

Second Schedule: PART I

PART III

1. Numbered as such by Act 26/1963, paragraph 24(1)(a), in force from 16-09-1963, which also inserted the words "of this Constitution" after "Part III" wherever occurring in the Part.

The sections affected are 1,2,4,6,10(1)(d), 16(1)(a), 19,20(1), (2), (3), 21.

2. See Art, 159(4)(a).

Section 2: See note on previous page.

Section 3: This section which read as follows was repealed by Act 10/1960, paragraph 33(b), in force from 01-12-1960:

"3. For the purposes of Part III and this Schedule the Election Commission shall be the registration authority."

Section 4:

1. The present section was inserted by Act 10/1960, paragraph 33(c), in force from 01-12-1960. It has been amended as follows:

(a) by Act 14/1962, subsection 27(1), in force from 01-10-1962, which substituted the words "or this Schedule relating to citizenship by registration and the keeping of registers, and in relations to orders under paragraph (c) of Clause (1) of Article 25 or under Article 26, any of his functions under Article 27 prior to determining whether to make such an order," for "of this Schedule";

(b) by Act 26/1963, subsection 33(3), in force from 16-09-1963, which renumbered the section as "4. (1)" and added subsections (2) and (3);

(c) by Act 59/1966, section 2, in force from 09-08-1965, which deleted the words "or of Singapore" which appeared in subsection (2) after "Borneo State";

(d) subsection (1): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354,

section 42, in force from 27-08-1976;

(e) subsection (2): The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976 and "the State of Sabah or Sarawak" substituted for "a Borneo State" by Act A514, section 19, in force from 27-08-1976.

2. The original section 4 read as follows:

"4. The registration authority may delegate to any officers, or, with the consent of the Yang di-Pertuan Agong or of the Ruler or Governor of any State, to any officer of the Federal Government or of the Government of that State, any of its functions under Part III or this Schedule; but any person aggrieved by the decision of a person to whom functions of the authority are so delegated may appeal to the authority."

3. The following delegations have been made:

(a) under subsection (1):

L.N. (N.S) 114/1957, 10-12/1958, 22-27/1958, 29/1958, 37-38/1958, 47-51/1958, 56-1958, 135-140/1958, 233-235/1958, 255-256/1958, 72/1959;

(b) under subsection (2):

L.N. 39/1964.

Subsection (3): Art. 19A referred to in this subsection has been repealed.

Section 5: This section which was repealed by Act 10/1960, paragraph 33(d), in force from 01-12-1960, read as follows:

"5. Any person aggrieved by a decision of the registration authority may appeal to the Supreme Court on a point of law, but except as aforesaid a decision of the registration authority under Part III shall not be subject to appeal or review in any court."

- (c) a register of persons to whom certificates have been issued under Clause (1) of Article 30;
 - (d) a register of persons who have renounced or been deprived of citizenship under any provision of Part III of this Constitution;
 - (e) (Repealed).
 - (f) an alphabetical index of all persons referred to in paragraphs (a) to (d).
- (2) References in this section to citizens by registration or by naturalization shall be construed in accordance with Article 28 as if this section included among the provisions to which that Article applies.
11. If the Minister has reason to believe that an error appears in any register compiled under section 10, he shall, after giving notice to the person concerned and after considering such representations from him as he may choose to make, make such alteration on the register as appears to the Minister to be necessary to correct the error.
12. Subject to section 11, the said register shall be conclusive evidence of the matters therein contained.
- 13-15. (Repealed).

Offences

16. (1) It shall be an offence punishable with imprisonment for two years or a fine of

one thousand ringgit or both for any person

- (a) knowingly to make any false statement with a view to inducing the Minister to grant or refuse any application under Part III of this Constitution, including any application to determine whether the applicant is a citizen by operation of law; or (b) to forge or without lawful authority alter any certificate, whether issued or granted in the Federation or elsewhere, or without lawful authority use or have in his possession any certificate which has been so forged or altered; or
 - (c) to fail to comply with any requirement imposed upon him by any rules made under section 6 with respect to the delivering up of certificates; or
 - (d) to personate or falsely represent himself to be or not to be a person to whom a certificate, whether issued in the Federation or elsewhere, has been duly issued or granted.
- (2) In this section "certificate" means any certificate of the following descriptions issued under Part III of this Constitution that is to say:
- (a) any certificate of registration or of naturalization as a citizen; and
 - (b) any certificate of registration effected at a consulate of the Federation or

Second Schedule, Part III

Section 6:

1. The present section was inserted by Act 10/1960, paragraph 33(f), in force from 01-12-1960. Act 26/1963, subsection 33(3)-see Sch. 3 Pt. IV, paragraph 10-deleted the words "and this Schedule" which appeared at the end. The original section read as follows:

"6. Subject to federal law, the Minister and the registration authority may make rules and prescribe forms for the purpose of the exercise of their respective functions under Part III and this Schedule."

2. See paragraph 16(1)(c).

3. See Citizenship Rules 1964, in L.N. 82/1964 as amended by L.N. 346/1964, 44/1965, 369/1966, 426/1966.

Section 7: The present section was inserted by Act 26/1963, subsection 33(3), in force from 16-09-1963, and replaced the earlier section which read as follows:

"7. The power of the Federal Government under paragraph (d) of Clause (1) of Article 14 to allow a longer period for the registration of a birth may be exercised either before or after the registration has been effected."

Section 8: This section which was repealed by Act 10/1960, paragraph 33(g), in force from 01-12-1960, read as follows:

"8. Where a certificate of naturalization is granted under Article 19 or Article 20, the Minister shall transmit a copy of the certificate to the registration authority."

Section 9: See section 18.

Section 10:

1. The present section was inserted by Act

10/1960, paragraph 33(h), in force from 01-12-1960. It has been amended as follows:

(a) by Act 26/1963, subsection 33(3), in force from 16-09-1963 which-

(i) inserted the words "Clause (1) of" before "Article 30" in paragraph (1)(c);

(ii) inserted paragraph (1)(e) and (f) in substitution for paragraph (e) which read as follows:

"(e) an alphabetical index of all persons referred to in paragraph (a), (b), (c) and (d) of this subsection."

(iii) substituted subsection (2) for the earlier subsection which read as follows:

"(2) For the purposes of this section-

"citizen by registration" includes a citizen to whom any paragraph (other than paragraph (c)) of Clause (1) of Article 28 applies and a citizen by registration under Article 170;

"citizen by naturalization" includes a citizen to whom paragraph (c) of Clause (1) of Article 28 applies";

(b) by Act 59/1966, section 2, in force from 09-08-1965, which-

(i) repealed paragraph (1)(e), which read as follows and substituted the words "(a) to (d)" for "(a) to (e)" in paragraph (1)(f);

"(e) a register of persons enrolled under Article 19A as citizens who are not Singapore citizens";

(ii) substituted, in subsection (2), the words "Article 28" for "Articles 28 and 28A" and the words "that Article applies" for "those Articles apply, except that "citizen by registration" does not include any Singapore citizen".

2. See section 11.

- elsewhere outside the Federation;
and
(c) any such certificate as is mentioned
in Article 30.

Interpretation

17. For the purposes of Part III of this Constitution references to a person's father or to his parent, or to one of his parents, are in relation to a person who is illegitimate to be construed as references to his mother, and accordingly section 19 of this Schedule shall not apply to such a person.
18. In relation to an adopted child whose adoption has been registered under any written law in force in the Federation, including any such law in force before Merdeka Day, Clause (3) of Article 15 shall have effect as if for the reference to his father there were substituted a reference to the adopter, and references in that Clause and section 9 of this Part of

this Schedule to his parent shall be construed accordingly.

19. Any reference in Part III of this Constitution to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the father's death; and where that death occurred before and the birth occurs on or after Merdeka Day, the status or description which would have been applicable to the father had he died after Merdeka Day shall be deemed to be the status or description applicable to him at the time of his death. This section shall have effect in relation to Malaysia Day as it has effect in relation to Merdeka Day.
- 19A. For the purposes of Part I or II of this Schedule a person born on board a registered ship or aircraft shall be deemed to have been born in the place in which the ship or

Second Schedule, Part III

Subsections (1)(e) and (2): See note on previous page.

Section 11:

1. The word "Minister" was substituted for "registration authority" and "authority", and the word "he" which appears after "section 10" was substituted for "it" by Act 14/1962, Sch. paragraph 14(b), in force from 01-12-1960.

2. See section 12.

Sections 13 to 15: These sections which read as follows were repealed by Act 10/1960 paragraph 33(i), in force from 01-12-1960:

"13. For the purpose of determining any question of fact proof of which is needed for a claim by any person to be a citizen by operation of law, or for registration as a citizen, the registration authority shall be entitled to put such questions to that person, or any other person, as it may consider necessary; and unless the authority has reason to doubt the correctness of the answer to any such question, the answer shall be accepted as correct.

14. Without prejudice to section 13, where any person states that he has attained a specified age, that statement shall, unless the registration authority or the Minister, as the case may be, has reason to doubt its correctness, be accepted as correct notwithstanding that that person cannot specify the date of his birth; and any person who claims to be of legitimate birth shall be treated as of such birth unless the registration authority or the Minister, as the case may be, has reason to suppose that he is of illegitimate birth.

15. Where the registration authority is satisfied of all matters required by Article 17 for the purposes of an application for registration under that Article, they shall give notice to that effect to the Minister, and unless within such period as may be prescribed by rules made by the Minister for the purposes of this section the Minister otherwise directs, the authority shall register the applicant accordingly."

Section 16: The original section which read as follows was replaced by Act 10/1960, paragraph 33(j), in force from 01-12-1960, with a section comprising two subsections:

"16. It shall be an offence punishable with imprisonment for two years or a fine of one thousand dollars or both for any person knowingly to make any false statement with a view to

inducing the registration authority or the Minister to grant or refuse any application under Part III including any application to determine whether the applicant is a citizen by operation of law."

Subsection 16(1): The word "ringgit" substituted for "dollars" by Act 160, section 2, in force from 29-08-1975.

The present subsection (2) was inserted by Act 26/1963, subsection 33(3), in force from 16-09-1963. The words "or under the Constitution of the State of Singapore or any previous law relating to citizenship of Singapore" which appeared after "this Constitution" were deleted by Act 59/1966, section 2, in force from 09-08-1965, Subsection (2) as inserted by Act 10/1960 read as follows:

"(2) In this section "certificate" means-

(a) any certificate of registration as a citizen granted under Article 15, 16, 17 or 170;

(b) any certificate of registration of a birth at a Malayan Consulate under paragraph

(d) of Clause (1) of Article 14;

(c) any certificate of naturalization granted under Article 19 or 20;

(d) any certificate of citizenship issued under Article 30."

Section 17: This section which was inserted by Act 26/1963, subsection 33(3), in force from 16-09-1963, replaced an earlier section which read as follows:

"17. In relation to a person who is illegitimate, Articles 14 and 15 shall have effect as if for references to his father, and Clause (2)(c) of Article 14 as if for references to either of his parents, there were substituted references to his mother and as if section 19 of this Schedule were omitted; and references in Article 15 and this Schedule to his parent shall be construed accordingly."

Section 18: The words "Clause (3) of " which appear before "Article 15" were inserted by Act 26/1963, subsection 33(3), in force from 16-09-1963, which also substituted the words "Clause and section 9 of this Part of" for "Article and".

Section 19: 1. The last sentence was added by Act 26/1963, section 33, in force 16-09-1963.

2. See section 17.

Sections 19A to 19C:

Added by Act 26/1963, subsection 24(2), in force from 16-09-1963.

aircraft was registered, and a person born on board an unregistered ship or aircraft of the Government of any country shall be deemed to have been born in that country.

- 19B. For the purposes of Part I and II of this Schedule any new born child found exposed in any place shall be presumed, until the contrary is shown, to have been born there of a mother permanently resident there; and if he is treated by virtue of this section as so born, the date of the finding shall be taken to be the date of the birth.
- 19C. For the purposes of Part I or II of this Schedule a person shall be treated as having been at any time permanently resident in the Federation if, but only if, he was then resident in the Federation and either-
- (a) he then had permission, granted without limit of time under any federal law, to reside there; or
 - (b) it is certified by the Federal Government that he is to be treated for those purposes as a permanent resident in the Federation.
20. (1) In calculating for the purposes of Part III of this Constitution any residence in the Federation
- (a) a period of absence from the Federation of less than six months;
 - (b) a period of absence from the Federation for the purposes of education of such kind, in such country and for such time as may from time to time be either generally or specially approved by the Minister;
 - (c) a period of absence from the Federation for reasons of health;
 - (d) a period of absence from the Federation on duty in the service of the Federation or of any State, where such period is not inconsistent with the essential

continuity of such residence; and

- (e) a period of absence from the Federation for any other cause prescribed generally or specially by the Minister, shall be treated as residence in the Federation.

- (2) In calculating for the purposes of Part III of this Constitution any residence in the Federation
 - (a) a period during which a person was not lawfully resident in the Federation;
 - (b) a period spent as an inmate of any prison or as a person detained in lawful custody in any other place, other than a mental hospital, under the provisions of any written law of the Federation; and
 - (c) a period during which a person is allowed to remain temporarily in the Federation under the authority of any pass issued or exemption order made under the provisions of any written law of the Federation relating to immigration, shall not, except in the case of any period referred to in paragraph (c), with the consent of the Minister, be treated as residence in the Federation.
- (3) For the purposes of Part III of this Constitution a person shall be deemed to be resident in the Federation on a particular day if he had been resident in the Federation before that day and that day is included in any period of absence referred to in subsection (1).
- (4) This section shall apply in relation to any part of the Federation and the territories comprised in that part before Malaysia Day as it applies in relation to the

Second Schedule, Part III

Section 20: The present section was inserted by Act 14/1962, subsection 27(2), in force from 01-10-1962. Subsection (4) which was added by Act 26/1963, subsection 33(3), in force from 16-09-1963, was amended by Act 59/1966, section 2, in force from 09-08-1965, by the deletion of the words "or Singapore" which appeared after "Borneo States". The original section read as follows:

"20. In calculating for the purposes of Part III a period of residence in the Federation-

- (a) a period of absence from the Federation of less than six months;*
- (b) a period of absence from the Federation for the purposes of education of such kind, in such country and for such time as may from time to time be either generally or specially approved by the Minister; and*
- (c) a period of absence from the Federation for reasons of health or any other cause prescribed generally or specially by the Minister.*

shall be treated as residence in the Federation, and for the purposes of Part III a person shall

be deemed to be resident in the Federation on a particular day if he had been resident in the Federation before that day and that day is included in any such period of absence as aforesaid."

Subsection (1)(d): See subsection 20(4).

Subsection (3): See subsection 20(4).

Subsection 20(4): The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

Section 21: The words "consulate of the Federation" were substituted for "Malayan consulate" by Act 26/1963, subsection 33(3), in force from 16-09-1963.

Section 22: Added by Act 26/1963, subsection 33(3), in force from 16-09-1963.

Third Schedule:

See Art. 160(2) definition of "Ruler".

Heading: The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head" by Act A354, section 11, in force from 27-08-1976.

PART I

Section 2: See section 3.

Federation as a whole, and the reference in subsection (1)(d) to the service of a State shall include, in relation to those territories, the service of any Government having jurisdiction therein before Malaysia Day; and in relation to Malaysia Day or any later day subsection (3) shall apply as if the territories comprised in the States of Sabah and Sarawak had at all times formed part of the Federation.

21. For the purposes of Part III of this Constitution "consulate of the Federation" includes any office exercising consular functions on behalf of the Federation.
22. Except in so far as the context otherwise requires, references in this Schedule to Part III of this Constitution are to be read as including references to this Schedule.

THIRD SCHEDULE

[Articles 32 and 33]

Election of Yang di-Pertuan Agong and Timbalan Yang di-Pertuan Agong

PART I

ELECTION OF YANG DI-PERTUAN AGONG

1. (1) A Ruler is qualified to be elected Yang di-Pertuan Agong unless
 - (a) he is a minor; or
 - (b) he has notified the Keeper of the Rulers' Seal that he does not desire to be elected; or
 - (c) the Conference of Rulers by secret ballot resolves that he is unsuitable by reason of infirmity of mind or body or for any other cause to exercise the functions of Yang di-Pertuan Agong.
- (2) A resolution under this section shall not be carried unless at least five members of the Conference have voted in favour of it.
2. The Conference of Rulers shall offer the office of Yang di-Pertuan Agong to the Ruler qualified for election whose State is first on the election list described in section 4 and, if he does not accept the office, to the Ruler whose State is next on the list, and so on until a Ruler accepts the office.
3. When a Ruler to whom the office of Yang di-Pertuan Agong has been offered in accordance with section 2 has accepted the office, the Conference of Rulers shall declare him elected

and the keeper of the Rulers' Seal shall notify the result of the election in writing to both Houses of Parliament.

4. (1) The election list
 - (a) shall for the purposes of the first election be a list comprising the States of all Rulers in the order in which Their Royal Highnesses then recognize precedence among themselves;
 - (b) shall for the purposes of subsequent elections be that list as varied in accordance with subsection (2) until it is reconstituted under subsection (3), and shall then be the list so reconstituted, but varied, for the purposes of further elections, in accordance with subsection (4).
- (2) That list in force at the first election shall be varied as follows:
 - (a) after each election any States preceding on the list the State whose Ruler was elected shall be transferred (in the order in which they are then on the list) to the end of the list, and the State whose Ruler was elected shall be omitted;
 - (b) whenever there is a change in the Ruler of a State then on the list, that State shall be transferred to the end of the list (and if on the same day there is a change in the Rulers of more than one such State, those States shall be so transferred in the order in which they are then on the list).
- (3) When no State remains on the list as varied in accordance with subsection (2), or if at an election no Ruler of a State on that list is qualified for election or accepts office, the election list shall be reconstituted so as to comprise again the States of all the Rulers, but in the following order, that is to say, those whose Rulers have held the office of Yang di-Pertuan Agong in the order in which their Rulers have held that office, and the others (if any) following them in the order in which they were on the list before it was reconstituted.
- (4) After each election held in accordance with the reconstituted list that list shall be varied as follows:
 - (a) any State preceding on the list the

Third Schedule, Part I

Section 4: See section 2.

Paragraph 4(1)(a): The words "Their Royal Highnesses" substituted for "Their Highnesses" by

Act A31, section 2, in force from 24-03-1971. Subsection (3): See section 10.

State whose Ruler was elected shall be transferred (in the order in which they are then on the list) to the end of the list; and

- (b) the State whose Ruler was elected shall then be placed last.

PART II

ELECTION OF TIMBALAN YANG DI- PERTUAN AGONG

5. A Ruler is qualified to be elected Timbalan Yang di-Pertuan Agong unless
 - (a) he would not be qualified to be elected Yang di-Pertuan Agong; or
 - (b) he has notified the Keeper of the Rulers' Seal that he does not desire to be elected.
6. The Conference of Rulers shall not elect a Timbalan Yang di-Pertuan Agong while the office of Yang di-Pertuan Agong is vacant.
7. The Conference of Rulers shall offer the office of Timbalan Yang di-Pertuan Agong to the Ruler qualified for election who, on the death of the Yang di-Pertuan Agong last elected, would be the first entitled to be offered the office of the Yang di-Pertuan Agong and, if he does not accept it, to the next and so on until a Ruler accepts the office.

PART III

REMOVAL OF YANG DI-PERTUAN AGONG

8. A resolution of the Conference of Rulers to remove the Yang di-Pertuan Agong from office shall not be carried unless at least five members of the Conference have voted in favour of it.

PART IV GENERAL

9. (Repealed).
10. In subsection 4(3) the expression "Ruler" includes a past Ruler.

FOURTH SCHEDULE

[Article 37]

Oaths of Office of Yang di-Pertuan Agong and Timbalan Yang di-Pertuan Agong

PART I

OATH OF YANG DI-PERTUAN AGONG

Kami.....ibni.....Yang di-Pertuan Agong bagi Malaysia bersumpah dengan melafazkan:
Wallahi; Wabillahi; Watallahi; maka dengan lafaz ini berikrarlah Kami dengan sesungguhnya dan dengan sebenarnya mengaku akan taat setia pada menjalankan dengan adilnya pemerintahan bagi Malaysia dengan mengikut sebagaimana undang-undang dan Perlembagaan yang telah disah dan dimasyhurkan dan yang akan disah dan dimasyhurkan di masa hadapan ini. Dan lagi Kami berikrar mengaku dengan sesungguhnya dan dengan sebenarnya memelihara pada setiap masa Agama Islam dan berdiri tetap diatas pemerintahan yang adil dan aman di dalam Negeri.

PART II

OATH OF TIMBALAN YANG DI-PERTUAN AGONG

Kami.....ibni.....yang telah dilantik menjadi Timbalan Yang di-Pertuan Agong bagi Malaysia bersumpah dengan melafazkan:
Wallahi;
Wabillahi;
Watallahi;
dan dengan lafaz ini berikrarlah kami dengan sesungguhnya dan dengan sebenarnya mengaku akan taat setia pada menjalankan tanggungan Kami yang telah ditetapkan dan yang akan ditetapkan pada suatu masa ke suatu masa yang ke hadapan ini oleh undang-undang dan Perlembagaan Negeri Malaysia.

Third Schedule, Part II

Heading: The words "TIMBALAN YANG DI-PERTUAN AGONG" substituted for "DEPUTY SUPREME HEAD" by Act A354, section 11, in force from 27-08-1976.

Section 5, 6 and 7: The words "Timbalan Yang di-Pertuan Agong" substituted For "Deputy Supreme Head" by Act A354, section 11, in force from 27-08-1976.

Section 9:

This section which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"9. An election held in accordance with this

Schedule before Merdeka Day shall be valid and shall take effect on that day."

Fourth Schedule:

The word "Malaysia" was substituted for "Persekutuan Tanah Melayu" in Parts I and II and for "the Federation of Malaya" in Part III by Act 26/1963, section 70, in force from 16-09-1963.

Fourth Schedule, Part III:

The words "Religion of Islam" substituted for "Muslim Religion" and "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Yang di-Pertuan Agong" by Act A354, section 45, 11, in force from 27-08-1976.

PART III
ENGLISH TRANSLATIONS

We.....ibni.....Yang di-Pertuan Agong of Malaysia do hereby swear:

Wallahi;
Wabillahi;
Watallahi;

and by virtue of that oath do solemnly and truly declare that We shall justly and faithfully perform (carry out) our duties in the administration of Malaysia in accordance with its laws and Constitution which have been promulgated or which may be promulgated from time to time in the future. Further We do solemnly and truly declare that We shall at all time protect the Religion of Islam and uphold the rules of law and order in the Country.

We.....ibni.....being elected to be the Timbalan Yang di-Pertuan Agong of Malaysia do hereby swear:

Wallahi;
Wabillahi;
Watallahi;

and by virtue of that oath do solemnly and truly declare that We shall faithfully perform (carry out) our duties as Timbalan Yang di-Pertuan Agong as laid down and as may from time to time be laid down by the laws and the Constitution of Malaysia.

FIFTH SCHEDULE
[Article 38(1)]
The Conference of Rulers

1. The Conference of Rulers shall, subject to the following provisions of this Schedule, consist of Their Royal Highnesses the Rulers and the Yang di-Pertua-Yang di-Pertua Negeri of States not having a Ruler.
2. The place of His Royal Highness the Ruler of any State or the Yang di-Pertua Negeri of any State as a member of the Conference of Rulers may in any case in which the Constitution of that State so provides be taken by such person as that Constitution may provide.

3. The Conference of Rulers shall have a Rulers' Seal, which shall be kept in the custody of a person appointed by the Conference.
4. The person appointed under section 3 shall be known as the Penyimpan Mohor Besar Raja-Raja (Keeper of the Rulers' Seal), shall act as secretary to the Conference of Rulers and shall hold his office at the pleasure of the Conference.
5. A majority of the members of the Conference of Rulers shall form a quorum and, subject to the provisions of this Constitution, the Conference may determine its own procedure.
6. The Keeper of the Rulers' Seal shall convene the **Conference of Rulers** whenever required to do so by the Yang di-Pertuan Agong or by not less than three members of the Conference and, without being so required, not later than four weeks before the expiry of the term of office of the Yang di-Pertuan Agong and whenever a vacancy occurs in that office or in the office of the Timbalan Yang di-Pertuan Agong.
7. The Yang di-Pertuan-Yang di-Pertua Negeri of States not having a Ruler shall not be members of the Conference of Rulers for the purposes of any proceedings relating to the election or removal of the Yang di-Pertuan Agong or the election of the Timbalan Yang di-Pertuan Agong or relating solely to the privileges, position, honours and dignities of Their Royal Highnesses or to religious acts, observances or ceremonies.
8. In any case where the Conference of Rulers is not unanimous it shall take its decision by a majority of the members voting, subject however to the provisions of the Third Schedule.
9. Any consent, appointment or advice of the Conference of Rulers required under this Constitution shall be signified under the Rulers' Seal; and where, in the case of any proposed appointment, a majority of the members of the Conference have indicated, by writing

Fifth Schedule

See Art. 160(2) definition of "Ruler".

Section 1 and 7:

The words "States not having a Ruler" were substituted for "Malacca and Penang" by Act 26/1963, section 6, in force from 16-09-1963.

Section 1:

The words "Their Royal Highness" substituted for "Their Highnesses" by Act A31, section 2, in force from 24-03-1971, and "Yang di-Pertua Negeri-Yang di-Pertua Negeri" substituted for "Governors" by Act A514, section 19, in force from 27-08-1976.

Section 2:

The words "Their Royal Highness" substituted for "Their Highnesses" by Act A31, section 2, in force from 24-03-1971, and "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section

42, in force from 27-08-1976.

Section 3: See section 4.

Section 6:

The words "Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, section 11, in force from 27-08-1976.

Section 7:

The words "Yang di-Pertua" substituted for "Governor" and Timbalan Yang di-Pertuan Agong" substituted for "Deputy Supreme Head of the Federation" by Act A354, sections 42, 11, in force from 27-08-1976, and "Their Royal Highnesses" substituted for "Their Highnesses" by Act A31, section 2, in force from 24-03-1971.

addressed to the Keeper of the Rulers' Seal, that they are in favour of the appointment, he shall so signify the advice of the Conference without convening it.

SIXTH SCHEDULE

[Article 43(6), 43B(4), 57(1A)(a), 59(1), 124, 142(6)]

Forms of Oaths and Affirmations

1. Oath of Office and Allegiance

"I,.....,having been elected (or appointed) to the office of.....do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to Malaysia, and will preserve, protect and defend its Constitution."

(NOTE-A judge of the Federal Court, other than the Chief Justice, a judge of the Court of Appeal or of a High Court or a judicial commissioner shall use the words "my judicial duties in that office" in place of the words "the duties of that office".)

2. Oath as Member of Parliament and of Allegiance

"I,.....,having been elected (or appointed) as a member of the House of Representatives (or the Senate) do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to Malaysia, and will preserve, protect and defend its Constitution."

3. Oath of Secrecy

"I.....,do solemnly swear (or affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as.....except as may be required for the due discharge of my duties as such or as may be specially permitted by the Yang di-Pertuan Agong."

SEVENTH SCHEDULE

[Article 45]

Election of Senators

1. (1) (Repealed).

(2) As often as there is a vacancy among the members elected to the Senate by a State the Yang di-Pertuan Agong shall give notice to the Ruler or Yang di-Pertua Negeri of the State that an election of a Senator is required and the Ruler or Yang di-Pertua Negeri shall require the Legislative Assembly to elect a Senator as soon as may be.

2. (1) The names of candidates for election shall be proposed and seconded by members of the Assembly and the member proposing or the member seconding shall submit a statement in writing, signed by the person nominated, that he is willing to serve as a Senator if elected.

(2) When all the nominations have been received, the presiding officer shall announce the names of the persons nominated in alphabetical order and shall then put their names to the vote in that order.

(3) Each member present shall be entitled to vote for as many candidates as there are vacancies to be filled, and the names of the members voting for each candidate shall be recorded; and if any member casts a vote in addition to those allowed by this subsection that vote shall be void.

(4) The presiding officer shall declare to be elected the candidate or candidates who receive the largest number of votes, but if two or more candidates have an equal number of votes and the number of those candidates is larger than the number of vacancies to be filled, the election of those candidates shall be determined by lot.

3. Notwithstanding anything in section 2, if a vacancy due to the expiry of the term of office of a Senator is to be filled at the same meeting as a vacancy arising in any other way there

Sixth Schedule:

1. The note which appears after paragraph 1 was inserted by Act 26/1963, section 70, in force from 16-09-1963, which also substituted the word "Malaysia" for "the Federation of Malaya" in paragraph. 1 and 2.

2. See Art. 159 (4)(a), 160 (4).

3. In the note to paragraph 1, the words "Federal Court, other than the Chief Justice, a judge of the Court of Appeal or of a High Court, or a judicial commissioner" substituted for the words "Supreme Court, other than the Lord President, or a judge of a High Court"; and the words "or any other" deleted by Act A885, section 43, in force from 24-06-1994.

Seventh Schedule:

PART I:

See Art. 54 (3), 159 (4)(a).

Subsection 1(1):

This subsection which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"1. (1) As soon as may be after the dissolution of the Legislative Council the Yang di-Pertuan Agong shall give notice to the Ruler or Governor of each State that an election of Senators is required and the Ruler or Governor shall require the Legislative Assembly to elect Senators as soon as may be."

Subsection 1(2):

1. See section 5.

2. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

Subsection 2(1): See section 3.

shall first be an election to fill the vacancy due to the expiry of the term and then a separate election to fill the other vacancy.

4. The presiding officer shall certify to the Clerk to the Senate, by writing under his hand, the name of a person elected as Senator in accordance with the provisions of this Schedule.
5. If any question arises whether a member of the Senate has been duly elected in accordance with the provisions of this Schedule, the decision of the Senate shall be taken and shall be final, but the failure to hold an election under subsection 1(2) as soon as may be shall not of itself invalidate the election of any Senator.

EIGHTH SCHEDULE

[Article 71]

Provisions to be Inserted in State Constitutions

PART I

FINAL PROVISIONS

Ruler to act on advice

1. (1) In the exercise of his functions under the Constitution of this State or any law or as a member of the Conference of Rulers the Ruler shall act in accordance with the advice of the Executive Council or of a member thereof acting under the general authority of the Council, except as otherwise provided by the Federal Constitution or the State Constitution; but shall be entitled, at his request, to any information concerning the government of the State which is available to the Executive Council.

(1A) In the exercise of his functions under the Constitution of this State or any law or

as a member of the Conference of Rulers, where the Ruler is to act in accordance with advice or on advice, the Ruler shall accept and act in accordance with such advice.

- (2) The Ruler may act in his discretion in the performance of the following functions (in addition to those in the performance of which he may act in his discretion under the Federal Constitution) that is to say:
 - (a) the appointment of a Menteri Besar;
 - (b) the withholding of consent to a request for the dissolution of the Legislative Assembly;
 - (c) the making of a request for a meeting of the Conference of Rulers concerned solely with the privileges, position, honours and dignities of Their Royal Highnesses or religious acts, observances or ceremonies;
 - (d) any function as Head of the religion of Islam or relating to the custom of the Malays;
 - (e) the appointment of an heir or heirs, consort, Regent or Council or Regency;
 - (f) the appointment of persons to Malay customary ranks, titles, honours and dignities and the designation of the functions appertaining thereto;
 - (g) the regulation of royal courts and palaces.
- (3) State law may make provision for requiring the Ruler to act after consultation with or on the recommendation of any person or body of persons other than the Executive Council in the exercise of any of his functions other than

Seventh Schedule, Part I

Section 5:

The words " , but the failure to hold an election under section 1(2) as soon as may be shall not of itself invalidate the election of any Senator" were added by Act 31/1965, subsection 2(2), in force from 01-07-1965.

Seventh Schedule, PART II

Section 6 and 7:

These sections which read as follows were repealed by Act 25/1963, section 8, in force from 29-08-1963:

"6. The term of office of one of the two Senators elected at the first election held in accordance with the provisions of this Schedule shall be three years, and the Senator whose term is six years shall, if both receive the same number of votes, be determined by lot and shall otherwise be the one who receives the greater number of votes.

7. Of the persons first appointed to be Senators eight shall be appointed for a term of three years."

2. (a) The headings "Election and Retirement of Senators" and "PART I" were deleted by Act A1130, paragraph 13(a) and (c), in force from 28-

09-2001;

(b) The heading of "Election of Senators" were substituted for the heading "ELECTION OF SENATORS" by Act A1130, paragraph 13(b), in force from 28-09-2001;

(c) Part II was deleted by Act A1130, paragraph 13(c), in force from 28-09-2001.

Eighth Schedule:

See Art. 160(2) definitions of "Enactment" and "Legislative Assembly".

Eighth Schedule, PART I

See Art. 71(4), (5), 8th Sch. sections 22, 23.

Section 1(2): See section 22.

Section 1(2)(c): The words "Their Royal Highnesses" substituted for "Their Highnesses" by Act A31, section 2, in force from 24-03-1971.

Section 1(2)(d): The words "religion of Islam" substituted for "Muslim religion" by Act A354, section 45, in force from 27-08-1976.

Section 1(1A): Added by Act A885, section 44, in force from 24-06-1994.

Section 1A: Added by Act A848, section 9, in force from 30-03-1993.

Section 2(1): See Art. 71(5); 8th Sch. section 20.

- (a) functions exercisable in his discretion;
- (b) functions with respect to the exercise of which provision is made in the State Constitution or the Federal Constitution.

Proceedings against the Ruler

- 1A. (1) Where the Ruler is charged with an offence under any law in the Special Court established under Part XV of the Federal Constitution, he shall cease to exercise the functions of the Ruler of the State.
- (2) During the period when the Ruler ceases, under subsection (1), to exercise the functions of the Ruler of the State, a Regent or a Council of Regency, as the case may be, shall be appointed in accordance with the State Constitution to exercise the functions of the Ruler of the State.
- (3) Where the Ruler is convicted of an offence in the Special Court and sentenced to imprisonment for more than one day he shall cease to be the Ruler of the State unless he receives a free pardon.

The Executive Council

2. (1) The Ruler shall appoint an Executive Council.
- (2) The Executive Council shall be appointed as follows, that is to say:
- (a) the Ruler shall first appoint as Menteri Besar to preside over the Executive Council a member of the Legislative Assembly who in his judgment is likely to command the confidence of

the majority of the members of the Assembly; and

- (b) he shall on the advice of the Menteri Besar appoint not more than ten nor less than four other members from among the members of the Legislative Assembly, but if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Legislative Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.
- (3) Notwithstanding anything in this section, a person who is a citizen by naturalization or by registration under Article 17 of the Federal Constitution shall not be appointed Menteri Besar.
- (4) In appointing a Menteri Besar the Ruler may, in his discretion, dispense with any provision in the Constitution of this State restricting his choice of a Menteri Besar, if in his opinion it is necessary to do so in order to comply with the provisions of this section.
- (5) The Executive Council shall be collectively responsible to the Legislative Assembly.
- (6) If the Menteri Besar ceases to command the confidence of the majority of the members of the Legislative Assembly, then, unless at his request the Ruler dissolves the Legislative Assembly, he shall tender the resignation of the Executive Council.

Eighth Schedule, Part I

Section 2(2)(b): The word "ten" substituted for "eight" by Act A919, subparagraph 2(a)(i), in force from 21-07-1995.

Section 2(4): See section 22.

Section 3: The words "namely, the" which appear after "one House" were substituted for "to be known as the Dewan Negeri" by Act 26/1963, section 70, in force from 16-09-1963.

Section 4(1):

1. The words "and until other provision is so made, the number of members shall be the number specified in Article 171 of the Federal Constitution" which appeared at the end of the section were deleted by Act 26/1963, section 70, in force from 16-09-1963.

2. See Art. 71(5), 8th Sch. section 19(5), 21.

Section 4(2):

This subsection which read as follow was inserted by Act 14/1962, paragraph 28(a), in force from 21-06-1962, and was repealed by Act A584, paragraph 4(a), in force from 16-12-1983:

"(2) The number of elected members of the Legislative Assembly shall be the same as or a multiple of the number of the Federal constituencies into which the State is divided under Article 116 of the Federal Constitution."

Section 6: See section 5, 21(2).

Section 6(1)(e):

The present paragraph was inserted by Act 14/1962, paragraph 28(b), in force from 21-06-1962.

The words "(or, before Malaysia Day, in the territories comprised in the Borneo States or in Singapore)" were inserted by Act 26/1963, section 70, in force from 16-09-1963. The original paragraph read as follows:

"(e) he has been convicted of an offence by a court of law in the Federation and sentenced to imprisonment for a term of not less than two years and has not received a free pardon;"

The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976, and "ringgit" substituted for "dollars" by Act 160, section 2, in force from 29-08-1975.

Subsection (2):

The words "or the date on which the fine mentioned in the said paragraph (e) was imposed" were inserted by Act 14/1962, paragraph 28(c), in force from 21-06-1962.

Section 6: Subsection (3) and (4): Added by Act A566, paragraph 21(a), in force from 16-12-1983.

Subsection (5): Added by Act A767, section 6, in force from 11-05-1990.

Section 8: Proviso added by Act 26/1963, subsection 11(2), in force from 16-09-1963.

Subsection (1): Renumbered by Act A566, paragraph 21(b), in force from 16-12-1983.

Subsection (2): Inserted by Act A566, paragraph 21(b), in force from 16-12-1983.

- (7) Subject to subsection (6), a member of the Executive Council other than the Menteri Besar shall hold office at the Ruler's pleasure, but any member of the Council may at any time resign his office.
- (8) A member of the Executive Council shall not engage in any trade, business or profession connected with any subject or department for which he is responsible and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Executive Council relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

Legislature of the State

3. The Legislature of the State shall consist of the Ruler and one House, namely, the Legislative Assembly.

Composition of Legislative Assembly

4. (1) The Legislative Assembly shall consist of such number of elected members as the Legislature may by law provide.
- (2) (Repealed).

Qualifications of members

5. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be a member of the Legislative Assembly, unless he is disqualified for being a member by

the Federal Constitution or this Constitution or by any such law as is mentioned in section 6 to the Eighth Schedule to the Federal Constitution.

Disqualification for membership of Legislative Assembly

6. (1) Subject to the provisions of this section, a person is disqualified for being a member of the Legislative Assembly if
- he is and has been found or declared to be of unsound mind;
 - he is an undischarged bankrupt;
 - he holds an office of profit;
 - having been nominated for election to either House of Parliament or to the Legislative Assembly, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required;
 - he has been convicted of an offence by a court of law in the Federation (or, before Malaysia Day, in the territories comprised in the States of Sabah and Sarawak or in Singapore) and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit and has not received a free pardon;
 - he is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Legislative Assembly by reason

Eighth Schedule, Part I

Section 9(3): Section 4 of Act 27/1968, in force from 09-08-1968, reads as follows:

4. Notwithstanding the provisions of section 9(3) of the Eighth Schedule it is provided that in the case of Sarawak, the Council Negri existing at the commencement of this Act shall not be subject to the prescribed period of five years for it to stand dissolved but shall stand dissolved on the date on which the federal Parliament is next dissolved or next stands dissolved after the date of commencement of this Act."

Section 9(4):1. The words "in the States of Malaya and ninety days in the Borneo States" were inserted by Act 59/1966, section 2, in force from 19-09-1966. The Act also substituted the words "one hundred and twenty days" for "ninety days". The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

2. The words "in the States of Malaya and ninety days in the States of Sabah and Sarawak" were deleted by Act A585, section 27(a), in force from 14 04-1984.

Section 9(5):1. The words "or in the case of the Legislative Assembly of each of the Borneo States within ninety days" were inserted by Act 59/1966, section 2, in force from 19-09-1966, and the words "is established that there is a vacancy" were substituted for "occurs" by Act 26/1963, subsection 11(2), in force from 16-09-1963. The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A354, section 43, in force from 27-08-1976, and proviso inserted by Act A1, section 3, in force from 18-11-1968.

2. The words "or in the case of each of the

Legislative Assembly of each of the States of Sabah and Sarawak within ninety days" were deleted by Act A585, paragraph 27(b), in force from 14-04-1984.

3. The words "by the Election Commission" were inserted after the words "it is established" by Act A585, paragraph 27(c), in force from 14-4-1984.

4. The proviso was inserted by Act A857, section 4, in force from 20-08-1993. The previous proviso read as follows:

"Provided that if a casual vacancy is established on a date within six months of the date the Legislative Assembly shall, in accordance with subsection (3) of this section stand dissolved, such casual vacancy shall not be filled.

Section 10:See section 23.

Sections 10(1), (1A), (1B) and (2): Substituted for sections 10(1) and (2) by Act A919, subparagraph 2(a)(ii), in force from 21-07-1995. The original section 10(1) and before amendment read as follows:

"10. (1) The Legislative Assembly shall from time to time choose one of its members to be Speaker and shall transact no business while the office of Speaker is vacant other than the election of a Speaker.

(2) A member holding office as Speaker shall vacate his office on ceasing to be a member of the Legislative Assembly or upon being disqualified under subsection (4), and may at any time resign his office."

Section 10(2):The words "or upon being disqualified under subsection (4)," inserted after the word "Assembly" by Act A514, section 16, in force from 15-05-1981.

- of having been convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence; or
- (g) he has voluntarily acquired citizenship, of, or exercised rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.
- (2) The disqualification of a person under paragraph (d) or paragraph (e) of subsection (1) may be removed by the Ruler and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (d) was required to be lodged or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (e) was released from custody or the date on which the fine mentioned in the said paragraph (e) was imposed, and a person shall not be disqualified under paragraph (g) of subsection (1) by reason only of anything done by him before he became a citizen.
- (3) Notwithstanding anything contained in the foregoing provisions of this section where a member of the Legislative Assembly becomes disqualified from continuing to be a member thereof pursuant to paragraph (e) of subsection (1), or under a law as is referred to in paragraph (f) of subsection (1)
- (a) the disqualification shall take effect upon the expiry of fourteen days from the date on which he was
- (i) convicted and sentenced as specified in the aforesaid paragraph (e); or
- (ii) convicted of an offence or proved guilty of an act under a law as is referred to in the aforesaid paragraph (f); or
- (b) if within the period of fourteen days specified in paragraph (a) an appeal or any other court proceeding is brought in respect of such conviction or sentence, or in respect of being so convicted or proved guilty, as the case may be, the disqualification shall take effect upon the expiry of fourteen days from the date on which such appeal or other court proceeding is disposed of by the court; or
- (c) if within the period specified in paragraph (a) or the period after the disposal of the appeal or other court proceeding specified in paragraph (b) there is filed a petition for a pardon, such disqualification shall take effect immediately upon the petition being disposed of.
- (4) Subsection (3) shall not apply for the purpose of nomination or election of any person to the Legislative Assembly, for which purpose the disqualification shall take effect immediately upon the occurrence of the event referred to in paragraph (e) or (f), as the case may be, of subsection (1).

Eighth Schedule, Part I

Section 10(3):

The words "other" deleted by Act A919, subparagraph (2)(a)(iii), in force from 21-07-1995.

Section 10(4) and (5): Added by Act A514, section 16, in force from 15-05-1981.

Section 11:

Subsections (3) & (4): These subsections which were substituted by Act A566, paragraph 21(c), in force from 16-12-1983 which read as follows:

"(3) A Bill shall become law on being assented to by the Ruler. If for any reason whatsoever the Bill is not assented to within fifteen days of the Bill being presented to the Ruler, he shall be deemed to have assented to the Bill and the Bill shall accordingly become law.

(4) No law shall come into force until it has been published, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect."

Subsequently it was amended by Act A584 which restored the original subsection as it was before the amendment made by Act A566 as it now appears. Subsections (2A) and (2B): Added by Act A885, section 44, in force from 24-06-1994.

Subsection (3): The words "Ruler or as provided in

subsection (2B)" substituted for the word "Ruler," by Act A885, section 44, in force from 24-06-1994.

Section 14 (3):

See section 15, 17(3), 32.

Subsection (3)(c):

Added by Act 19/1964, section 8, in force from 30-07-1964. The words "federal or" which appear before "State law" were inserted by Act 31/1965, subsection 2(2), in force from 01-07-1965, L.N. 289/1965 and 307/1965 corrected a printing error in the First Schedule to Act 31/1965. The words "Islamic religious revenue" substituted for "Muslim revenue" by Act A354, section 45, in force from 27-08-1976.

Section 17(3): The words "(a), (b) and (c)" were substituted for "(a) and (b)" by Act 31/1965, subsection 2(2), in force from 01-07-1965.

Subsection 19(2) and (3): See section 22.

Subsection 19(5): Paragraph (aa) inserted by Act A193, section 6, in force from 05-05-1973.

Subsection 19(6): See section 22.

Sections 19A to 19D:

Inserted by Act A354, section 47, in force from 27-08-1976.

In Subsection 19D(1), the word "Judge" substituted for the word "Justice" by Act A885, section 44, in force from 24-06-1994.

- (5) A person who resigns his membership of the Legislative Assembly of this State or any other State, shall, for a period of five years beginning with the date on which his resignation takes effect, be disqualified from being a member of the Legislative Assembly of this State.

Provision against double membership

7. A person shall not at the same time be a member of the Legislative Assembly for more than one constituency.

Decision as to disqualification

8. (1) If any question arises whether a member of the Legislative Assembly has become disqualified for membership, the decision of the Assembly shall be taken and shall be final:

Provided that this section shall not be taken to prevent the practice of the Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

- (2) Where a member of the Legislative Assembly becomes disqualified under paragraph (e) of subsection (1) of section 6, or under a law as is referred to in paragraph (f) of subsection (1) of section 6, the foregoing subsection (1) shall not apply, and he shall cease to be a member of the Legislative Assembly, and his seat shall become vacant, immediately upon his disqualification taking effect in accordance with subsection (3) of section 6.

Summoning, prorogation and dissolution of Legislative Assembly

9. (1) The Ruler shall from time to time summon the Legislative Assembly and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session.
- (2) The Ruler may prorogue or dissolve the Legislative Assembly
- (3) The Legislative Assembly unless sooner dissolved shall continue for five years from date of its first sitting and shall then stand dissolved.
- (4) Whenever the Legislative Assembly is dissolved a general election shall be held within sixty days from the date of the dissolution and the new Legislative Assembly shall be summoned to meet on a date not later than one hundred and twenty days from that date.

- (5) A casual vacancy shall be filled within sixty days from the date on which it is established by the Election Commission that there is a vacancy:

Provided that if a casual vacancy is established on a date within two years of the date the Legislative Assembly shall, in accordance with subsection (3), stand dissolved, such casual vacancy shall not be filled unless the Speaker notifies the Election Commission in writing that the numerical strength of the party that constitutes a majority of all the members of the Legislative Assembly is being affected by such vacancy, in which event such vacancy shall be filled within sixty days from the date of the receipt of that notification.

Speaker of the Legislative Assembly

10. (1) The Legislative Assembly shall from time to time elect as Speaker such person as the Assembly may determine and shall transact no business when the office of the Speaker is vacant other than the election of the Speaker.
- (1A) A person shall not be elected to be the Speaker unless he is a member or qualified to be a member of the Legislative Assembly.
- (1B) Any person elected as Speaker who is not a member of the Legislative Assembly
- (a) shall, before he enters upon the duties of his office, take and subscribe before the Assembly an oath of office; and
- (b) shall, by virtue of holding his office, be a member of the Assembly additional to the members elected to the Assembly:

Provided that paragraph (b) shall not have effect for the purposes of the provisions of section 2 and no person shall be entitled by virtue of that paragraph to vote on any matter before the Assembly.

- (2) The Speaker may at any time resign his office and shall vacate his office-
- (a) when the Legislative Assembly first meets after a general election;
- (b) on his ceasing to be a member of the Assembly otherwise than by reason of a dissolution thereof or, if he is a member by virtue only of paragraph (b) of subsection (1B), on his ceasing to be qualified to be a member;
- (c) upon being disqualified under subsection (4); or
- (d) if the Assembly at any time so resolves.

- (3) During any absence of the Speaker from a sitting of the Legislative Assembly such member as may be determined by the rules of procedure of the Assembly shall act as Speaker.
- (4) A member who is elected to be the Speaker shall be disqualified from holding such office if after three months of his election to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.

- (5) Where any question arises regarding the disqualification of the Speaker under subsection (4) the decision of the Legislative Assembly shall be taken and shall be final.

Exercise of legislative power

11. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Ruler.
- (2) No Bill or amendment involving expenditure from the Consolidated Fund of the State may be introduced or moved in the Legislative Assembly except by a member of the Executive Council.
- (2A) The Ruler shall within thirty days after a Bill is presented to him assent to the Bill.
- (2B) If a Bill is not assented to by the Ruler within the time specified in subsection (2A), it shall become law at the expiration of the time specified in that subsection in the like manner as if he had assented to it.
- (3) A Bill shall become law on being assented to by the Ruler or as provided in subsection (2B) but no law shall come into force until it has been published, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect.

FINANCIAL PROVISIONS

No taxation unless authorized by law

12. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

Expenditure charged on Consolidated Fund

13. (1) There shall be charged on the Consolidated Fund of the State, in addition to any grant, remuneration or other moneys so charged by any other provision of the Constitution of the State or by State law
 - (a) the Civil List of the Ruler and the remuneration of the Speaker of the Legislative Assembly;
 - (b) all debt charges for which the State is liable; and
 - (c) any moneys required to satisfy any judgment, decision or award against the State by any court or tribunal.
- (2) For the purposes of this provision debt charges include interest, sinking fund charges, repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Annual financial statement

14. (1) Subject to subsection (3), the Ruler shall, in respect of every financial year, cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure of the State for that year, and, unless the State Legislature in respect of any year otherwise provides, that statement shall be so laid before the commencement of the year.
- (2) The estimates of expenditure shall show separately
 - (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
 - (b) subject to subsection (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.
- (3) The estimated receipts to be shown in the said statement do not include any sums received by way of Zakat, Fitrah and Baitulmal or similar Islamic religious revenue; and the sums to be shown under paragraph (b) of subsection (2) do not include
 - (a) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorizing the raising of the loan;

- (b) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust;
 - (c) sums representing any money held by the State which has been received or appropriated for the purpose of any trust fund established by or in accordance with federal or State law.
- (4) The said statement shall also show, so far as is practicable, the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held, and the general heads in respect of which those liabilities are outstanding.

Supply Bill

15. The heads of expenditure to be met from the Consolidated Fund of the State but not charged thereon, other than the sums mentioned in paragraphs (a) and (b) of section 14(3) of the Eighth Schedule to the Federal Constitution, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

Supplementary and excess expenditure

16. If in respect of any financial year it is found-
- (a) that the amount appropriated by the Supply Enactment for that purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Enactment;
 - or
 - (b) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for that purpose by the Supply Enactment, a supplementary estimate showing the sums required or spent shall be laid before the Legislative Assembly and the heads of any such expenditure shall be included in a Supply Bill.

Withdrawals from the Consolidated Fund

17. (1) Subject to the following provisions of this section, no moneys shall be withdrawn from the Consolidated Fund unless they are
- (a) charged on the Consolidated Fund; or
 - (b) authorized to be issued by a Supply Enactment.

- (2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by federal law.
- (3) Subsection (1) does not apply to any such sums as are mentioned in paragraphs (a), (b) and (c) of section 14 (3) of the Eighth Schedule to the Federal Constitution.
- (4) The State Legislature may in respect of any financial year authorize, before the passing of the Supply Enactment, expenditure for part of the year and the issue from the Consolidated Fund of any moneys required to meet that expenditure.

IMPARTIAL TREATMENT OF STATE EMPLOYEES

Impartial treatment of State employees

18. All persons of whatever race in the same grade of the service of the State, shall, subject to the terms and conditions of their employment, be treated impartially.

AMENDMENT OF THE CONSTITUTION

Amendment of the Constitution

19. (1) The following provisions of this section shall have effect with respect to the amendment of the Constitution of this State.
- (2) The provisions affecting succession to the throne and the position of the Ruling Chiefs and similar Malay customary dignitaries may not be amended by the State Legislature.
 - (3) Any other provisions may, subject to the following provisions of this section, be amended by an Enactment of the State Legislature but may not be amended by any other means.
 - (4) A Bill for making an amendment to the said Constitution (other than an amendment excepted from the provisions of this subsection) shall not be passed by the Legislative Assembly unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members thereof.
 - (5) The following amendments are excepted from the provisions of subsection (4), that is to say:
 - (a) any amendment consequential on such a law as is mentioned in section 4 or section 21 of the Eighth Schedule to the Federal Constitution; and
 - (aa) any amendment to the definition of the territory of the State which is made in consequence of the passing of a law altering the boundaries of the State under Article 2 of the Federal Constitution to which the State Legislative Assembly and the

Conference of Rulers have consented under the said Article; and

- (b) any amendment the effect of which is to bring the Constitution of this State into accord with any of the provisions of the said Schedule, but only if it is made after the Legislative Assembly has been elected in accordance with section 4 of that Schedule.
- (6) This section does not invalidate any provision of the Constitution of this State requiring the consent of any body of persons to any amendment affecting-
- (a) the appointment and attributes of an heir or heirs to the throne, of the Ruler's Consort or of the Regent or Members of the Council of Regency of the State;
- (b) the removal, withdrawal, or abdication of the Ruler or his heir or heirs;
- (c) the appointment and attributes of the Ruling Chiefs or similar Malay customary dignitaries and of members of religious or customary Advisory Councils or similar bodies;
- (d) the establishment, regulation, confirmation and deprivation of Malay customary ranks, titles, honours, dignities and awards and the attributes of the holders thereof and the regulation of the royal courts and palaces.
- (7) In this section "amendment" includes addition and repeal.

**PROVISIONS IN RESPECT OF YANG DI-
PERTUA NEGERI IN RELATION TO THE
STATES OF MALACCA,
PENANG, SABAH AND SARAWAK Yang di-
Pertua Negeri**

- 19A. (1) There shall be a Yang di-Pertua Negeri of the State who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Chief Minister.
- (2) The Yang di-Pertua Negeri shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Legislative Assembly of the State supported by votes of not less than two-thirds of the total number of its members.
- (3) The Legislature may by law make provision for enabling the Yang di-Pertuan

Agong, acting in his discretion but after consultation with the Chief Minister, to appoint a person to exercise the functions of the Yang di-Pertua Negeri during any period during which the Yang di-Pertua Negeri is unable to do so himself owing to illness, absence or any other cause; but no person shall be so appointed unless he would be qualified to be appointed a Yang di-Pertua Negeri.

- (4) A person appointed under subsection (3) may take the place of the Yang di-Pertua Negeri as a member of the Conference of Rulers during any period during which under that subsection he may exercise the functions of the Yang di-Pertua Negeri.

**Qualifications and disabilities of Yang di-
Pertua Negeri**

- 19B. (1) A person who is not a citizen or is a citizen by naturalization or by registration under Article 17 of the Federal Constitution shall not be appointed a Yang di-Pertua Negeri.
- (2) The Yang di-Pertua Negeri shall not hold any office of profit and shall not actively engage in any commercial enterprise.

Civil List of Yang di-Pertua Negeri

- 19C. The Legislature shall by law provide a Civil List of the Yang di-Pertua Negeri, which shall be charged on the Consolidated Fund and shall not be diminished during his continuance in office.

Oath of office of Yang di-Pertua Negeri

- 19D. (1) The Yang di-Pertua Negeri shall before exercising his functions take and subscribe in the presence of the Chief Judge or of a judge of the High Court, an oath or affirmation in the following form, that is to say:
- "I,.....having been appointed Yang di-Pertua Negeri of the State of.....do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of..... and to the Federation of Malaysia, and that I will preserve, protect and defend the Constitution of the Federation of Malaysia and the Constitution of the State of.....".

- (2) Any law made under subsection (3) of section 19A shall make provision corresponding (with necessary modifications) to subsection (1)

PART II
TEMPORARY PROVISIONS ALTERNATIVE TO
PROVISIONS IN PART I
The Executive Council
(alternative to section 2)

- 20.(1) The Ruler shall appoint an Executive Council.
- (2) The Executive Council shall be appointed as follows, that is to say:
- (a) the Ruler shall first appoint as Menteri Besar to preside over the Executive Council a person who in his judgment is likely to command the confidence of the majority of the Assembly; and
- (b) he shall on the advice of the Menteri Besar appoint not more than ten nor less than four other persons.
- (3) Notwithstanding anything in this section, a person who is a citizen by naturalization or by registration under Article 17 of the Federal Constitution shall not be appointed Menteri Besar.
- (4) In appointing a Menteri Besar the Ruler may, in his discretion, dispense with any provision in the Constitution of this State restricting his choice of a Menteri Besar, if in his opinion it is necessary to do so in order to comply with the provisions of this section.
- (5) The Executive Council shall be collectively responsible to the Legislative Assembly.
- (6) The Menteri Besar shall cease to hold office at the expiration of a period of three months from the date of his appointment,

unless before the expiration of that period a resolution of confidence in him has been passed by the Legislative Assembly; and if at any time he ceases to command the confidence of the majority of the members of the Legislative Assembly, then unless at his request the Ruler dissolves the Legislative Assembly, he shall tender the resignation of the Executive Council.

- (7) Subject to subsection (6), a member of the Executive Council other than the Menteri Besar shall hold office at the Ruler's pleasure, but any member of the Council may at any time resign his office.
- (8) A member of the Executive Council shall not engage in any trade, business or profession connected with any subject or department for which he is responsible and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Executive Council relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

Composition of Legislative Assembly
(alternative to section 4)

- 21.(1) The Legislative Assembly shall consist of
- (a) such number of elected members as the Legislature may by law provide; and
- (b) such number of other members, being less than the number of elected members, as the Ruler may

Eighth Schedule

PART II:

See Art. 71(5), 8th Sch. section 22.

Paragraph 20(2)(b): The word "ten" substituted for "eight" by Act A919, paragraph 2(b), in force from 21-07-1995.

Subsection 20(3): Art. 17 which is referred to in this subsection has been repealed.

Subsection 20(4): See section 22.

Eighth Schedule, Part II

Section 21:

1. See paragraph 19(5)(a).

2. Art. 171 which is referred to in subsection (1) has been repealed.

PART III:

Section 22: The words "and Chief Minister" which appeared after "Governor", "respectively" which appeared after "shall be substituted" and "and the Menteri Besar" which appeared after "Ruler" were deleted by Act 26/1963, section 70, in force from 16-09-1963. The words "Yang di-Pertua Negeri" substituted for "Governor" by Act A354, section 42, in force from 27-08-1976.

The words "section 1A" inserted after the words "section 1(2)," by Act A849, section 3, in force from 16-07-1993.

Section 23: Added by Act 26/1963, subsection 12(3), in force from 16-09-1963. Act 59/1966, section 2, in force from 09-08-1965, substituted the words "and Sarawak" for ", Sarawak and Singapore" in

subsection (1) and the words "or Sarawak" for ", Sarawak or Singapore" in subsection (2).

Subsection 23(1):

1. The words "except for the modifications of section 10 stated in subsection (2) of this section" deleted by Act A919, subparagraph 2(c)(i), in force from 21-07-1995.

2. Subsection 23(1) renumbered as section 23 by Act A919, subparagraph 2(c)(ii), in force from 21-07-1995.

Subsection 23(2):

Deleted by Act A919, subparagraph 2(c)(iii), in force from 21-07-1995. The original subsection 23(2) before amendment read as follows:

"(2) Section 10 in its application to the State of Sabah or Sarawak may be modified by the substitution for the words "one of its members to be Speaker" in subsection

(1) of the words "as Speaker such person as the Assembly may determine", by the omission of the word "other" in subsection (3), and by the addition of a subsection (4):

"(4) A person shall not be chosen to be Speaker, unless he is a member or qualified to be a member of the Legislative Assembly, and the Speaker, whether a member or not, shall vacate his office on the dissolution of the Assembly, and may at any time resign his office."

appoint, and, until other provision is made as aforesaid, the number of elected members shall be the number specified in Article 171 of the Federal Constitution.

- (2) Notwithstanding anything in section 6 of the Eighth Schedule to the Federal Constitution, a person shall not be disqualified for being an appointed member of the Legislative Assembly by reason only that he holds an office of profit.

PART III MODIFICATIONS OF PARTS I AND II IN RELATION TO MALACCA AND PENANG

22. In the application of Parts I and II of this Schedule to the State of Malacca and Penang references to the Yang di-Pertua Negeri shall be substituted for references to the Ruler, and the following shall be omitted, that is to say, paragraphs (c) to (g) of subsection 1(2), section 1A, subsection 2(4), subsection 19(2) and (6), subsection 20(4), in subsection 14(3) the words preceding "the sums to be shown under paragraph (b)" and in subsection 19(3) the word "other" in the first place where it occurs.
23. Part I of this Schedule shall apply to the States of Sabah and Sarawak as it applies to the States of Penang and Malacca.

NINTH SCHEDULE

[Articles 74, 77]

Legislative Lists

List I—Federal List

1. External affairs, including
 - (a) Treaties, agreements and conventions with other countries and all matters which bring the Federation into relations with any other country;
 - (b) Implementation of treaties, agreements and conventions with other countries;
 - (c) Diplomatic, consular and trade representation;
 - (d) International organizations; participation in international bodies and implementation of decisions taken thereat;
 - (e) Extradition; fugitive offenders; admission into, and emigration and expulsion from, the Federation;
 - (f) Passports; visas; permits of entry or other certificates; quarantine;
 - (g) Foreign and extra-territorial jurisdiction; and
 - (h) Pilgrimages to places outside Malaysia.
2. Defence of the Federation or any part thereof, including
 - (a) Naval, military and air forces and other armed forces;
 - (b) Any armed forces attached to or operating with any of the armed forces of the Federation; visiting forces;
 - (c) Defence works; military and protected areas; naval, military and air force bases; barracks, aerodromes and other works;

Ninth Schedule, List I:

See Art. 74(1), 76A(1), 79(1), 95B(1), (3).

Item 1(h): The word "Malaysia" was substituted for "Malaya" by Act 26/1963, section 70, in force from 16-09-1963.

Item 4(a): The words "Syariah Courts" substituted for "Muslim Courts" by Act A354, section 45, in force from 27-08-1976.

Item 4(e)(ii): The word "legitimacy" in line three was inserted by Act 31/1965, subsection 2(2), in force from 01-07-1965. The words "Islamic personal law" substituted for "Muslim personal law" by Act A354, section 44, in force from 27-08-1976.

Item 4(h) and (i): The words "or dealt with by federal law" which appear at the end were inserted by Act 25/1963, paragraph 6(1)(a), in force from 29-08-1963.

Item 4(k): The words "and other personal laws" were inserted by Act 26/1963, section 70, in force from 16-09-1963. The words "Islamic Law" substituted for "Muslim Law" by Act A354, section 45, in force from 27-08-1976.

Item 11(b): The words "Water supplies, rivers, and canals, except those wholly within one State or" at the commencement were substituted for "Inter State water supplies and rivers and canals so far as not" by Act 26/1963, section 70, in force from 16-09-1963.

Item 12: The words "Islamic law" substituted for "Muslim law" by Act A354, section 45, in force from 27-08-1976.

Item 14: See List IIIA, item 18.

Item 15(c): The words "Wakafs" substituted for "Muslim Wakafs" by Act A354, section 45, in force from 27-08-1976.

Item 24: This Item which read as follows was repealed by Act A704, section 12, in force from 10-06-1988:

"24. Federal housing and improvement trusts."

Item 25A: Added by Act A885, section 45, in force from 24-06-1994.

Item 26: The word "Subject" substituted for "Except with respect to Sabah and Sarawak, and subject" by Act A514, section 17, in force from 15-05-1981.

Item 27: 1. Added by Act A566, section 22, in force from 01-02-1974 and the words "and in the case of the Federal Territory of Labuan, the matters enumerated in items 15, 16 and 17 of the Supplement to State List for States of Sabah and Sarawak" were inserted after the word "List" by Act A585, Schedule, in force from 16-04-1984.

2. Subsequently, the words "to the Federal Territories" were substituted for "to the Federal Territory" by Act A1095, subparagraph 20(a)(ii), in force from 01-02-2001.

- (d) Manoeuvres;
 - (e) War and peace; alien enemies and enemy aliens; enemy property; trading with an enemy; war damage; war risk insurance;
 - (f) Arms, fire-arms, ammunition and explosives;
 - (g) National service; and
 - (h) Civil defence.
3. Internal security, including
- (a) Police; criminal investigation; registration of criminals; public order;
 - (b) Prisons; reformatories; remand homes; places of detention; probation of offenders; juvenile offenders;
 - (c) Preventive detention; restriction of residence;
 - (d) Intelligence services; and
 - (e) National registration.
4. Civil and criminal law and procedure and the administration of justice, including
- (a) Constitution and organization of all courts other than Syariah Courts;
 - (b) Jurisdiction and powers of all such courts;
 - (c) Remuneration and other privileges of the judges and officers presiding over such courts;
 - (d) persons entitled to practise before such courts;
 - (e) Subject to paragraph (ii), the following:
 - (i) Contract; partnership, agency and other special contracts; master and servant; inns and inn-keepers; actionable wrongs; property and its transfer and hypothecation, except land; bona vacantia; equity and trusts; marriage, divorce and legitimacy; married women's property and status; interpretation of federal law; negotiable instruments; statutory declarations; arbitration; mercantile law; registration of businesses and business names; age of majority; infants and minors; adoption; succession, testate and intestate; probate and letters of administration; bankruptcy and insolvency; oaths and affirmations; limitation; reciprocal enforcement of judgments and orders; the law of evidence;
 - (ii) the matters mentioned in paragraph (i) do not include Islamic personal law relating to marriage, divorce, guardianship, maintenance, adoption, legitimacy, family law, gifts or succession, testate and intestate;
 - (f) Official secrets; corrupt practices;
 - (g) Use or exhibition of coats of arms, armorial bearings, flags, emblems, uniforms, orders and decorations other than those of a State;
 - (h) Creation of offences in respect of any of the matters included in the Federal List or dealt with by federal law;
- (i) Indemnity in respect of any of the matters in the Federal List or dealt with by federal law;
 - (j) Admiralty Jurisdiction;
 - (k) Ascertainment of Islamic law and other personal laws for purposes of federal law; and
 - (l) Betting and lotteries.
5. Federal citizenship and naturalization; aliens.
6. The machinery of government, subject to the State List, but including
- (a) Elections to both Houses of Parliament and the Legislative Assemblies of the States and all matters connected therewith;
 - (b) The Armed Forces Council and the Commissions to which Part X applies;
 - (c) Federal services including the establishment of services common to the Federation and the States; services common to two or more States;
 - (d) Pensions and compensation for loss of office; gratuities and conditions of service;
 - (e) Government and administration of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya including Islamic law therein to the same extent as provided in item 1 in the State List and in respect of the Federal Territory of Labuan, native law and custom to the same extent as provided in item 13 of the Supplement to State List for States of Sabah and Sarawak;
 - (f) Federal Government contracts;
 - (g) Federal public authorities; and
 - (h) Purchase, acquisition and holding of, and dealing with, property for federal purposes.
7. Finance, including
- (a) Currency, legal tender and coinage;
 - (b) National savings and savings banks;
 - (c) Borrowing on the security of the Federal Consolidated Fund;
 - (d) Loans to or borrowing by the States, public authorities and private enterprise;
 - (e) Public debt of the Federation;
 - (f) Financial and accounting procedure, including procedure for the collection, custody and payment of the public moneys of the Federation and of the States, and the purchase, custody and disposal of public property other than land of the Federation and of the States;
 - (g) Audit and accounts of the Federation and the States and other public authorities;
 - (h) Taxes; rates in the federal capital;
 - (i) Fees in respect of any of the matters in the Federal List or dealt with by federal law;
 - (j) Banking; money-lending; pawnbrokers; control of credit;
 - (k) Bills of exchange, cheques, promissory

- notes and other similar instruments;
- (l) Foreign exchange; and
- (m) Capital issues; stock and commodity exchanges.
8. Trade, commerce and industry, including
- (a) Production, supply and distribution of goods; price control and food control; adulteration of foodstuffs and other goods;
- (b) Imports into, and exports from, the Federation;
- (c) Incorporation, regulation and winding up of corporations other than municipal corporations (but including the municipal corporation of the federal capital); regulation of foreign corporations; bounties on production in or export from the Federation;
- (d) Insurance, including compulsory insurance;
- (e) Patents; designs, inventions; trade marks and mercantile marks; copyrights;
- (f) Establishment of standards of weights and measures;
- (g) Establishment of standards of quality of goods manufactured in or exported from the Federation;
- (h) Auctions and auctioneers;
- (i) Industries; regulation of industrial undertakings;
- (j) Subject to item 2(c) in the State List: Development of mineral resources; mines, mining, minerals and mineral ores; oils and oilfields; purchase, sale, import and export of minerals and mineral ores; petroleum products; regulation of labour and safety in mines and oilfields;
- (k) Factories; boilers and machinery; dangerous trades; and
- (l) Dangerous and inflammable substances.
9. Shipping, navigation and fisheries, including
- (a) Shipping and navigation on the high seas and in tidal and inland waters;
- (b) Ports and harbours; foreshores;
- (c) Lighthouses and other provisions for the safety of navigation;
- (d) Maritime and estuarine fishing and fisheries, excluding turtles;
- (e) Light dues; and
- (f) Wrecks and salvage.
10. Communications and transport, including
- (a) Roads, bridges, ferries and other means of communication if declared to be federal by or under federal law;
- (b) Railways, excluding Penang Hill Railway;
- (c) Airways, aircraft and air navigation; civil aerodromes; provisions for the safety of aircraft;
- (d) Regulation of traffic by land, water and air other than on rivers outside harbour areas wholly within one State;
- (e) Carriage of passengers and goods by land, water and air;
- (f) Mechanically propelled vehicles;
- (g) Posts and telecommunications; and
- (h) Wireless, broadcasting and television.
11. Federal works and power, including
- (a) Public works for federal purposes;
- (b) Water supplies, rivers and canals, except

Ninth Schedule, List II:

See Act. 74(2), 76(1), 79(1), 80(2), 95B(1)(b), (3).

Item 1: The word "adoption," in line four was inserted by Act 31/1965, subsection 2(2), in force from 01-07-1965. The words "Except with respect to the Federal Territory," inserted at the beginning before "Muslim Law" by Act A206, section 11, in force from 01-02-1974. The words "Islamic law" substituted for "Muslim law", "religion of Islam" substituted for "Muslim religion", "Wakafs" substituted for "Muslim Wakafs", "Islamic religious and charitable" substituted for "Muslim religious and charitable", "Islamic religious revenue" substituted for "Muslim revenue", "Islamic public place" substituted for "Muslim public place" and "Syariah courts" substituted for "Muslim courts" by Act A354, section 45, in force from 27-08-1976. Subsequently, the words "Kuala Lumpur, Labuan and Putrajaya" substituted for "Kuala Lumpur and Labuan" by Act A1095, paragraph 20(b), in force from 01-02-2001.

Item 2: The words "Except with respect to the Federal Territory", inserted at the beginning before "Land, including" by Act A206, section 11, in force from 01-02-1974.

Item 2(b): The words "or, in the Borneo States, native reservations" were added by Act 26/1963, section 70, in force from 16-09-1963. The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A354, section 43, in force

from 27-08-1976.

Item 3: The words "Except with respect to the Federal Territory," inserted at the beginning before "Agriculture and forestry" by Act A206, section 11, in force from 01-02-1974.

Item 4: The words "Federal Territory" substituted for "federal capital" by Act A206, section 11, in force from 01-02-1974.

Items 1, 2, 3, 4 and 5: The words "Territories of Kuala Lumpur and Labuan" were substituted for the word "Territory" by Act A585, Schedule, in force from 14-04-1984. The words "Kuala Lumpur, Labuan and Putrajaya" were subsequently substituted for "Kuala Lumpur and Labuan" by Act A1095, paragraph 20(b), in force from 01-02-2001.

Item 4(c): This Item which read as follows was repealed by Act A704, section 12, in force from 10-06-1988:

"(c) Housing and provisions for housing accommodation, improvement trusts."

Item 5(f): See List 1, Item 23. The words "Except with respect to the Federal Territory," inserted at the beginning before "other services" by Act A206, section 11, in force from 01-02-1974.

Paragraph (a) before its repeal by Act A354, section 48, in force from 27-08-1976, read as follows:

"(a) Fire brigades, except in the federal capital;". This paragraph was amended by deleting ", except in the federal capital" by Act A206, section 11, in force from 01-02-1974.

- those wholly within one State or regulated by an agreement between all the States concerned; production, distribution and supply of water power; and
- (c) Electricity; gas and gas works; and other works for the production and distribution of power and energy.
12. Surveys, inquiries and research, including
- (a) Census; registration of births and deaths; registration of marriages; registration of adoptions other than adoptions under Islamic law or Malay custom;
- (b) Survey of the Federation; social, economic and scientific surveys; meteorological organizations;
- (c) Scientific and technical research; and
- (d) Commissions of inquiry.
13. Education, including
- (a) Elementary, secondary, and university education; vocational and technical education; training of teachers; registration and control of teachers, managers and schools; promotion of special studies and research; scientific and literary societies;
- (b) Libraries; museums; ancient and historical monuments and records; archaeological sites and remains.
14. Medicine and health including sanitation in the federal capital, and including
- (a) Hospitals, clinics and dispensaries; medical profession; maternity and child welfare; lepers and leper institutions;
- (b) Lunacy and mental deficiency, including places for reception and treatment;
- (c) Poisons and dangerous drugs; and
- (d) Intoxicating drugs and liquors; manufacture and sale of drugs.
15. Labour and social security including
- (a) Trade unions; industrial and labour disputes; welfare of labour including housing of labourers by employers; employer's liability and workmen's compensation;
- (b) Unemployment insurance; health insurance; widow's orphans' and old age pensions; maternity benefit; provident and benevolent funds; superannuation; and
- (c) Charities and charitable institutions; charitable trusts and trustees excluding Wakafs; Hindu endowments.
16. Welfare of the aborigines.
17. Professional occupations other than those specifically enumerated.
18. Holidays other than State holidays; standard of time.
19. Unincorporated societies.
20. Control of agricultural pests; protection against such pests; prevention of plant diseases.
21. Newspapers; publications; publishers; printing and printing presses.
22. Censorship.
23. Subject to item 5(f) of the State List: theatres; cinemas; cinematograph films; places of public amusement.
24. (Repealed).
25. Co-operative societies.
- 25A. Tourism.
26. Subject to item 9A of the Concurrent List, prevention and extinguishment of fire, including fire services and fire brigades.
27. All matters relating to the Federal Territories, including the matters enumerated in items 2, 3, 4 and 5 of the State List and in the case of Federal Territory of Labuan, the matters enumerated in items 15, 16 and 17 of the Supplement to State List for States of Sabah and Sarawak.

List II-State List

1. Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, partitions and non-charitable trusts; Wakafs and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Islamic religious and charitable endowments,

Ninth Schedule, List II

Item 6(c): The words "Subject to the Federal List, water (including water supplies, rivers and canals)" at the commencement were substituted for "Water, subject to the Federal List, water supplies and canals" by Act 26/1963, section 70, in force from 16-09-1963. Subsequently the words "Subject to the Federal List, water (river and canals but excluding water supplies and services); control of silt; riparian rights." were substituted for "Subject to the Federal List, water (including water supplies, rivers and canals)" by Act A1239, paragraph 4(a), in force from 21-03-2005.

Item 7(f): The words "or dealt with by State law" were added by Act 25/1963, paragraph 6(1)(b), in force from 29-08-1963.

Items 9, 10 and 11: The words "or dealt with by State law" were added by Act 25/1063, paragraph 6(1)(b), in force from 29-08-1963, and paragraph 6(1)(c) added the words "proof of State law and of things done thereunder, and proof of any matter for purposes of State law" at the end of item 9.

Item 12A: Added by Act A704, section 12, in force from 10-06-1988.

Ninth Schedule, List IIA:

Added by Act 26/1963, section 36, in force from 16-09-1963. The word "legitimacy," in line 2 of item 13 was inserted by Act 31/1965, section 2, in force from 01-07-1965.

Heading: The words "States of Sabah and Sarawak" substituted for "Borneo States" by Act A514, section 19, in force from 27-08-1976.

- institutions, trusts, charities and charitable institutions operating wholly within the State; Malay customs; Zakat, Fitrah and Baitulmal or similar Islamic religious revenue; mosques or any Islamic public places of worship, creation and punishment of offences by persons professing the religion of Islam against precepts of that religion, except in regard to matters included in the Federal List; the constitution, organization and procedure of Syariah courts, which shall have jurisdiction only over persons professing the religion of Islam and in respect only of any of the matters included in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by federal law; the control of propagating doctrines and beliefs among persons professing the religion of Islam; the determination of matters of Islamic law and doctrine and Malay custom.
2. Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, land including
 - (a) Land tenure, relation of landlord and tenant; registration of titles and deeds relating to land; colonization, land improvement and soil conservation; rent restriction;
 - (b) Malay reservations or, in the States of Sabah and Sarawak, native reservations;
 - (c) Permits and licences for prospecting for mines; mining leases and certificates;
 - (d) Compulsory acquisition of land;
 - (e) Transfer of land, mortgages, leases and charges in respect of land; easements; and
 - (f) Escheat; treasure trove excluding antiquities.
 3. Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, agriculture and forestry, including
 - (a) Agriculture and agricultural loans; and
 - (b) Forests.
 4. Local government outside the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, including
 - (a) Local administration; municipal corporations; local, town and rural board and other local authorities; local government services, local rates, local government elections;
 - (b) Obnoxious trades and public nuisances in local authority areas; and
 - (c) (Repealed);
 5. Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, other services of a local character, that is to say:
 - (a) (Repealed);
 - (b) Boarding houses and lodging houses;
 - (c) Burial and cremation grounds;
 - (d) Pounds and cattle trespass;
 - (e) Markets and fairs; and
 - (f) Licensing of theatres, cinemas and places of public amusement.
 6. State works and water, that is to say:
 - (a) Public works for State purposes;
 - (b) Roads, bridges and ferries other than those in the Federal List, regulation of weight and speed of vehicles on such roads; and
 - (c) Subject to the Federal List, water (including rivers and canals but excluding water supplies and services); control of silt; riparian rights.
 7. Machinery of the State Government, subject to the Federal List, but including
 - (a) Civil List and State pensions;
 - (b) Exclusive State services;
 - (c) Borrowing on the security of the State Consolidated Fund;

Ninth Schedule, List IIIB:

This list which reads as follows was inserted by Act 26/1963, section 36, in force from 16-09-1963, and repealed by Act 59/1966, section 2, in force from 09-08-1965:

"LIST IIIB—SUPPLEMENT TO CONCURRENT LIST FOR SINGAPORE

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, legitimacy, family law, gifts or succession testate or intestate.

11. Loans to, or borrowing by, the State or statutory authorities exercising powers vested in them by the State law in Singapore.

12. (a) Production, supply and distribution of goods, but not bounties on production; price control and food control, adulteration of foodstuffs and other goods;

(b) Imports into, and exports from, the Federation, but not bounties on export;

(c) Insurance, including compulsory insurance;

(d) Auctions and auctioneers;

(e) Industries; regulation of industrial undertakings;

(f) Banking; money-lending; pawnbrokers.

13. Shipping and navigation, including the matters specified in items 9(a), (b), (c), (e) and (f) of the Federal List.

14. Professional occupations other than those specifically enumerated in the Federal List.

15. Unincorporated societies.

16. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding up of incorporated charities and charitable institutions in the State.

17. Newspapers; publications; publishers; printing and printing presses.

18. Censorship.

19. Theatres; cinemas; cinematograph films; places of public amusement.

20. Until the end of August 1968, and thereafter until Parliament with the concurrence of the State government otherwise provides, elections to the Legislative Assembly."

- (d) Loans for State purposes;
 - (e) Public debt of the State; and
 - (f) Fees in respect of any of the matters included in the State List or dealt with by State Law.
8. State holidays.
 9. Creation of offences in respect of any of the matter included in the State List or dealt with by State law, proofs of State law and of things done thereunder, and proof of any matter for purposes of State law.
 10. Inquiries for State purposes, including commissions of inquiry and collection of statistics with respect to any of the matters included in the State List or dealt with by State law.
 11. Indemnity in respect of any of the matters in the State List or dealt with by State law.
 12. Turtles and rivering fishing.
 - 12A Libraries, museums, ancient and historical monuments and records and archaeological sites and remains, other than those declared to be federal by or under federal law.

List IIA-Supplement to State List for States of Sabah and Sarawak
[Article 95B(1)(a)]

13. Native law and custom, including the personal law relating to marriage, divorce, guardianship, maintenance, adoption, legitimacy, family law, gifts or succession, testate or intestate; registration of adoptions under native law or custom; the determination of matters of native law or custom; the constitution, organization, and procedure of native courts (including the right of audience in such courts), and the jurisdiction and powers of such courts, which shall extend only to the matters included in this paragraph and shall not include jurisdiction in respect of offences except in so far as conferred by federal law.
14. Incorporation of authorities and other bodies set up by State law, if incorporated directly by State law, and regulation and winding up of corporations so created.
15. Ports and harbours, other than those declared to be federal by or under federal law; regulation of traffic by water in ports and harbours or on rivers wholly within the State, except traffic in federal ports or harbours; foreshores.
16. Cadastral land surveys.
17. (Repealed).
18. In Sabah, the Sabah Railway.
19. (Repealed).
20. Subject to the Federal List, water supplies and services.

List IIB-(Repealed)

List III-Concurrent List

1. Social welfare; social services subject to Lists I and II; protection of women, children and young persons.
2. Scholarships.
3. Protection of wild animals and wild birds; National Parks.
4. Animal husbandry; prevention of cruelty to animals; veterinary services; animal quarantine.
5. Town and country planning, except in the federal capital.
6. Vagrancy and itinerant hawkers.
7. Public health, sanitation (excluding sanitation in the federal capital) and the prevention of diseases.
8. Drainage and irrigation.
9. Rehabilitation of mining land and land which has suffered soil erosion.
- 9A. Fire safety measures and fire precautions in the construction and maintenance of buildings.
- 9B. Culture and sports.
- 9C. Housing and provisions for housing accommodation; improvement trusts.
- 9D. Subject to the Federal List, water supplies and services. 9E. Preservation of heritage.

List IIIA-Supplement to Concurrent List for States of Sabah and Sarawak
[Article 95B (1)(b)]

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, legitimacy, family law, gifts or succession, testate or intestate.
11. Adulteration of foodstuffs and other goods.
12. Shipping under fifteen registered tons, including the carriage of passengers and goods by such shipping; maritime and estuarine fishing and fisheries.
13. The production, distribution and supply of water power and of electricity generated by water power.
14. Agricultural and forestry research, control of agricultural pests, and protection against such pests; prevention of plant diseases.
15. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding up of incorporated charities and charitable institutions in the State.
16. Theatres; cinemas; cinematograph films; places of public amusement.
17. Elections to the State Assembly held during the period of indirect elections.
18. In Sabah until the end of the year 1970 (but not in Sarawak), medicine and health, including the matters specified in items 14 (a) to (d) of the Federal List.

List IIIB-(Repealed)**TENTH SCHEDULE****[Articles 109, 112C, 161C(3)]****Grants and Sources of Revenue Assigned to States***Tenth Schedule:**PART I: See Art. 109(1)(a).**Section 1(1): This subsection was substituted by Act A392, section 2, in force from 01-01-1976. The original subsection read as follows:**"1. (1) The capitation grant payable to each State in respect of a financial year shall be at the following rates-**(a) for the first 50,000 persons at the rate of \$15 per person;**(b) for the next 200,000 persons at the rate of \$10 per person;**(c) for the remainder at the rate of \$4 per person, and shall be based on the population of the State as determined at the last census taken before the beginning of the preceding financial year."**The words "and shall be based on the annual population projections of the State as determined by the Federal Government and calculated as of the last population census:**Provided that if the last census was taken one year before the beginning of the financial year, the grant for that particular year shall be based on the population as determined by that population census" substituted for "and shall be based on the population of the State as determined at the census taken before the beginning of the preceding financial year." by Act A514, section 18, in force from 15-05-1981.**Section 1(1): Paragraph (a), (b), (c) and (d) which read as follows were substituted by Act 503, section 2, in force from 01-01-1992:**"(a) for the first 100,000 persons at the rate of \$20 per person;**(b) for the next 150,000 persons at the rate of \$10 per person;**(c) for the next 250,000 persons at the rate of \$3 per persons;**(d) for the remainder at the rate of \$3 per person,"**Section 1(1): Paragraphs (a), (b), (c) and (d) which read as follows were substituted by Act 622, section 2, force from 01-01-2002:**"(a) for the first 50,000 persons at the rate of RM60.00 per person;**(b) for the next 500,000 persons at the rate of RM8.50 per person;**(c) for the next 500,000 persons at the rate of RM9.00 per persons;**(d) for the remainder at the rate of RM9.50 per person,"**Section 1(2): This subsection which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1965:**"(2) Notwithstanding subsection (1), if a capitation grant falls to be made in respect of a financial year beginning before the first day of January, nineteen hundred and fifty-nine, it shall be based on the population of the State as determined at the census taken in the year nineteen hundred and fifty-seven."**PART II: See Art. 109(1)(b).**Section 2: 1. The words "each of the States of Malaya" were substituted for "each State" by Act 26/1963, section 51(a), in force from 16-09-1963.**2. See section 3, 4, 6(2).**Paragraph (a): The words "to a State" which appear after "average cost" were inserted by Act 25/1963, subsection 7(1), in force from 01-01-1958, and the words "State roads in those States" were substituted for "such roads" by Act 26/1963,***PART I****CAPITATION GRANT**

1. (1) The capitation grant payable to each State in respect of a financial year shall be at the following rates:

(a) for the first 100,000 persons at the rate of RM72.00 per person;

section 51(a), in force from 16-09-1963. The words "including the cost of repairing and maintaining any bridges, viaducts or culverts forming part thereof or connected therewith," which appear after, "State road" were inserted by Act 59/1966, section 2, in force from 01-01-1963.

Section 2(a): The words, "including the cost of repairing and maintaining any bridges, viaducts or culverts forming part thereof or connected therewith," deleted from paragraph (a) after the words "State road" by Act A514, section 18, in force from 15-05-1981.

Section 3: 1. The word "State of Malaya" were substituted for "Federation" by Act 26/1963, paragraph 51(b), in force from 16-09-1963.

*2. See subsection 6(2).**3. The section was substituted by Act A514, section 18, in force from 15-05-1981.**The earlier section read as follows:**"3. For the purposes of section 2 the mileage of State roads in a State shall be taken to be that mileage as on the thirty-first day of December of the basis year, and the average mentioned in paragraph (a) of that section shall be taken to be average throughout the Federation in the basis year,"*

Section 4: 1. The present section was inserted by Act 59/1966, section 2, in force from 01-01-1963, and replaced the original section which read as follows:

*"4. A length of State road qualifies for grant if it is actually maintained by the Public Works Department of the State at or above the minimum standard mentioned in section 2(a); except that any length not qualifying for grant in the preceding financial year qualifies for grant only if the Federal Government has agreed to its so qualifying."**2. See subsection 6(2).**3. The words "except that any length not qualifying for grant in the preceding financial year qualifies for grant only if the Federal Government has agreed to its so qualifying" were deleted after the words "qualify for grant" in the present section by Act A514, section 18, in force from 15-05-1981.*

Section 5: 1. The words "public road other than a federal road, and any other road other than a federal road to which the public has access" were substituted for the words "road other than a federal road" by Act 14/1962, section 29, in force from 21-06-1962.

*2. See subsection 6(2).**3. This section was substituted by Act A514, section 18, in force from 15-05-1981. The earlier section read as follows:**"5. In this Part of this Schedule-**(a) "State road" means any public road other than a federal road, and any other road other than a federal road to which the public has access;**(b) "basis year" means the financial year beginning two years earlier than the financial year in respect of which the grant made,"*

Section 6: Added by Act 26/1963, subsection 45(2), in force from 16-09-1963.

*Paragraph 6(2)(a):**Paragraph (a) of subsection (2) was substituted by Act A514, section 18, in force from 15-05-1981. The earlier subsection read as follows:**"(a) the average cost and minimum standard mentioned in section 2(a) shall be respectively the average in the State and the minimum standard determined for State roads in the State;"*

- (b) for the next 500,000 persons at the rate of RM10.20 per person;
- (c) for the next 500,000 persons at the rate of RM10.80 per person;
- (d) for the remainder at the rate of RM11.40 per person, and shall be based on the annual population projections of the State as determined by the Federal Government and calculated as of the last population census:

Provided that if the last census was taken one year before the beginning of the financial year, the grant for that particular year shall be based on the population as determined by that population census.

(2) (Repealed).

PART II STATE ROAD GRANT

2. The State road grant payable to each of the States of Malaya in respect of a financial year shall be calculated by multiplying
 - (a) the average cost to a State of maintaining a mile of State road at the minimum standard determined for State roads in those States by the Federal Government after consultation with the National Finance Council; by
 - (b) so much of the mileage of State roads in the State as qualifies for grant.
3. For the purpose of section 2
 - (a) the mileage of State roads in a State shall be taken to be that mileage as on the thirty-first day of December of the preceding financial year, and the average cost mentioned in paragraph (a) of that section shall be taken to be the average cost in that State calculated in the preceding financial year; and
 - (b) the maintenance of State roads means the preservation, upkeep and restoration of State roads, roadside furniture, bridges, viaducts or culverts forming part thereof or connected therewith as nearly as possible in their original condition as constructed or as subsequently improved.
4. A length of State road if it is actually maintained by the Public Works Department of the State at

or above the minimum standard mentioned in section 2(a) and a length of any road within the limit of a local authority if such road is certified by the Public Works Department of the State as coming within the qualifying standard and maintained at or above the minimum standard as mentioned in section 2(a) qualify for grant.

5. In this Part of this Schedule, "State road" means any public road other than a federal road, and any other road other than a federal road to which the public has access.
6. (1) The State road grant payable to Sabah or Sarawak shall, in each of the years 1964 and 1965, be payable at the rate of RM4,500 a mile in respect of a mileage in Sabah of 1,151 miles and in Sarawak of such amount as may be agreed between the Federal and State Governments.
- (2) Thereafter sections 2 to 5 shall apply to the State road grant so payable with the following modifications:
 - (a) the minimum standard mentioned in section 2(a) shall be the minimum standard determined for State roads in the State; and
 - (b) any length of road maintained by a local authority at the expense of the State shall be treated as maintained by the Public Works Department of the State.

PART III SOURCES OF REVENUE ASSIGNED TO STATES

1. Revenue from toddy shops.
2. Revenue from lands, mines and forests.
- *3. Revenue from licences other than those connected with water supplies and services, mechanically propelled vehicles, electrical installations and registration of businesses.
4. Entertainments duty.
5. Fees in courts other than federal courts.
6. Fees and receipts in respect of specific services rendered by departments of the State Governments.
7. Revenue of town boards, town councils, rural boards, local councils and similar local authorities other than
 - (a) municipalities established under any Municipal Ordinance;

Tenth Schedule:

PART III: See Art. 110.

Items 1, 3-8, 12, 14: See Art. 110(2).

Items 13: The words "Islamic religious revenue" substituted for "Muslim revenue" by Act A354, section 45, in force from 27-08-1976.

*NOTE-Amendment to this item by the insertion of the words "water supplies and services," after the words "connected with" vide Act A1239 is not yet in force—see P.U. (B) 97/2005.

**NOTE-Amendment to this item by the substitution for this item, the following^a item: "8. Receipt in respect of raw water." vide Act A1239 is not yet in force—see P.U. (B) 97/2005.

- (b) those town boards, town councils, rural boards, local councils and similar local authorities which have power under written law to retain their revenues and control the spending thereof.

**8. Receipts in respect of raw water.

9. Rents on State property.
10. Interest on State balances.
11. Receipts from land sales and sales of State property.
12. Fines and forfeitures in courts other than federal courts.
13. Zakat, Fitrah and Baitulmal and similar Islamic religious revenue.
14. Treasure trove.

PART IV SPECIAL GRANTS TO STATES OF SABAH AND SARAWAK

1. (1) In the case of Sarawak a grant of RM5,800,000 in each year.
(2) In the case of Sarawak, a grant of which the amount in 1964 and each of the four following years shall be respectively RM3 1/2m., RM7m., RM11 1/2m., RM16m. and RM21m., and in later years shall be fixed on a review under Article 112D.
2. (1) In the case of Sabah, a grant of amount in each year to two-fifths of the amount by which the net revenue derived by the Federation from Sabah exceeds the net revenue which would have been so derived in the year 1963 if
 - (a) the Malaysian Act had been in operation in that year as in the year 1964; and
 - (b) the net revenue for the year 1963 were calculated without regard to any alteration of any tax or fee made on or after Malaysia Day, ("net revenue" meaning for this purpose the revenue which accrues to the Federation, less the amount received by the State in respect of assignments of the revenue).
- (2) In the case of Sabah, for any year before 1968 in which the State road grant is less than RM5,179,500, a supplement to that grant of an amount equal to the deficiency.

3. In either case, for any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or to mechanically propelled road vehicles, then during the continuance of that power, a grant equal to the cost to the State in the year of the State road transport department.

PART V ADDITIONAL SOURCES OF REVENUE ASSIGNED TO STATES OF SABAH AND SARAWAK

1. Import duty and excise duty on petroleum products.
2. Export duty on timber and other forest produce.
3. So long as the royalty levied by the State on any mineral chargeable with export duty other than tin (but including mineral oils) does not amount to 10 per cent ad valorem calculated as for export duty, export duty on that mineral or such part of the export duty as makes the total of royalty and duty on exported mineral up to 10 percent ad valorem so calculated.
4. In the case of Sabah, so long as medicine and health remains an item in the Concurrent List and expenses in respect of that item are borne by the State, 30 per cent of all customs revenue other than that in respect of the duties mentioned in sections 1, 2 and 3.
5. For any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or with respect to mechanically propelled road vehicles or licences connected with those vehicles, then during the continuance of that power, fees from such licences.
6. For any year before 1974, and if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the registration of mechanically propelled vehicles, then during the continuance of that power, fees from the registration of such vehicles.
7. State sales taxes.
8. Fees and dues from ports and harbours other than federal ports and harbours.
9. Receipts in respect of water supplies and services, including water rates.
10. Revenue from licences connected with water supplies and services.

Tenth Schedule:

PART IV: 1. Added by Act 26/1963, section 45(1), in force from 16-09-1963.

2. See Art. 112C(1)(a) and (2), 112D(1).

Section 1 & 2: See Art, 112D(1).

PART V: 1. Added by Act 26/1963, subsection 45(1), in force from 16-09-1963.

2. See Art. 112C(1)(b), (2), 112D(5).

Section 1 & 2: See section 4.

Section 3: See Art. 112C(2), 10th Sch. section 4.

Section 4: See Art. Art. 112C(2), 112D(5).

Section 5-8: See Art. 112D(5).

Item 9 and 10: Added by Act A1239, paragraph 5(b), in force from 21-03-2005.

Eleventh Schedule:

Section 13: Added by Act 14/1962, section 30, in force from 31-08-1957.

ELEVENTH SCHEDULE**[Article 16(1)]****Provisions Of the Interpretation and General Clauses Ordinance 1948 (Malayan Union Ordinance No. 7 of 1948), Applied for Interpretation of the Constitution**

2(56) Meaning of "month"

"month" means calendar month according to the Gregorian calendar.

2(61) Meaning of "person" and "party"-

"person" and "party" includes any body of persons, corporate or unincorporate.

2(88) Definition of "subsidiary legislation"-

"subsidiary legislation" means any Order in Council, proclamation, rule, regulation, order, notification, by-law or other instrument made under any Ordinance, Enactment or other lawful authority and having legislative effect.

2(94) Construction of masculine gender-

words importing the masculine gender include females.

2(95) Construction of singular or plural-

words in the singular include the plural, and words in the plural include the singular.

2(96) Meaning of "writing"

"writing" and expressions referring to writing include printing, lithography, typewriting, photography, and other modes of representing or reproducing words or figures in visible form.

2(98) Meaning of "year"

"year" means a year reckoned according to the Gregorian calendar.

7. Forms

Save as is otherwise expressly provided, whenever forms are prescribed slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

13. Effect of repeal

Where a written law repeals in whole or in part any other written law, then, unless the contrary intention appears, the repeal shall not

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any written law so repealed or anything duly done or suffered under any written law so repealed; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any written law so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any written law so repealed; or

(e) effect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing law had not been passed.

21. (Repealed).

23. General provisions with respect to power given to any authority to make subsidiary legislation

Where an Ordinance or Enactment confers power on any authority to make subsidiary legislation, such subsidiary legislation may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made.

28. Construction of provisions as to exercise of powers and duties

(1) Where a written law confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where a written law confers a power or imposes a duty the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by a person duly appointed to act for him.

Eleventh Schedule:

Section 21: This section which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"21—Exercise of statutory powers between enactment and commencement of Act of Parliament, Ordinance or Enactment—

When an Ordinance or Enactment which is not to come into operation immediately on the passing thereof confers power to make any appointment or to make subsidiary legislation, or to issue notifications, or to prescribe forms or to do any other thing for the purposes of the Ordinance or Enactment, such power may, unless the contrary

intention appears, be exercised at any time after the passing of the Ordinance or Enactment, subject to the restriction that any appointment, instrument, notification or thing made, granted, issued, given or done under such power shall not, unless the contrary intention appears in the Ordinance or Enactment, or the appointment, instrument, notification or thing is necessary for bringing the Ordinance or Enactment into operation, have any effect until the Ordinance or Enactment comes into operation."

Section 23: Added by Act 26/1963, section 70, in force from 16-09-1963.

29. Power to appoint includes power to dismiss
Where a written law confers upon any person or authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to dismiss or suspend any person appointed and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of such office or place:
- Provided that where the power of such person or authority to make such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power of dismissal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.
30. Construction of enabling words
Where a written law confers power on any person to do or enforce the doing of any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.
32. Official designation to include officer executing duties
When reference is made in any written law, instrument, warrant or process of any kind made or issued by the Yang di-Pertuan Agong, or a Ruler or any body or person having authority under any written law to make or to issue the same to any public officer by the term designating his office, such officer shall include the officer for the time being executing the duties of such office or any portion of such duties.
33. Power of Yang di-Pertuan Agong to provide for execution of duties of public officer during temporary absence or inability-
- (1) Where by or under any written law any powers are conferred or any duties are imposed upon a public officer, the Yang di-Pertuan Agong or, in the case of a public officer borne on the establishment of a State, the Ruler of that State, may direct that if, during any period, owing to absence or inability to act from illness or any other cause, such public officer is unable to exercise the powers or perform the duties of his office in any place under his jurisdiction or control, such powers shall be had and may be exercised and such duties shall be performed in such place by a person named by, or by a public officer holding the office designated by, the Yang di-Pertuan Agong or Ruler, as the case may be; and thereupon such person or public officer, during any period as aforesaid, shall have and may exercise the powers and shall perform the duties aforesaid subject to such conditions, exceptions and qualifications as the Yang di-Pertuan Agong or Ruler may direct.
- (2) Without prejudice to the provisions of subsection (1), when a substantive holder of any office is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively in his place.
- 33C. Powers of board, etc., not affected by vacancy, etc.
Where by or under written law any board, commission, committee or similar body, whether corporate or unincorporate, is established, then, unless the contrary intention appears, the powers and proceedings of such board, commission, committee or similar body shall not be affected by
- (a) any vacancy in the membership thereof;
- (b) any defects afterwards discovered in the appointment or qualification of a person purporting to be a member thereof; or
- (c) any minor irregularity in the convening of any meeting thereof.
35. (Repealed).
36. Computation of time
In computing time for the purposes of any written law, unless the contrary intention appears-
- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done.
- (b) if the last day of the period is a weekly holiday or a public holiday (which days

Eleventh Schedule:

Section 33C: Added by Act 31/1965, subsection 2(1), in force from 16-09-1963.

Section 35: This section which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"35—Time of commencement-

Where any written law, or any part of a written law,

or any instrument or notification made thereunder, is expressed to come into operation on a particular day, it shall, unless it be otherwise expressly provided, be construed as coming into operation immediately on the expiration of the day next preceding such day."

are in this section referred to as excluded days) the period shall include the next following day not being an excluded day;

- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

38. Provision when no time prescribed

When no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed and so often as the prescribed occasion arises.

39. Construction of power of extending time

Where in any written law a time is prescribed for doing any act or taking any proceeding and power is given to a court or other authority to extend such time, unless the contrary intention appears the power may be exercised by the court or other authority although the application for the same is not made until after the expiration of the time prescribed.

40A. Solicitor General to exercise powers of Attorney General

- (1) Unless in any written law it is otherwise expressly provided, the Solicitor General may perform any of the duties and may exercise any of the powers of the Attorney General.
- (2) The following principles shall as far as possible be taken into account in dividing any unit of review into constituencies pursuant to the provisions of Articles 116 and 117
 - (a) while having regard to the desirability of giving all electors reasonably convenient opportunities of going to the polls, constituencies ought to be delimited so that they do not cross State boundaries and regard ought to be had to the inconveniences of State constituencies crossing the boundaries of federal constituencies;

(b) regard ought to be had to the administrative facilities available within the constituencies for the establishment of the necessary registration and polling machines;

(c) the number of electors within each constituency in a State ought to be approximately equal except that, having regard to the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies, a measure of weightage for area ought to be given to such constituencies;

(d) regard ought to be had to the inconveniences attendant on alterations of constituencies, and to the maintenance of local ties.

3. For the purposes of this Part, the number of electors shall be taken to be as shown on the current electoral rolls.

3A. For the purposes of this Part, in any review of constituencies for the purposes of election to the House of Representatives, the Federal Territory of Kuala Lumpur, the Federal Territory of Labuan and the Federal Territory of Putrajaya shall each be regarded as a State.

PART II PROCEDURE FOR DELIMITATION OF CONSTITUENCIES

4. Where the Election Commission have provisionally determined to make recommendations under Clause (2) of Article 113 affecting any constituency, they shall inform the Speaker of the House of Representatives and the Prime Minister accordingly, and shall publish in the Gazette and in at least one newspaper circulating in the constituency a notice stating

- (a) the effect of their proposed recommendations, and (except in a case where they propose to recommend that no alteration be made in respect of the constituency) that a copy of their recommendations is open to inspection at a specified place within the constituency; and
- (b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of such notice, and the

Eleventh Schedule:

Section 39: Added by Act A857, section 5, in force from 20-08-1993.

Section 46: This section which read as follows was repealed by Act A1130, section 14, in force from 28-09-2001:

"46. English text to prevail-

In case of any conflict or discrepancy between the English text and any translation thereof, the English text shall prevail.

- Commission shall take into consideration any representations duly made in accordance with any such notice.
5. Where, on the publication of the notice under section 4 of a proposed recommendation of the Election Commission for the alteration of any constituencies, the Commission receive any representation objecting to the proposed recommendations from
 - (a) the State Government or any local authority whose area is wholly or partly comprised in the constituencies affected by the recommendation; or
 - (b) a body of one hundred or more persons whose names are shown on the current electoral rolls of the constituencies in question, the Commission shall cause a local enquiry to be held in respect of those constituencies.
 6. In relation to any enquiry held under section 5 the Election Commission shall have all the powers conferred on Commissioners by the Commissions of Enquiry Act 1950 [Act 119].
 7. Where the Election Commission revise any proposed recommendations after publishing a notice thereof under section 4, the Commission shall comply again with that section in relation to the revised recommendations, as if no earlier notice had been published:
Provided that it shall not be necessary to hold more than two local enquiries in respect of any such recommendations.
 8. The Election Commission shall, having completed the procedure prescribed by this Part, submit to the Prime Minister a report on constituencies showing
 - (a) the constituencies into which they recommend that each unit of review should be divided in order to give effect to the principles set out in section 2; and
 - (b) the names by which they recommend that those constituencies shall be known, or stating that in their opinion no alteration is required to be made in order to give effect to the said principles.
 9. As soon as may be after the Election Commission have submitted their report to the Prime Minister under section 8, he shall lay the report before the House of Representatives, together (except in a case where the report states that no alteration is required to be made) with the draft of an Order to be made under section 12 for giving effect, with or without modifications, to the recommendations contained in the report.
 10. If any draft Order referred to in section 9 is approved by the House of Representatives by resolution supported by the votes of not less than one-half of the total number of members of that House, the Prime Minister shall submit the draft Order to the Yang di-Pertuan Agong.
 11. If a motion for the approval of any draft Order referred to in section 9 is rejected by the House of Representatives, or is withdrawn by leave of the House, or is not supported by the votes of not less than one-half of the total number of members of the House, the Prime Minister may, after such consultation with the Election Commission as he may consider necessary, amend the draft and lay the amended draft

Eleventh Schedule:

Section 33C: Added by Act 31/1965, subsection 2(1), in force from 16-09-1963.

Section 35: This section which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"35—Time of commencement-

Where any written law, or any part of a written law, or any instrument or notification made thereunder, is expressed to come into operation on a particular day, it shall, unless it be otherwise expressly provided, be construed as coming into operation immediately on the expiration of the day next preceding such day."

Twelfth Schedule:

This Schedule which read as follows was repealed by Act 25/1963, section 8, in force from 29-08-1963:

"TWELFTH SCHEDULE

PROVISIONS OF THE FEDERATION OF MALAYA AGREEMENT, 1948 AS APPLIED TO THE LEGISLATIVE COUNCIL AFTER MERDEKA DAY

Provisions of the Agreement Modification

Clause 36 In subclause (2) the words "two ex officio members" shall be omitted and for the word "thirty-three" the word "thirty-five" shall be substituted.

Clause 36A In subclauses (1) and (3) the words "with the concurrence of Their Highnesses the Rulers" shall be omitted.

Clause 38 For the words after "Malay States" the words "and the two Chief Ministers of Malacca and Penang" shall be substituted.

Clause 39 For the word "eight", the word "ten" shall be substituted.

Clause 40 The words from "who the High Commissioner" to "proceedings of the Council" in subclause (1) and the words from "and who the High Commissioner" to "proceedings of the Council" in subclause (2) shall be omitted.

Clause 40A In subclause (1) the words from "and who are able" to the end of the subclause shall be omitted.

In subclause (2) for the words "from time to time in force in the Federation" the words "in force in the Federation immediately before Merdeka Day" shall be substituted.

Clause 41 —

Subclauses (2) and (3) In subclause (3) the words "who is not entitled to be so registered under the provisions of Clause 41B of this Agreement or" shall be omitted.

41A

Clause 41c —

Clause 42, other than subclause (3) thereof —

before the House of Representatives; and if the draft as so amended is approved by the House by a resolution supported by the votes of not less than one-half of the total number of members of the House, the Prime Minister shall submit the amended draft to the Yang di-Pertuan Agong.

12. Where the draft of an Order is submitted to the Yang di-Pertuan Agong under this Part, the Yang di-Pertuan Agong shall make an Order in the terms of the draft submitted to him, and the Order shall come into force on such date as may be specified therein:

Provided that the coming into force of any such Order shall not affect any election to the House of Representatives or a Legislative Assembly until the next dissolution of Parliament or the Assembly, as the case may be, occurring on or after the date.

LIST OF AMENDMENTS

Amending law Short title

Ord. 42/1958	Constitution (Temporary Amendment) Ordinance 1958
Act 10/1960	Constitution (Amendment) Act 1960
Act 14/1962	Constitution (Amendment) Act 1962

Act 25/1963	Constitution (Amendment) Act 1963
Act 26/1963	Malaysia Act
Act 19/1964	Constitution (Amendment) Act 1964
Act 31/1965	Constitution and Malaysia Act (Amendment) Act 1965
Act 53/1965	Constitution and Malaysia (Singapore Amendment) Act 1965
Act 59/1966	Constitution (Amendment) Act 1966
Act 68/1966	Emergency (Federal Constitution and Constitution of Sarawak) Act 1966
Act 27/1968	Constitution (Amendment) Act 1968
Act A1	Constitution (Amendment) Act 1965
P.U. (B) 83/1969	Resolution pursuant to Article 122A(1)
Ord. 1/1969	Emergency (Essential Powers) Ordinance 1969
Ord. 3/1969	Emergency (Essential Powers) Ordinance No. 3, 1965
Ord. 32/1970	Emergency (Essential Powers) Ordinance No. 32, 1970
Act A30	Constitution (Amendment) Act 1971

Clause 43 In subclause (1) the words "ex-officio or" and paragraphs (a), (b) and (c) shall be omitted.
In sub clause (5) for the words from "of a Malay State" to "of any Settlement" the words "or Chief Minister of a State" shall be substituted; and for the words from "such other Member" to the end of the subclause the words "such other person as the Menteri Besar or Chief Minister may nominate" shall be substituted.

Clause 43A, —
other than subclause (3) thereof

Clause 45A —

Clause 46 —

Clause 51 The words "and Their Highnesses the Rulers of the Malay States" and the proviso shall be omitted.

Clause 53 —

Clause 54, In subclause (1) the words "the (2) and (6) thereof assent of Their Highnesses the Rulers and either" and all the words after "High Commissioner" to the end of the subclause shall be omitted.

Clause 54, In subclause (3) the words from "according to" to "Secretary of State" and the words after "refuses to assent thereto" shall be omitted.

Clause 54, In subclause (5) the words "and Their Highnesses the Rulers" shall be omitted.

Clause 56 The words "the rights of His Majesty, His Heirs and Successors, of" shall be omitted.

Clause 57 For the words "and Their Highnesses the Rulers for their assent" the words "for his assent" shall be substituted.

Clause 58 —

Clause 59 —

Clause 60 —

Clause 61, In subclause (1) the words "with (4) thereof the assent of Their Highnesses the Rulers" shall be omitted.

In subclause (2) after the words "at any time" the words "after the first day of January, 1959" shall be inserted.

Thirteenth Schedule:

This Schedule was added by Act 14/1962, section 31, in force from 21-06-1962—see P.U. 277/1968.

Section 3A: The words "the Federal Territory of Labuan and the Federal Territory of Putrajaya" were substituted for "or the Federal of Labuan, as the case may be," by Act A1095, section 21, in force from 01-02-2001.

Section 6: The word "Act" substituted for "Ordinance" by Act 1, subsection 14(2).

Section 8: See section 9.

Paragraph (a): The words "each unit of review" which appear in lines one and two were substituted for "the Federation and each State" by Act 26/1963, section 70, in force from 16-09-1963.

Section 9: See sections 10, 11.

Sections 10 and 11:

See Art. 62(3). *Section 12*

1. The words "to the House of Representatives or a Legislative Assembly until the next dissolution of Parliament or the Assembly, as the case may be, occurring on or after that date" were substituted for "until a proclamation is issued by the Yang di-Pertuan Agong under Article 55 summoning a new Parliament" by Act 26/1963, section 70, in force from 16-09-1963.

2. See section 9.

MALAYSIA

Act A31	Constitution (Amendment) (No. 2) Act 1971	P.U. (A) 150/1990	Constitution of the Education Service Commission Order 1990
Act A193	Constitution (Amendment) Act 1973	Act A837	Constitution (Amendment) Act 1992
Act A206	Constitution (Amendment) (No. 2) Act 1973	Act 503	Capitation Grant Act 1993
Act 160	Malaysian Currency (Ringgit) Act 1975	Act A848	Constitution (Amendment) Act 1993
Act A335	Constitution (Amendment) (No. 2) Act 1976	Act A849	Constitution (Amendment) (No. 2) Act 1993
Act A354	Constitution (Amendment) Act 1976	Act A857	Constitution (Amendment) (No. 3) Act 1993
Act A392	Capitation Grant Act 1977	Act A885	Constitution (Amendment) Act 1994
Act A442	Constitution (Amendment) Act 1978	Act A919	Federal Constitution (Amendment) Act 1995
Act A514	Constitution (Amendment) Act 1981	Act A945	Constitution (Amendment) Act 1996
P.U. (A) 114/1982	Constitution of the Federal Court (Judges) Order 1982	Act A1095	Constitution (Amendment) Act 2001
Act A566	Constitution (Amendment) Act 1983	Act A1130	Constitution (Amendment) (No. 2) Act 2001
Act A584	Constitution (Amendment) Act 1984	P.U. (A) 169/2001	Constitution of the Education Service Commission Order 2001
Act A585	Constitution (Amendment) (No. 2) Act 1984	P.U. (A) 378/2001	Constitution of the Court of Appeal Order 2001
Act A631	Constitution (Amendment) Act 1985	Act 622	Capitation Grant Act 2002
Act A704	Constitution (Amendment) Act 1988	Act A1198	Constitution (Amendment) Act 2000
Act A767	Federal Constitution (Amendment) Act 1990	P.U. (A) 229/2005	Constitution of the Federal Court Order 2005
P.U. (A) 149/1990	Constitution of the Public Services Commission Order 1990	Act A1239	Constitution (Amendment) Act 2005
		Act A1260	Constitution (Amendment) (No. 2) Act 2005

MYANMAR



CONSTITUTION OF THE REPUBLIC OF THE UNION OF MYANMAR

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PREAMBLE

Myanmar is a Nation with magnificent historical traditions. We, the National people, have been living in unity and oneness, setting up an independent sovereign State and standing tall with pride.

Due to colonial intrusion, the Nation lost her sovereign power in 1885. The National people launched anti-colonialist struggles and National liberation struggles, with unity in strength, sacrificing lives and hence the Nation became an independent sovereign State again on 4th January 1948.

In order to gain independence speedily, the Constitution was hastily drafted, and it was adopted by the Constituent Assembly on 24th September 1947. After attaining independence, Parliamentary Democracy System was practised in the State in accord with the Constitution of the Union of Myanmar. However, as democratic system could not be effectively materialized, the new Constitution of the Socialist Republic of the Union of Myanmar was drafted based on the single party system, and after holding a National Referendum, a socialist democratic State was set up in 1974. The Constitution came to an end because of the general situation occurred in 1988.

Later, due to public aspirations, the State Peace and Development Council made efforts to adopt multi-party democratic system and market economy in accord with the National situation.

As an enduring Constitution, that guarantees long-term benefits, has become essential for the future nation, the State Peace and Development Council convened the National Convention in 1993.

Persons who are well experienced in various aspects of politics, security, administration,

economics, social and law as well as National races representatives of all townships in the Nation took part in the National Convention.

Despite many difficulties and disturbances encountered the National Convention, it was unwaveringly reconvened in 2004 in accord with the seven-step Roadmap adopted in 2003. As the National Convention was able to adopt the Basic Principles and Detailed Basic Principles for formulating a Constitution, it successfully concluded on 3rd September 2007.

We, the National people, drafted this Constitution of the Republic of the Union of Myanmar in accord with the Basic Principles and Detailed Basic Principles laid down by the National Convention.

We, the National people, firmly resolve that we shall:

- steadfastly adhere to the objectives of non-disintegration of the Union, non disintegration of National solidarity, and perpetuation of sovereignty;
- stalwartly strive for further burgeoning the eternal principles namely justice, liberty, equality and perpetuation of peace and prosperity of the National people;
- uphold racial equality, living eternally in unity fostering the firm Union Spirit of true patriotism;
- constantly Endeavour to uphold the principles of peaceful co-existence among nations with a view to having world peace and friendly relations among nations.

DO HEREBY ADOPT this Constitution of the Republic of the Union of Myanmar through a nation-wide referendum on the Tenth day of Kasone Waning, 1370 M.E. (The Twenty-Ninth day of May, 2008 A.D.)

CHAPTER IBASIC PRINCIPLES OF THE UNION

The Republic of the Union of Myanmar

1. Myanmar is an independent sovereign Nation.
2. The State shall be known as the Republic of the Union of Myanmar.
3. The State is where multi-national races collectively reside.
4. The Sovereign power of the Union is derived from the citizens and is in force in the entire country.
5. The territory of the State shall be the land, sea, and airspace which constitutes its territory on the day this Constitution is adopted.

Basic Principles

6. The Union's consistent objectives are:
 - (a) non-disintegration of the Union;
 - (b) non-disintegration of National solidarity;
 - (c) perpetuation of sovereignty;
 - (d) flourishing of a genuine, disciplined multi-party democratic system;
 - (e) enhancing the eternal principles of Justice, Liberty and Equality in the Union and;
 - (f) enabling the Defence Services to be able to participate in the National political leadership role of the State.
7. The Union practises genuine, disciplined multi-party democratic system.
8. The Union is constituted by the Union system.
9. (a) The existing seven Divisions are designated as seven Regions and the existing seven States are designated as seven States. Those seven Regions and seven States are of equal status.
 - (b) The names of those seven Regions and seven States are retained as they exist.
 - (c) If it is desired to change the name of a Region or a State, it shall be done so with the enactment of a law after ascertaining the desire of citizens residing in the Region or State concerned.
10. No part of the territory constituted in the Union such as Regions, States, Union and Self-Administered Areas shall ever secede from the Union.
- 11.(a) The three branches of sovereign power namely, legislative power, executive power and judicial power are separated, to the extent possible, and exert reciprocal control, check and balance among themselves.
 - (b) The three branches of sovereign power, so separated are shared among the Union, Regions, States and Self-Administered Areas.
- 12.(a) The legislative power of the Union is shared among the Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaws.

Legislative power stipulated by this Constitution shall be shared to the Self-Administered Areas.

- (b) The Pyidaungsu Hluttaw consisting of two Hluttaws, one Hluttaw elected on the basis of township as well as population, and the other on an equal number of representatives elected from Regions and States.
13. There shall be a Region Hluttaw in each of the seven Regions, and a State Hluttaw in each of the seven States.
14. The Pyidaungsu Hluttaw, the Region Hluttaws and the State Hluttaws include the Defence Services personnel as Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services in numbers stipulated by this Constitution.
15. For National races with suitable population, National races representatives are entitled to participate in legislature of Regions or States and Self-Administered Areas concerned.
16. The Head of the Union and the Head of Executive of the Union is the President.
 - (a) The executive power of the Union is shared among the Pyidaungsu, Regions and States; Self-Administrative power shall be shared between Self-Administered Areas as prescribed by this Constitution.
 - (b) In the executive of the Union, Regions, States, Union Territory, Self-Administered Areas and districts, Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services to undertake responsibilities of the defence, security, border administration, so forth, shall be included.
 - (c) For National races of which representatives are so permitted to participate in legislature of Regions, States or Self-Administered Areas in accord with Section 15, such representatives are to be permitted to participate, mainly, to undertake their National races affairs.
18. (a) The judicial power of the Union is shared among the Supreme Court of the Union, High Courts of the Regions, High Courts of the States and Courts of different levels including Courts of Self-Administered Areas.
 - (b) There shall be one Supreme Court of the Union. The Supreme Court of the Union is the highest Court of the Republic.
 - (c) The Supreme Court of the Union has powers to issue writs.
 - (d) A High Court of the Region or State is constituted in each Region or State.
19. The following are prescribed as judicial principles:
 - (a) to administer justice independently according to law;

- (b) to dispense justice in open court unless otherwise prohibited by law;
 - (c) to guarantee in all cases the right of defence and the right of appeal under law.
20. (a) The Defence Services is the sole patriotic defence force which is strong, competent and modern.
- (b) The Defence Services has the right to independently administer and adjudicate all affairs of the armed forces.
 - (c) The Commander-in-Chief of the Defence Services is the Supreme Commander of all armed forces.
 - (d) The Defence Services has the right to administer for participation of the entire people in Union security and defence.
 - (e) The Defence Services is mainly responsible for safeguarding the non-disintegration of the Union, the non-disintegration of National solidarity and the perpetuation of sovereignty.
 - (f) The Defence Services is mainly responsible for safeguarding the Constitution.
21. (a) Every citizen shall enjoy the right of equality, the right of liberty and the right of justice, as prescribed in this Constitution.
- (b) No citizen shall be placed in custody for more than 24 hours without the permission of a Court.
 - (c) Every citizen is responsible for public peace and tranquility and prevalence of law and order.
 - (d) Necessary law shall be enacted to make citizens' freedoms, rights, benefits, responsibilities and restrictions effective, steadfast and complete.
22. The Union shall assist:
- (a) to develop language, literature, fine arts and culture of the National races;
 - (b) to promote solidarity, mutual amity and respect and mutual assistance among the National races;
 - (c) to promote socio-economic development including education, health, economy, transport and communication, so forth, of less-developed National races.
23. The Union shall:
- (a) enact necessary laws to protect the rights of the peasants;
 - (b) assist peasants to obtain equitable value of their agricultural produce.
24. The Union shall enact necessary laws to protect the rights of workers.
25. The Union shall assist to promote the interests of the intellectuals and intelligentsia.
26. (a) Civil Services personnel shall be free from party politics.
- (b) The Union shall enact necessary laws for Civil Services personnel to have security and sufficiency of food, clothing and shelter,
- to get maternity benefits for married women in service, and to ease livelihood for welfare of retired Service personnel.
27. The Union shall assist development, consolidation and preservation of National culture.
28. The Union shall:
- (a) earnestly strive to improve education and health of the people;
 - (b) enact the necessary law to enable National people to participate in matters of their education and health;
 - (c) implement free, compulsory primary education system;
 - (d) implement a modern education system that will promote all-around correct thinking and a good moral character contributing towards the building of the Nation.
29. The Union shall provide inputs, such as technology, investments, machinery, raw materials, so forth, to the extent possible for changeover from manual to mechanized agriculture.
30. The Union shall provide inputs, such as technology, investments, machinery, raw materials, so forth, to the extent possible, for development of industries.
31. The Union shall, to the extent possible, assist to reduce unemployment among the people.
32. The Union shall:
- (a) care for mothers and children, orphans, fallen Defence Services personnel's children, the aged and the disabled;
 - (b) ensure disabled ex-Defence Services personnel a decent living and free vocational training.
33. The Union shall strive for youth to have strong and dynamic patriotic spirit, the correct way of thinking and to develop the five noble strengths.
34. Every citizen is equally entitled to freedom of conscience and the right to freely profess and practise religion subject to public order, morality or health and to the other provisions of this Constitution.
35. The economic system of the Union is market economy system.
36. The Union shall:
- (a) permit all economic forces such as the State, regional organizations, co-operatives, joint-ventures, private individual, so forth, to take part in economic activities for the development of National economy;
 - (b) protect and prevent acts that injure public interests through monopolization or manipulation of prices by an individual or group with intent to endanger fair competition in economic activities;
 - (c) strive to improve the living standards of the people and development of investments;

- (d) not nationalize economic enterprises;
 - (e) not demonetize the currency legally in circulation.
37. The Union:
- (a) is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union;
 - (b) shall enact necessary law to supervise extraction and utilization of State-owned natural resources by economic forces;
 - (c) shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accord with the law.
38. (a) Every citizen shall have the right to elect and be elected in accord with the law.
- (b) Electorate concerned shall have the right to recall elected people's representatives in accord with the provisions of this Constitution.
39. The Union shall enact necessary law to systematically form political parties for flourishing of a genuine, disciplined multi-party democratic system.
40. (a) If there arises a state of emergency characterized by inability to perform executive functions in accord with the provisions of the Constitution in a Region or a State or a Self-Administered Area, the President is empowered to exercise executive power in that Region, State or Self-Administered Area and, if necessary in doing so, the President is empowered to exercise legislative powers concerning that Region, State or Self-Administered Area in accord with the provisions of this Constitution.
- (b) If there arises or there is sufficient reason to arise a state of emergency endangering life and property of the people in a Region, State or Self-Administered Area, the Defence Services has the right, in accord with the provisions of this Constitution, to prevent that danger and provide protection.
- (c) If there arises a state of emergency that could cause disintegration of the Union, disintegration of national solidarity and loss of sovereign power or attempts therefore by wrongful forcible means such as insurgency or violence, the Commander-in-Chief of the Defence Services has the right to take over and exercise State sovereign power in accord with the provisions of this Constitution.
41. The Union practises independent, active and non-aligned foreign policy aimed at world peace and friendly relations with nations and upholds the principles of peaceful co-existence among nations.
42. (a) The Union shall not commence aggression against any nation.
- (b) No foreign troops shall be permitted to be deployed in the territory of the Union.
43. No Penal law shall be enacted to provide retrospective effect.
44. No penalty shall be prescribed that violates human dignity.
45. The Union shall protect and conserve natural environment.
46. A Constitutional Tribunal shall be set up to interpret the provisions of the Constitution, to scrutinize whether or not laws enacted by the Pyidaungsu Hluttaw, the Region Hluttaws and the State Hluttaws and functions of executive authorities of Pyidaungsu, Regions, States and Self-Administered Areas are in conformity with the Constitution, to decide on disputes relating to the Constitution between Pyidaungsu and Regions, between Pyidaungsu and States, among Regions, among States, and between Regions or States and Self-Administered Areas and among Self-Administered Areas themselves, and to perform other duties prescribed in this Constitution.
47. The Basic Principles set forth in this Chapter, and Chapter 8, Citizen, Fundamental Rights, and Duties of the Citizen, the term "Union" means person or body exercising the legislative or executive authority of the Union under this Constitution according as the context may require.
48. The Basic Principles of the Union shall be the guidance in enacting laws by legislature and in interpreting the provisions of this Constitution and other laws.

CHAPTER II
State Structure

49. The Union is delineated and constituted by seven Regions, seven States and the Union
- (a) territories as follows:
- (b) Kachin State;
 - (c) Kayah State;
 - (d) Kayin State;
 - (e) Chin State;
 - (f) Sagaing Region;
 - (g) Taninthayi Region;
 - (h) Bago Region;
 - (i) Magway Region;
 - (j) Mandalay Region;
 - (k) Mon State;
 - (l) Rakhine State;
 - (m) Yangon Region;
 - (n) Shan State;
 - (o) Ayeyawady Region; and
 - (p) Union territories.
50. (a) Nay Pyi Taw, the capital of the Union, prescribed as Union territory, shall be under

the direct administration of the President.

- (b) If there arises a need to specify areas that have special situations concerning national defence, security, administration and economy, so forth, those areas may be prescribed as Union territories under the direct administration of the President after enacting law.
51. The Union is constituted as follows:
- (a) villages are organized as village-tract;
 - (b) wards are organized as town or township;
 - (c) village-tracts and wards or towns are organized as township;
 - (d) townships are organized as district;
 - (e) districts are organized as Region or State;
 - (f) townships in a Self-Administered Zone are organized as Self-Administered Zone;
 - (g) townships in a Self-Administered Division are organized as District and such Districts are organized as Self-Administered Division; If there are Self-Administered Zone or Self-Administered Division in a Region or a State, those Self-Administered Divisions, Self-Administered Zones and Districts are organized as Region or State; Regions, States and Union territories are organized as the Republic.
52. (a) If there arises a need to re-delineate the territorial boundary of the Union, the President shall firstly intimate the Head of the Pyidaungsu Hluttaw to ask for the opinion of the Pyidaungsu Hluttaw.
- (b) The Head of the Pyidaungsu Hluttaw, after receiving the intimation of the President, shall obtain the opinion of the Hluttaw representatives as follows:
- (i) assenting votes of more than half of the total number of representatives in the Hluttaw, elected in equal numbers from Regions and States;
 - (ii) assenting votes of more than half of the total number of representatives in the Hluttaw, elected as representatives on the basis of township as well as population;
 - (iii) assenting votes of more than half of the total number of representatives of the two Hluttaws from the Region or State involved in the boundary concerned.
- (c) The Head of the Pyidaungsu Hluttaw, after obtaining the assenting votes as mentioned above, shall inform the President for re-delineating the territorial boundary of the Union as necessary.
- (d) In accord with the above-mentioned procedures, if either of the Hluttaws, or representatives from the Region or State involved in the territorial boundary concerned resolve against re-delineation, the opinion of the Pyidaungsu Hluttaw shall be obtained. If three-fourths and above of the total number of the Pyidaungsu Hluttaw representatives cast assenting votes, the Head of the Pyidaungsu Hluttaw shall inform the President to re-delineate the territorial boundary as necessary.
- (e) The President shall take necessary measures for re-delineation of the territorial boundary of the Union, as necessary, after obtaining the opinion of the Pyidaungsu Hluttaw.
53. (a) If there arises a cause to re-delineate the territorial boundary of a Region or a State, the prior consent of the electorate residing within the township concerned shall be obtained.
- (b) In obtaining consent, re-delineation of the territorial boundary shall not be executed at all in the absence of assenting votes of more than half of the total number of the electorate residing within the township concerned.
- (c) If more than half of the total number of eligible voters residing within the township concerned cast assenting vote for re-delineation of the territorial boundary, the consent of the Hluttaw representatives of the Region or State involved in the territorial boundary concerned shall be obtained.
- (d) The President shall re-delineate the territorial boundary of the Region or State concerned with the consent of the Pyidaungsu Hluttaw, after obtaining the assenting votes of three-fourths and above of the total number of representatives from the Region or the State concerned.
- (e) The resolution of the Pyidaungsu Hluttaw shall be obtained if a Region Hluttaw or a State Hluttaw concerned decided against re-delineation of the territorial boundary.
- (f) The President shall, as necessary, re-delineate the territorial boundary of a Region or a State if three-fourths and above of the total number of representatives in the Pyidaungsu Hluttaw assent to the re-delineation of the territorial boundary.
54. Where there arises a situation to alter or form the territorial boundary or change the name of a village, village-tract, ward, town, township or district of a Region, State, Self-Administered Division or Self-Administered Zone concerned, the President shall act, as necessary, upon the recommendation of the Chief Minister of the Region or State concerned.
55. If it is desired to change the name of a Self-Administered Division or Self-Administered

Zone, the same procedure shall be applied as in the case of changing the name of a Region or State.

56. The Self-Administered Divisions and Self-Administered Zones are delineated as follows:

- (a) grouping Leshi, Lahe and Namyun townships in Sagaing Division as Naga Self-Administered Zone;
- (b) grouping Ywangan and Pindaya townships in Shan State as Danu Self-Administered Zone;
- (c) grouping HoPong, HsiHseng and Pinlaung townships in Shan State as Pa-O Self-Administered Zone;
- (d) grouping Namhsan and Manton townships in Shan State as Pa Laung Self-Administered Zone;
- (e) grouping Konkyan and Laukkai townships in Shan State as Kokang Self-Administered Zone;
- (f) grouping six townships – Hopang, Mongma, Panwai, Nahpan, Metman and Pangsang (Pankham) townships in Shan State as two districts which are forged into 'Wa' Self-Administered Division.

CHAPTER III

The President and Vice-Presidents

57. The President and Vice-Presidents represent the Union.

58. The President of the Republic of the Union of Myanmar takes precedence over all other persons throughout the Republic of the Union of Myanmar.

59. Qualifications of the President and Vice-Presidents are as follows :

- (a) shall be loyal to the Union and its citizens;
- (b) shall be a citizen of Myanmar who was born of both parents who were born in the territory under the jurisdiction of the Union and being Myanmar Nationals;
- (c) shall be an elected person who has attained at least the age of 45;
- (d) shall be well acquainted with the affairs of the Union such as political, administrative, economic and military;
- (e) shall be a person who has resided continuously in the Union for at least 20 years up to the time of his election as President;
Proviso: An official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union;
- (f) shall he himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of a foreign power or citizen of a foreign country. They

shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country;

(g) shall possess prescribed qualifications of the President, in addition to qualifications prescribed to stand for election to the Hluttaw.

60. (a) The President shall be elected by the Presidential Electoral College.

(b) The Presidential Electoral College shall be formed with three groups of the Pyidaungsu Hluttaw representatives as follows :

(i) group formed with elected Hluttaw representatives in the Hluttaw with an equal number of representatives elected from Regions and States;

(ii) group formed with elected Hluttaw representatives in the Hluttaw elected on the basis of township and population;

(iii) group formed with the Defence Services personnel Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services for the said two Hluttaws.

(c) Each group shall elect a Vice-President from among the Hluttaw representatives or from among persons who are not Hluttaw representatives.

(d) The Pyidaungsu Hluttaw and a Body comprising the Heads and Deputy Heads of the two Hluttaws in the Pyidaungsu Hluttaw shall scrutinize whether or not the Vice-Presidents possess the qualifications prescribed for the President.

(e) The Presidential Electoral College comprising all the Pyidaungsu Hluttaw representatives shall elect by vote one of the three Vice-Presidents who are Presidential candidates, as the President.

(f) Necessary law shall be enacted for the election of President and Vice-Presidents.

61. (a) The term of office of the President or the Vice-Presidents is five years.

(b) After the expiry of the incumbent term, the President and the Vice-Presidents shall continue their duties until the time the new President is duly elected.

(c) The President and the Vice-Presidents shall not serve more than two terms.

(d) An interim period to serve as the President or the Vice-President shall not be counted as one term of office.

(e) If a vacancy is filled for the President or the Vice-President for any reason, the term of office of the new President or the new Vice-President shall be up to the expiry of the original term of office.

62. The President or the Vice-Presidents shall not be representative of any Hluttaw.

63. If the President or the Vice-Presidents are Hluttaw representatives, they shall be deemed to have resigned from their seats in that Hluttaw, and if the President or the Vice-Presidents are the Civil Services personnel, they shall be deemed to have resigned or retired from their offices from the day of their election.
64. If the President or the Vice-Presidents are members of a political party, they shall not take part in its party activities during their term of office from the day of their election.
65. The President and the Vice-Presidents shall make an affirmation as follows:
 "I do solemnly and sincerely promise and declare that I will be loyal to the Republic of the Union of Myanmar and the citizens and hold always in esteem non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty.
 I will uphold and abide by the Constitution and its Laws. I will carry out the responsibilities uprightly to the best of my ability and strive for further flourishing the eternal principles of justice, liberty and equality. I will dedicate myself to the service of the Republic of the Union of Myanmar."
66. The President or the Vice-Presidents shall exercise duties and powers vested by this Constitution and other laws.
67. The President and the Vice-Presidents shall not hold any other office or position of emolument.
68. The President and the Vice-Presidents shall furnish a list of family assets under his direction, namely land, houses, buildings, businesses, savings and other valuables together with their values to the Head of the Pyidaungsu Hluttaw.
69. The President and the Vice-Presidents shall receive the emoluments, allowances and insignia of office as prescribed by law. Each shall also be provided with an appropriate official residence.
70. Except in the case of removal from office following impeachment, the President and the Vice-Presidents shall enjoy pension and suitable allowances on retirement in accord with the law after the expiry of the term of office.
- (a) The President or any Vice-President may be impeached for one of the following reasons:
- (i) high treason;
 - (ii) breach of the provisions of this Constitution;
 - (iii) misconduct;
 - (iv) being disqualified for the President or Vice-President under provisions as prescribed in this Constitution;
- (v) inefficient discharge of duties assigned by law.
- If it be required to impeach the President or any Vice-President, a charge signed by not less than one-fourth of the total number of representatives of either Hluttaw included in the Pyidaungsu Hluttaw shall be submitted to the Head of the Hluttaw concerned. Action shall proceed only when this charge is supported by not less than two-thirds of the total number of representatives of the Hluttaw concerned.
- (d) If one Hluttaw supports the taking of action, the other Hluttaw shall form a Body to investigate this charge.
 - (e) The President or the Vice-President shall have the right to refuse the charge himself in person or through a representative when it is investigated.
 - (f) If, after the investigation, not less than two-thirds of the total number of representatives of the Hluttaw which investigated the charge or caused the investigation to be initiated passed the resolution that the charge has been substantiated and renders the President or the Vice-President unfit to continue in office, the Hluttaw concerned shall submit to the Head of the Pyidaungsu Hluttaw such resolution to remove the impeached President or the impeached Vice-President from office.
 - (g) The Head of the Pyidaungsu Hluttaw shall declare the removal of the President or the Vice-President immediately after the receipt of the submission.
72. The President or any of the Vice-Presidents shall be allowed to resign from office of his own volition before the expiry of the term of office.
73. (a) One of the two Vice-Presidents who has won the second highest votes in the Presidential election shall serve as Acting President if the office of the President falls vacant due to his resignation, death, permanent disability or any other cause.
- (b) If the office of the President becomes vacant when the Pyidaungsu Hluttaw is in session, the Acting President shall promptly intimate the Head of the Pyidaungsu Hluttaw to fill the vacancy within seven days.
 - (c) On receipt of the intimation from the Acting President, the Head of the Pyidaungsu Hluttaw shall proceed to elect a Vice-President by the group of Hluttaw representatives concerned that initially elected the Vice-President who subsequently got elected President, the office now being vacant.
 - (d) After the group of Hluttaw representatives concerned has elected a Vice-President, the Electoral College comprising all the

Pyidaungsu Hluttaw representatives shall elect the President from among the three Vice-Presidents.

- (e) If the office of the President becomes vacant when the Pyidaungsu Hluttaw is not in session, the Head of the Pyidaungsu Hluttaw shall summon the Pyidaungsu Hluttaw within 21 days from the day of receipt of the intimation from the Acting President and proceed to hold election to fill the vacant office of the President in accord with the above procedure.
- (f) If the office of a Vice-President becomes vacant before the expiry of the term by reason of his resignation, death, permanent disability or any other cause when the Pyidaungsu Hluttaw is in session, the President shall promptly intimate the Head of the Pyidaungsu Hluttaw to elect a Vice-President within seven days by the group of Hluttaw representatives concerned that elected the said Vice-President.
- (g) When the Pyidaungsu Hluttaw is not in session, the Head of the Pyidaungsu Hluttaw shall summon the Pyidaungsu Hluttaw within 21 days from the day of receipt of the intimation from the President and proceed with the election of a Vice-President by the group of Hluttaw representatives concerned in accord with the prescribed procedure.

CHAPTER IV

Legislature

The Pyidaungsu Hluttaw

Formation of the Pyidaungsu Hluttaw

74. The Pyidaungsu Hluttaw comprises of the following two Hluttaws:

- (a) in accord with the provisions of Section 109, the Pyithu Hluttaw formed with Hluttaw representatives elected on the basis of township as well as population and Hluttaw representatives being the Defence Services Personnel nominated by the Commander-in-Chief of the Defence Services;
- (b) in accord with the provisions of Section 141, the Amyotha Hluttaw formed with Hluttaw representatives elected in equal numbers from Regions and States and Hluttaw representatives being the Defence Services Personnel nominated by the Commander-in-Chief of the Defence Services.

The Head and the Deputy Heads of the respective Hluttaws

75. On the day of commencement of the first Hluttaw session for each term of the Hluttaw concerned, the person who is to conduct and supervise the Hluttaw session held for

the taking of affirmation of office by Hluttaw representatives and for electing the Hluttaw Speaker and Deputy Speaker shall be called the Chairperson, the Head and the Deputy Head of the Pyidaungsu Hluttaw shall be called the Speaker and the Deputy Speaker, the Head and the Deputy Head of the Pyithu Hluttaw, the Amyotha Hluttaw, the Region Hluttaw or the State Hluttaw shall be called the Speaker and the Deputy Speaker.

Performance of duties by the Speaker and the Deputy Speaker of the Pyidaungsu Hluttaw

- 76.(a) The Speaker and the Deputy Speaker of the Amyotha Hluttaw shall also serve as the Speaker and the Deputy Speaker of the Pyidaungsu Hluttaw from the day of term of the Pyithu Hluttaw commences up to the end of 30 months and the Speaker and the Deputy Speaker of the Pyithu Hluttaw shall also serve as the Speaker and the Deputy Speaker of the Pyidaungsu Hluttaw for the remaining term.
- (b) When the Speaker of the Pyidaungsu Hluttaw is unable to perform the duties of the Speaker, the Deputy Speaker shall temporarily perform the duties of the Speaker.

Functions of the Speaker of the Pyidaungsu Hluttaw

- 77. The Speaker of the Pyidaungsu Hluttaw shall:
 - (a) supervise the Pyidaungsu Hluttaw sessions;
 - (b) invite the President, if he is intimated of the President's desire to address the Pyidaungsu Hluttaw;
 - (c) have the right to invite organizations or persons representing any of the Union level organizations formed under the Constitution to attend the Pyidaungsu Hluttaw session and give clarifications on matters relating to ongoing discussions, if necessary;
 - (d) perform other duties and powers prescribed by the Constitution or any law.

Convening the Sessions of the Pyidaungsu Hluttaw

- 78. The first regular session of the Pyidaungsu Hluttaw shall be held within 15 days from the first day of the commencement of the first session of the Pyithu Hluttaw. The Speaker of the Pyidaungsu Hluttaw shall convene the Pyidaungsu Hluttaw.
- 79. The Speaker of the Pyidaungsu Hluttaw shall convene the Pyidaungsu Hluttaw regular session at least once a year. The maximum interval between the two regular sessions shall not exceed twelve months.
- 80. The following functions shall be carried out at the Pyidaungsu Hluttaw session:

- (a) recording the address delivered by the President;
 - (b) reading and recording the message sent by the President and other messages permitted by the Speaker;
 - (c) submitting, discussing and resolving on a Bill;
 - (d) discussing and resolving on the remarks of the President concerning a Bill approved by the Pyidaungsu Hluttaw;
 - (e) discussing and resolving on matters to be undertaken by the Pyidaungsu Hluttaw in accord with the provisions of the Constitution;
 - (f) discussing, resolving and recording the reports submitted to the Pyidaungsu Hluttaw;
 - (g) submitting proposals, discussing and resolving;
 - (h) raising questions and replying;
 - (i) undertaking matters approved by the Speaker of the Pyidaungsu Hluttaw.
81. Matters that require resolutions, consents and approvals of the Pyidaungsu Hluttaw shall be implemented as follows:
- (a) if the Pyidaungsu Hluttaw is in session, the matter shall be discussed and resolved at that session;
 - (b) if the Pyidaungsu Hluttaw is not in session, the matter shall be discussed and resolved at the nearest Pyidaungsu Hluttaw session;
 - (c) a special session or an emergency session shall be convened to discuss and resolve matters which need urgent action in the interest of the public.
82. The Speaker of the Pyidaungsu Hluttaw may convene a special session or an emergency session, if necessary.
83. The Speaker of the Pyidaungsu Hluttaw shall convene a special session or an emergency session as soon as possible when the President informs him to do so.
84. The Speaker of the Pyidaungsu Hluttaw shall convene a special session as soon as possible, if at least one-fourth of the total number of the representatives so require.
85. (a) The first day session of the Pyidaungsu Hluttaw shall be valid if more than half of the total number, who have the right to attend the session, are present. The session, if invalid, shall be adjourned.
- (b) The sessions that are adjourned due to invalidity in accord with the Sub-Section (a) as well as the valid sessions that are extended shall be valid if at least one-third of the Hluttaw representatives are present.
86. (a) A matter that shall be resolved in the Pyidaungsu Hluttaw, save as otherwise provided by the Constitution, shall be determined by a majority of votes of the representatives of the Pyidaungsu Hluttaw who are present and voting.
- (b) The Speaker of the Pyidaungsu Hluttaw or the Deputy Speaker acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.
87. If a representative of the Pyidaungsu Hluttaw is, without permission of the Speaker of the Pyidaungsu Hluttaw, absent from sessions of the Pyidaungsu Hluttaw for a period of at least 15 consecutive days, the Speaker shall inform the Hluttaw concerned to take action against the representative according to the prescribed procedures. In computing the said period of 15 days, no account shall be taken of any period during which the session is adjourned.
88. Although there are vacant seats, the Pyidaungsu Hluttaw shall have the right to carry out its functions. Moreover, the resolutions and proceedings of the Pyidaungsu Hluttaw shall not be annulled, notwithstanding the acts of some person who was not entitled to do so or voted or took part in the proceedings are later discovered.
89. The proceedings and the records of the Pyidaungsu Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Pyidaungsu Hluttaw shall not be published.
90. Members of the organizations representing any of the Union level organizations formed under the Constitution while attending the Pyidaungsu Hluttaw with the permission of the Speaker have the right to explain, converse and discuss the Bills and other matters in connection with the respective organization.
91. The Union level organizations formed under the Constitution may submit the general situation in connection with the respective organization, which should be submitted to the Pyidaungsu Hluttaw with the permission of the Speaker.
92. (a) Subject to the provisions of the Constitution and the provisions of the law relating to the Pyidaungsu Hluttaw, the representatives of the Pyidaungsu Hluttaw shall have freedom of speech and voting at the Pyidaungsu Hluttaw and the Pyidaungsu Hluttaw Joint Committee. Concerning the submitting, discussing and performing at the Pyidaungsu Hluttaw and the Joint Committee, no action shall be taken against, a representative of the Pyidaungsu Hluttaw, except under its law.
- (b) Subject to the provisions of the Constitution and the provisions of the law relating to

the Pyidaungsu Hluttaw, members of the organizations or persons representing any of the Union level organizations formed under the Constitution who are invited to attend the Pyidaungsu Hluttaw session have the freedom of speech. No action shall be taken against such members or persons for their submission and speeches in Pyidaungsu Hluttaw by other law except under its law.

- (c) If the persons mentioned in Sub-Sections (a) and (b) committed assault in exercising the said privileges, they shall be liable to punishment under the regulations, by laws, procedures of the Pyidaungsu Hluttaw or the existing law.

93. If there is a need to arrest a Pyidaungsu Hluttaw representative attending the Pyidaungsu Hluttaw session or a person attending the Pyidaungsu Hluttaw session with the permission or invitation of the Speaker of the Pyidaungsu Hluttaw, credible evidence shall be submitted to the Speaker of the Pyidaungsu Hluttaw. He shall not be arrested without the prior permission of the Speaker of the Pyidaungsu Hluttaw.

94. No action shall be instituted relating to the reports, documents, and Hluttaw records published by the Pyidaungsu Hluttaw or under its authority.

Legislation

- 95. (a) If a Bill initiated in the Pyithu Hluttaw or the Amyotha Hluttaw is approved by both Hluttaws, it shall be deemed that the Bill is approved by the Pyidaungsu Hluttaw.
- (b) If there is a disagreement between the Pyithu Hluttaw and the Amyotha Hluttaw concerning a Bill, the Bill shall be discussed and resolved in the Pyidaungsu Hluttaw.

96. The Pyidaungsu Hluttaw shall have the right to enact laws for the entire or any part of the Union related to matters prescribed in Schedule One of the Union Legislative List.

- 97. (a) When the Pyidaungsu Hluttaw enacts a law, it may:
 - (i) authorize to issue rules, regulations and by laws concerning that law to any Union level organization formed under the Constitution; authorize to issue notifications, orders, directives and procedures to the respective organization or authority.
 - (b) The rules, regulations, notifications, orders, directives, and procedures issued under the power conferred by any law shall be in conformity with the provisions of the Constitution and the relevant law.
 - (c) If both the Pyithu Hluttaw and the Amyotha

Hluttaw resolve to annul or amend any rule, regulation or by law, it shall be deemed that the rule, regulation, or by law is annulled or amended by the Pyidaungsu Hluttaw.

- (d) If there is a disagreement to annul or amend any rule, regulation or by law between the Pyithu Hluttaw and the Amyotha Hluttaw, it shall be discussed and resolved at the Pyidaungsu Hluttaw.
- (e) If a resolution is passed to annul or amend any rule, regulation or by law under Sub-Section (c) or (d), the resolution shall be without prejudice to the validity of any action previously taken under the relevant rule, regulation or by law.

Legislation relating to Other Matters

98. The legislative power is vested in the Pyidaungsu Hluttaw relating to other matters not enumerated in the legislative list of the Union, Region or State and Self-Administered Division Leading Body or Self-Administered Zone Leading Body.

Legislation relating to Union Territories

99. The Pyidaungsu Hluttaw shall enact the required laws if the need arises to do so for the Union territories relating to matters for which legislative powers are vested to the Region Hluttaw or the State Hluttaw, or Self-Administered Division Leading Body or Self-Administered Zone Leading Body.

Submission of Bill

- 100. (a) The Union level organizations formed under the Constitution shall have the right to submit the Bills relating to matters they administered among the matters included in the Union Legislative List to the Pyidaungsu Hluttaw in accord with the prescribed procedures.
- (b) Bills relating to national plans, annual budgets and taxation, which are to be submitted exclusively by the Union Government shall be discussed and resolved at the Pyidaungsu Hluttaw in accord with the prescribed procedures.
- 101. The Bills submitted to the Pyidaungsu Hluttaw by the Union level organizations formed under the Constitution, except the Bills that are prescribed in the Constitution to be discussed and resolved exclusively at the Pyidaungsu Hluttaw, are entitled to initiate and discuss at either the Pyithu Hluttaw or the Amyotha Hluttaw in accord with the prescribed procedures.
- 102. The Bills, which are to be discussed and resolved exclusively at the Pyidaungsu Hluttaw need to be vetted before being

discussed at the Pyidaungsu Hluttaw, those Bills shall be vetted jointly by the Pyithu Hluttaw Bill Committee and the Amyotha Hluttaw Bill Committee, and the findings and remarks of the Joint Committee together with the Bill may be submitted to the Pyidaungsu Hluttaw session in accord with the prescribed procedures.

Submission of the Union Budget Bill

- 103.(a) The President or the person assigned by him, on behalf of the Union Government, shall submit the Union Budget Bill to the Pyidaungsu Hluttaw.
- (b) The following matters included in the Union Budget Bill shall be discussed at the Pyidaungsu Hluttaw but not refused or curtailed:
 - (i) salary and allowance of Heads and Members of the Union level organizations formed under the Constitution and expenditures of those organizations;
 - (ii) debts for which the Union is liable and expenses relating to the debts, and other expenses relating to the loans taken out by the Union;
 - (iii) expenditures required to satisfy judgment, order, decree of any Court or Tribunal;
 - (iv) other expenditures which are to be charged by any existing law or any international treaty.
- (c) Approval, refusal and curtailing of other expenditures except the expenditures specified in Sub-Section (b) shall be passed by the majority consent of the Pyidaungsu Hluttaw.
- (d) The Union Government shall perform as necessary in accord with the Union Budget Law enacted by the Pyidaungsu Hluttaw.
- (e) If in respect of the relevant financial year a need has arisen to authorize the estimated receipts and authorized expenditures in the Union Budget Law enacted by the Pyidaungsu Hluttaw and in addition to estimate receipts and to authorize expenditures, the Supplementary Appropriation Law shall be enacted in the above manner.
- (f) The Union Government shall perform as necessary in accord with the Supplementary Appropriation Law enacted by the Pyidaungsu Hluttaw.

Ordinance

104. When the President after promulgating an Ordinance submits it to the Pyidaungsu Hluttaw for approval, the Pyidaungsu Hluttaw shall:

- (a) resolve to approve the Ordinance or not;
- (b) if it is approved determine the period, the Ordinance shall continue to be in operation;
- (c) if it is disapproved, cease to operate from the day of its disapproval.

Promulgation as Law

- 105.(a) The President shall sign the Bills approved or the Bills deemed to be approved by the Pyidaungsu Hluttaw, within 14 days after the day of receipt, and shall promulgate it as Law.
- (b) The President, within the prescribed period, may send the Bill back to the Pyidaungsu Hluttaw together with his comments.
- (c) If the President does not send the Bill back to the Pyidaungsu Hluttaw together with his signature and comments within the prescribed period, or if the President does not sign to promulgate, on the day after the completion of that period, the Bill shall become a law as if he had signed it.
- 106. (a) If the President sends the Bill back to the Pyidaungsu Hluttaw together with his comments within the prescribed period, the Pyidaungsu Hluttaw, after discussion of the President's comments, may accept his comment and resolve to amend the Bill or may resolve to approve the Bill as it is without accepting the President's comment.
- (b) When the Bill which is amended in accord with the President's comment or the Bill which is approved as it is without accepting the President's comment is sent back to him by the resolution of the Pyidaungsu Hluttaw, the President shall sign the Bill and promulgate it as law within seven days after receiving the Bill back.
- (c) If the Bill sent back by the Pyidaungsu Hluttaw is not signed by the President within the prescribed period, it shall become law as if he had signed it on the last day of the prescribed period.
- 107. The laws signed by the President or the laws deemed to have been signed by him shall be promulgated by publication in the official gazette. The Law shall come into operation on the day of such promulgation unless the contrary intention is expressed.

The Pyidaungsu Hluttaw:

- 108. (a) shall give there solution on matters relating to ratifying, annulling and revoking from international, regional or bilateral treaties, agreements submitted by the President;

- (b) may confer the authority on the President to conclude, annul and revoke any kind of international, regional or bilateral treaties or agreements without the approval of the Pyidaungsu Hluttaw.

Pyithu Hluttaw

Formation of the Pyithu Hluttaw

109. The Pyithu Hluttaw shall be formed with a maximum of 440 Hluttaw representatives as follows:

- (a) not more than 330 Pyithu Hluttaw representatives elected prescribing electorate in accord with law on the basis of township as well as population or combining with an appropriate township which is contiguous to the newly-formed township if it is more than 330 townships;
- (b) not more than 110 Pyithu Hluttaw representatives who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law.

Election of the Pyithu Hluttaw Chairperson

- 110.(a) A Pyithu Hluttaw representative shall be elected as the Chairperson at the commencement of the first session of the Pyithu Hluttaw for its term.
- (b) The Chairperson shall take an affirmation of office before the Pyithu Hluttaw;
- (c) The Chairperson shall supervise the Pyithu Hluttaw session up to the completion of the election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw.

Election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw

- 111.(a) (i) The Pyithu Hluttaw representatives shall elect a Speaker and a Deputy Speaker from among the Pyithu Hluttaw representatives.
- (ii) When the seat of the Speaker or the Deputy Speaker becomes vacant, the substitution shall be made at the nearest session of the Pyithu Hluttaw.
- (iii) When the Speaker is unable to perform the duties of the Speaker, the Deputy Speaker shall temporarily perform the duties of the Speaker.
- (b) The law relating to procedures to elect the Speaker and the Deputy Speaker of the Pyithu Hluttaw shall be enacted.

Functions of the Speaker of the Pyithu Hluttaw

- 112. The Speaker of the Pyithu Hluttaw shall:
 - (a) supervise the Pyithu Hluttaw sessions;
 - (b) invite the President, if he is intimidated

of the President's desire to address the Pyithu Hluttaw;

- (c) have the right to invite members of the organization or persons representing any of the Union level organizations formed under the Constitution to attend the Pyithu Hluttaw and give clarifications on matters relating to ongoing discussions of the Pyithu Hluttaw session, if necessary;
- (d) perform other duties and exercise powers prescribed by the Constitution or any law.

Performance and termination of duties of the Speaker and the Deputy Speaker of the Pyithu Hluttaw

- 113.(a) The Speaker and the Deputy Speaker of the Pyithu Hluttaw shall perform their duties until the first session of the next term of the Pyithu Hluttaw is held.
- (b) If the Speaker or the Deputy Speaker resigns or has ceased to be a Pyithu Hluttaw representative, or has no right to continue to stand as a Pyithu Hluttaw representative, or is suspended from his position as the Speaker or the Deputy Speaker by the Pyithu Hluttaw, or has passed away, he shall have ceased from his position.

114. Duties, powers and rights of the Speaker and the Deputy Speaker of the Pyithu Hluttaw shall be prescribed by law.

Formation of the Pyithu Hluttaw Committee, Commission and Bodies

- 115.(a) The Pyithu Hluttaw shall form Bill Committee, Public Accounts Committee, Hluttaw Rights Committee, and Government's Guarantees, Pledges and Undertakings Vetting Committee with the Pyithu Hluttaw representatives.
- (b) When the occasion arises to have studies made and submitted on defence and security matters or Military affairs, the Pyithu Hluttaw shall form the Defence and Security Committee with the Pyithu Hluttaw representatives who are the Defence Services Personnel, for a limited time. The Defence and Security Committee so formed may, if necessary, be included suitable Pyithu Hluttaw representatives who are not the Defence Services Personnel in accord with the volume of work.
- (c) If there arises a need to study and submit other affairs, in addition to legislature, executive, national races affairs, economics, finance, social and foreign affairs, Hluttaw Committees may be formed with the Pyithu Hluttaw

representatives for a limited time.

- (d) The Pyithu Hluttaw shall determine the number of members, duties, powers, rights, and terms of Pyithu Hluttaw Committees.

116.If there arises a certain matter to co-ordinate with the Amyotha Hluttaw, the Pyithu Hluttaw may elect and assign its representatives who will serve with the Joint Committee comprising an equal number of representatives from the Pyithu Hluttaw and the Amyotha Hluttaw to form that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

117.When both the Pyithu Hluttaw and the Amyotha Hluttaw have certain matters to study, apart from matters to be performed by the Committees as prescribed in Sub-Sections (a) and (b) of Section 115, the Speakers of these Hluttaws may co-ordinate among themselves and form a Joint Committee comprising an equal number of representatives from the Pyithu Hluttaw and the Amyotha Hluttaw. The Pyithu Hluttaw may elect and assign the Pyithu Hluttaw representatives included in that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

- 118.(a) If there arises a need to study the remaining matters other than those studied by the Pyithu Hluttaw Committees, the Pyithu Hluttaw may form Commissions and Bodies with the Pyithu Hluttaw representatives or including suitable citizens.
- (b) In forming the above Commissions and Bodies, the Pyithu Hluttaw shall determine the number of members, duties, powers, rights, and the terms of the said Commissions and Bodies.

Term of the Pyithu Hluttaw

119.The term of the Pyithu Hluttaw is five years from the day of its first session.

Qualification of the Pyithu Hluttaw representatives

120.Persons who possess the following qualifications shall be entitled to be elected as the Pyithu Hluttaw representatives:

- (a) person who has attained the age of 25 years;
- (b) citizen who was born of both parents who are citizens;
- (c) person who has resided in the Union of Myanmar for at least ten consecutive years up to the time of his election as Pyithu Hluttaw representative;

Proviso: The official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union,

- (d) person who possesses qualifications prescribed by the Election Law.

Disqualification for the Pyithu Hluttaw Representatives

121.The following persons shall not be entitled to be elected as the Pyithu Hluttaw representatives:

- (a) a person serving prison term, having been convicted by the Court concerned for having committed an offence;
- (b) a person who has no right to be elected a Pyithu Hluttaw representative due to having committed an offence relating to disqualification for the Pyithu Hluttaw representative and being convicted for such offence, unless the period specified by the authority for him has not expired, before or after the Constitution comes into operation;
- (c) person who is of unsound mind as adjudged by the relevant law;
- (d) person who is an undischarged insolvent as being declared by the relevant court;
- (e) person who owes allegiance to a foreign government, or subject to a foreign government or a citizen of a foreign country;
- (f) person who is entitled to enjoy the rights and privileges of a subject of a foreign government or a citizen of a foreign country;
- (g) person himself or is of a member of an organization who obtains and utilizes directly or indirectly the support of money, land, housing, building, vehicle, property, so forth, from government or religious organization or other organizations of a foreign country;
- (h) person himself or is of a member of an organization who abets the act of inciting, giving speech, conversing or issuing declaration to vote or not to vote based on religion for political purpose;
- (i) member of a religious order;
- (j) Civil Services personnel;
- (k) Proviso: The expression shall not be applied to Civil Services personnel including the Defence Services personnel selected and appointed in the Hluttaws and organizations formed under the Constitution.
- person himself or is of a member of an organization who obtains and utilizes directly or indirectly the State-owned

money, land, housing, building, vehicle, property, so forth;

Proviso: (i) The expression 'State-owned money' does not include pension, allowance, money or salary, allowances, money officially granted by the Union for services rendered for the benefit of the Union;

(ii) The expression 'State-owned land, housing, building, vehicles and property' does not include State-owned land, housing, building and apartments, other building and apartments, State-owned aircraft, trains, vessels and motor vehicles and property, so forth, which have been permitted by the Union to be used under an existing law or as required by duty, or leased from the Union on payment.

- (l) a person who has no right to be elected a Pyithu Hluttaw representative due to having committed a malpractice under relating to the Election Law or acting an omission relating to disqualification for a Pyithu Hluttaw representative being convicted under the Election Law, the period specified by the authority for him has not expired, before or after the Constitution comes into operation.

Qualifications of the Pyithu Hluttaw representatives who are the Defence Services personnel

122.The Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services as Pyithu Hluttaw representatives who are the Defence Services personnel in accord with the law, shall possess the prescribed qualifications for the Pyithu Hluttaw representatives.

Convening the Pyithu Hluttaw Session

123.The first regular session of a term of the Pyithu Hluttaw shall be held within 90 days after the commencement of the general election.

124.(a) The first regular session of the Pyithu Hluttaw shall be held by the State Peace and Development Council after the Constitution comes into operation.

- (b) The first regular sessions for the forthcoming terms of the Pyithu Hluttaw shall be held by the Speaker of the Pyithu Hluttaw who continues to perform his duties in accord with the provisions of the Constitution.

125. (a) The representatives of the Pyithu Hluttaw shall take an affirmation of office as mentioned in Schedule Four before the Chairperson of the Pyithu Hluttaw at the first regular session of the Pyithu Hluttaw.

- (b) The representatives of the Pyithu Hluttaw who have not taken an affirmation of office shall do so before the Speaker of the Hluttaw at the session of the Pyithu Hluttaw at which they first attend.

126.The Speaker of the Pyithu Hluttaw shall convene the regular session at least once a year. The maximum interval between regular sessions shall not exceed 12 months.

127.The following functions shall be carried out at the Pyithu Hluttaw session:

- (a) recording the address delivered by the President;
- (b) reading and recording the message sent by the President and other messages permitted by the Speaker;
- (c) submitting, discussing and resolving on a Bill;
- (d) discussing and resolving on the matters to be undertaken by the Pyithu Hluttaw in accord with the provisions of the Constitution;
- (e) discussing, resolving and recording the reports submitted to the Pyithu Hluttaw;
- (f) submitting proposals, discussing and resolving;
- (g) raising questions and replying;
- (h) performing matters approved by the Speaker of the Pyithu Hluttaw.

128.(a) The first day session of the Pyithu Hluttaw shall be valid if more than half of the total number of the Hluttaw representatives, who have the right to attend the session, are present. The session, if invalid, shall be adjourned.

- (b) The sessions that are adjourned due to invalidity in accord with the Sub-Section (a) as well as the valid sessions that are extended will be valid if at least one-third of the Hluttaw representatives are present.

129.(a) A matter that shall be resolved in the Pyithu Hluttaw, save as otherwise provided by the Constitution, shall be determined by a majority of votes of the Pyithu Hluttaw representatives who are present and voting.

- (b) The Speaker of the Pyithu Hluttaw or the Deputy Speaker discharging duties as the Speaker at the Pyithu Hluttaw shall not vote in the first instance in the sessions of the Pyithu Hluttaw, but shall have and exercise a casting vote in the matter of an equality of votes.

130. (a) If a Pyithu Hluttaw representative is, without permission of the Pyithu Hluttaw, absent from a Pyithu Hluttaw session for a period of at least 15 consecutive days, the Pyithu Hluttaw may declare his seat vacant. In computing the said period of 15 days, no account shall be taken of any period during which the session is adjourned.
- (b) If the Speaker of the Pyidaungsu Hluttaw informed the Pyithu Hluttaw that a Pyithu Hluttaw representative is absent from a Pyidaungsu Hluttaw session for a period of 15 consecutive days without permission, the Pyithu Hluttaw shall take action against the said representative in accord with the prescribed procedures.
131. Although there are vacant seats, the Pyithu Hluttaw shall have the right to carry out its functions. Moreover, the resolutions and proceedings of the Pyithu Hluttaw shall not be annulled, notwithstanding the acts of some person who was not entitled to do so sat or voted or took part in the proceedings are later discovered.
132. The proceedings and the records of the Pyithu Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Pyithu Hluttaw shall not be published.
133. (a) Subject to the provisions of the Constitution and the law relating to the Pyithu Hluttaw, the Pyithu Hluttaw representatives shall have freedom of speech and voting at the Pyithu Hluttaw and the Pyithu Hluttaw Committee. Concerning the discussing, submitting and performing at the Pyithu Hluttaw and the Pyithu Hluttaw Committees, no action shall be taken against a Pyithu Hluttaw representative except under its law.
- (b) Subject to the provisions of the Constitution and the provisions of the law relating to the Pyithu Hluttaw, members of the organizations or persons representing any of the Union level organizations formed under the Constitution who are permitted or invited to attend the session of the Pyithu Hluttaw or any committee of the Pyithu Hluttaw have the freedom of speech at the Pyithu Hluttaw and the Pyithu Hluttaw Committees. No action shall be taken against such members or persons for their submissions and speeches in the Pyithu Hluttaw and the Pyithu Hluttaw Committees by other law except under its law.
- (c) If the persons mentioned in Sub-Sections (a) and (b) committed assault in exercising the said privileges, they shall be liable to punishment under the regulations, by laws, procedures of the Pyithu Hluttaw or the existing laws.
134. (a) If there is a need to arrest a Pyithu Hluttaw representative attending the session or a person attending the Pyithu Hluttaw session with the permission or invitation of the Speaker of the Pyithu Hluttaw, the credible evidence shall be submitted to the Speaker of the Pyithu Hluttaw. He shall not be arrested without the prior permission of the Speaker of the Pyithu Hluttaw.
- (b) If there is a need to arrest a member of a Committee or Commission or the Body of the Pyithu Hluttaw attending session of any Committee or session of Commission or the Body formed by the Pyithu Hluttaw, the credible evidence shall be submitted to the Speaker of the Pyithu Hluttaw through the Head of the Committee or Commission or Body concerned. He shall not be arrested without the prior permission of the Speaker of the Pyithu Hluttaw.
- (c) If a Pyithu Hluttaw representative is arrested, the Pyithu Hluttaw or the Pyithu Hluttaw Committee or the Commission or the Body formed by the Pyithu Hluttaw is not in session, the credible evidence in support of such arrest shall as soon as possible be submitted to the Speaker of the Pyithu Hluttaw.
135. No action shall be instituted relating to the reports, documents, and Hluttaw records published by the Pyithu Hluttaw or under its authority.

Submission of Bill

136. Bills relating to other matters, except the matters prescribed in the Constitution that the Bill shall be submitted and passed exclusively by the Pyidaungsu Hluttaw stated in the Schedule One of Union Legislative List, shall be initiated in the Pyithu Hluttaw in accord with the prescribed procedures.
137. (a) After issuing any rule, regulation or by law in accord with the law enacted by the Pyidaungsu Hluttaw, the Body concerned shall distribute and submit the said rule, regulation or by law to its representatives at the nearest regular session of the Pyithu Hluttaw with the permitted arrangement of the Speaker of the Hluttaw.
- (b) If it is found that a rule, regulation or by law is in conformity with the provisions of relevant law, Hluttaw representatives may move to annul or amend the rule, regulation or by law to the Pyithu Hluttaw

within 90 days from the day that rule, regulation or by law is submitted and distributed.

- (c) If there is a disagreement between the Pyithu Hluttaw and the Amyotha Hluttaw to annul or amend any rule, regulation or by law, it shall be submitted to the Pyidaungsu Hluttaw.
138. (a) If Bills submitted by any Union level organization formed under the Constitution are sent in accord with the prescribed procedures of the Pyidaungsu Hluttaw, it shall be deemed that such Bills are initiated in the Pyithu Hluttaw, and shall be discussed and resolved in the Pyithu Hluttaw.
- (b) Bills relating to other matters, except the matters prescribed in the Constitution that the Bill shall be submitted and passed exclusively by the Pyidaungsu Hluttaw stated in the Union Legislative List, shall be initiated in the Pyithu Hluttaw in accord with the law. Such Bills shall be discussed and resolved by the Pyithu Hluttaw under the prescribed procedures.
 - (c) The Bills passed by the Pyithu Hluttaw shall be sent to the Amyotha Hluttaw to continue to discuss and resolve.
139. (a) After receiving a Bill sent by the Amyotha Hluttaw, the Pyithu Hluttaw may resolve to agree or disagree, or agree with amendments in accord with the resolution of the Amyotha Hluttaw. The Bill shall be sent back to the Amyotha Hluttaw together with the resolution of the Pyithu Hluttaw.
- (b) When the Pyithu Hluttaw receives the Bill with amendments from the Amyotha Hluttaw it shall, if it accepts the Bill with amendments of the Amyotha Hluttaw, send to the Speaker of the Pyidaungsu Hluttaw.
 - (c) If there is a disagreement between the Pyithu Hluttaw and the Amyotha Hluttaw relating to the Bill sent to the Amyotha Hluttaw, the Pyithu Hluttaw shall take the resolution of the Pyidaungsu Hluttaw.
140. Members of the organization representing any Union level Body formed under the Constitution are entitled :
- (a) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending the Pyithu Hluttaw session with the permission of the Speaker of the Pyithu Hluttaw;
 - (b) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending sessions of the Committees, Commissions and Bodies of the Pyithu Hluttaw with the permission of the Head

of the Committee, Commission or Body concerned.

Amyotha Hluttaw

Formation of the Amyotha Hluttaw

141. The Amyotha Hluttaw shall be formed with a maximum of 224 Hluttaw representatives as follows:
- (a) 168 Amyotha Hluttaw representatives elected in an equal number of 12 representatives from each Region or State inclusive of relevant Union territories and including one representative from each Self-Administered Division or Self-Administered Zone;
 - (b) 56 Amyotha Hluttaw representatives who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law, four representatives from each Region or State inclusive of relevant Union territories;
 - (c) in forming the Amyotha Hluttaw as mentioned in Sub-Sections (a) and (b), the relevant Union Territory means the Union Territories, prescribed under the Constitution, or prescribed by law of the Pyidaungsu Hluttaw, which are inclusive in State or Division, Region or State for the purpose of electing the Amyotha Hluttaw representative.

Election of Chairperson of the Amyotha Hluttaw

142. Election of Chairperson of the Amyotha Hluttaw shall be carried out subject to the provisions relating to the election of Chairperson of the Pyithu Hluttaw under Section 110.

Election of the Speaker and the Deputy Speaker of the Amyotha Hluttaw

143. Election of the Speaker and the Deputy Speaker of the Amyotha Hluttaw shall be carried out subject to the provisions relating to the election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw under Section 111.

Duties of the Speaker of the Amyotha Hluttaw

144. The duties of the Speaker of the Amyotha Hluttaw shall be subject to the provisions relating to the duties of the Speaker of the Pyithu Hluttaw under Section 112.

Performance and termination of duties of the Speaker and the Deputy Speaker of the Amyotha Hluttaw

145. Performance and termination of duties of the Speaker and the Deputy Speaker of the

Amyotha Hluttaw shall be subject to the provisions relating to the performance and termination of duties of the Speaker and the Deputy Speaker of the Pyithu Hluttaw under Section 113.

146. Duties, powers and rights of the Speaker and the Deputy Speaker of the Amyotha Hluttaw shall be prescribed by law.

Formation of the Amyotha Hluttaw Committees, Commissions and Bodies

147.(a) The Amyotha Hluttaw shall form Bill Committee, Public Accounts Committee, Hluttaw Rights Committee, and Government's Guarantees, Pledges and Undertakings Vetting Committee with the Amyotha Hluttaw representatives.

(b) When the occasion arises to have studies made and submitted on defence and security matters or Military affairs, the Amyotha Hluttaw shall form the Defence and Security Committee with the Amyotha Hluttaw representatives who are the Defence Services personnel, for a limited time. The Defence and Security Committee so formed may, if necessary, be included suitable Amyotha Hluttaw representatives who are not the Defence Services personnel in accord with the volume of work.

(c) If there arises a need to study and submit on other affairs, in addition to legislature, executive, national races affairs, economics, finance, social and foreign affairs, the Hluttaw Committees may be formed with the Amyotha Hluttaw representatives for a limited time.

(d) The Amyotha Hluttaw shall determine the number of members, duties, powers, rights, and term of the Amyotha Hluttaw Committees.

148. If there arises a certain matter to co-ordinate with the Pyithu Hluttaw, the Amyotha Hluttaw may elect and assign its representatives who will serve with the Joint Committee comprising an equal number of representatives from the Amyotha Hluttaw and the Pyithu Hluttaw to form that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

149. When both the Amyotha Hluttaw and the Pyithu Hluttaw have certain matters to study, apart from matters to be performed by the Committees as prescribed in Sub-Sections (a) and (b) of Section 147, the Speakers of these Hluttaws may co-ordinate among themselves and form a Joint Committee comprising an equal number of representatives from the

Amyotha Hluttaw and the Pyithu Hluttaw. The Amyotha Hluttaw may elect and assign the Amyotha Hluttaw representatives included in that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

150. Formation of the Amyotha Hluttaw Commissions and Bodies of the Amyotha Hluttaw shall be carried out subject to the provisions relating to the formation of Commission and Bodies of the Pyithu Hluttaw under Section 118.

Term of the Amyotha Hluttaw

151. The term of the Amyotha Hluttaw is the same as the term of the Pyithu Hluttaw. The term of the Amyotha Hluttaw expires on the day of the expiry of the Pyithu Hluttaw.

Qualifications of the Amyotha Hluttaw representatives

152. The Amyotha Hluttaw representatives shall be:

- (a) persons who have attained the age of 30 years;
- (b) persons who have qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed under Section 120;
- (c) persons whose qualifications does not breach the provisions under Section 121 which disqualified a person from standing for election as the Pyithu Hluttaw representatives.

Qualifications of the Amyotha Hluttaw representatives who are the Defence Services personnel

153. The Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services as the Amyotha Hluttaw representatives who are the Defence Services personnel in accord with the law, shall possess the prescribed qualifications for the Amyotha Hluttaw representatives.

154. Convening of the Amyotha Hluttaw Session

- (a) The commencement of the term of the Amyotha Hluttaw is the day of the commencement of the term of the Pyithu Hluttaw.
- (b) The first regular session of the Amyotha Hluttaw shall be held within seven days after the commencement of the term of that Hluttaw.

155. Convening the Amyotha Hluttaw session shall be carried out subject to the provisions relating to convening of the Pyithu Hluttaw sessions under Sections 124 to 135.

Submission of Bill

156. Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted and passed exclusively by the Pyidaungsu Hluttaw stated in Union Legislative List, shall be initiated in the Amyotha Hluttaw in accord with the prescribed procedures.
157. (a) After issuing a rule, regulation or by law in accord with the law enacted by the Pyidaungsu Hluttaw, the Body concerned shall distribute and submit the said rule, regulation or by law to its representatives at the nearest regular session of the Amyotha Hluttaw with the permitted arrangement of the Speaker of the Hluttaw.
- (b) If it is found that a rule, regulation or by law is in conformity with the provisions of relevant law, Hluttaw representatives may move to annul or amend the rule, regulation or by law to the Amyotha Hluttaw within 90 days from the day that rule, regulation or by law is submitted and distributed.
- (c) If there is a disagreement between the Amyotha Hluttaw and the Pyithu Hluttaw to annul or amend any rule, regulation or by law, it shall be submitted to the Pyidaungsu Hluttaw.
158. (a) If Bills submitted by any Union level organization formed under the Constitution are sent in accord with prescribed procedures of the Pyidaungsu Hluttaw, it shall be deemed that such Bills are initiated in the Amyotha Hluttaw, and shall be discussed and resolved in the Amyotha Hluttaw.
- (b) Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted and passed exclusively by the Pyidaungsu Hluttaw stated in the Union Legislative List shall be initiated in the Amyotha Hluttaw in accord with the law. Such Bills shall be discussed and resolved by the Amyotha Hluttaw under the prescribed procedures.
- (c) The Bills passed by the Amyotha Hluttaw shall be sent to the Pyithu Hluttaw to continue to discuss and to resolve.
159. (a) After receiving a Bill sent by the Pyithu Hluttaw, the Amyotha Hluttaw may resolve to agree or disagree, or agree with amendments in accord with the resolution of the Pyithu Hluttaw. The Bill shall be sent back to the Pyithu Hluttaw together with the resolution of the Amyotha Hluttaw.
- (b) When the Amyotha Hluttaw receives the Bill with amendments from the

Pyithu Hluttaw it shall, if it accepts the Bill with amendments of the Pyithu Hluttaw, send to the Speaker of the Pyidaungsu Hluttaw.

- (c) If there is a disagreement between the Amyotha Hluttaw and the Pyithu Hluttaw relating to the Bill sent to the Pyithu Hluttaw, the Amyotha Hluttaw shall obtain the resolution of the Pyidaungsu Hluttaw.

160. Members representing any Union level Body formed under the Constitution are entitled:

- (a) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending the Amyotha Hluttaw session with the permission of the Speaker of the Amyotha Hluttaw;
- (b) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending sessions of the Committees, Commissions and Bodies of the Amyotha Hluttaw with the permission of the Head of the Committee, Commission or Body concerned.

**Region Hluttaw or State Hluttaw
Formation of the Region Hluttaw or the State Hluttaw**

161. The Region or State Hluttaw shall be formed with the following persons :

- (a) representatives of the Region or State Hluttaw, two of each are elected from each township in the Regions or the States;
- (b) representatives of the Region Hluttaw, each is elected from each national race determined by the authorities concerned as having a population which constitutes 0.1 percent and above of the population of the Union, of the remaining national races other than those who have already obtained the respective Region or a Self-Administered Area in that Region;
- (c) representatives of the State Hluttaw, each is elected from each national race determined by the authorities concerned as having a population which constitutes 0.1 percent and above of the population of the Union, of the remaining national races other than those who have already obtained respective State or a Self-Administered Area in that State;
- (d) representatives of the Region or State Hluttaw who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law for an equal number of one-third of the total number of Hluttaw representatives elected under Sub-Sections (a) and (b) or (a) and (c).

Election of the Chairperson of the Region or State Hluttaw

162. Election of Chairperson of the Region Hluttaw or the State Hluttaw shall be carried out subject to the provisions relating to the election of Chairperson of the Pyithu Hluttaw under Section 110.

Election of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw

163. Election of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw shall be carried out subject to the provisions relating to the election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw under Section 111.

Duties of the Speaker of the Region Hluttaw or the State Hluttaw

164. The Speaker of the Region Hluttaw or the State Hluttaw shall:

- (a) supervise the Region Hluttaw or the State Hluttaw sessions;
- (b) invite the President, if he is informed of the President's desire to address the Region Hluttaw or the State Hluttaw;
- (c) make necessary arrangement if the Chief Minister of the Region or State informs his desire to address;
- (d) have the right to invite members of the organization or persons representing any Region or State level organization formed under the Constitution to attend the session of the Region Hluttaw or the State Hluttaw and give clarifications on matters relating to ongoing discussions, if necessary;
- (e) perform other duties and powers prescribed by the Constitution or any law.

Performance and termination of duties of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw

165. Performance and termination of duties of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw shall be subject to the provisions relating to the performance and termination of duties of the Speaker and the Deputy Speaker of the Pyithu Hluttaw in Section 113.

166. Duties, powers and rights of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw shall be prescribed by law.

Formation of the Region Hluttaw or the State Hluttaw Committee and Bodies

167. (a) The Region Hluttaw or the State Hluttaw may, if necessary, form Committee and

Bodies with the Region or State Hluttaw representatives concerned to study and submit legislation, national races affairs vested by the Constitution.

- (b) The Region Hluttaw or the State Hluttaw may form above Committees and Bodies including suitable citizens.
- (c) The Region Hluttaw or the State Hluttaw shall prescribe the number of members, duties, powers, rights and terms of the Committees or Bodies in forming those Committees and Bodies.

Term of the Region Hluttaw or the State Hluttaw

168. The term of the Region or State Hluttaw is the same as the term of the Pyithu Hluttaw. The term of the Region or State Hluttaw expires on the day of the expiry of the Pyithu Hluttaw.

Qualifications of the Region Hluttaw or the State Hluttaw representatives

169. The Region or State Hluttaw representatives shall:

- (a) have qualifications entitled to be elected as the Pyithu Hluttaw representatives under Section 120;
- (b) shall be subject to the provisions of Section 121 which provide the disqualifications to be elected as the Pyithu Hluttaw representatives.

Qualifications of the Region or State Hluttaw representatives who are Defence Services personnel

170. The Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services as the Region or State Hluttaw representatives who are the Defence Services personnel in accord with the law, shall possess the prescribed qualifications for the Region or State Hluttaw representatives.

Convening the Region or State Hluttaw Sessions

171. (a) The commencement of the term of the Region or State Hluttaw is the day of the commencement of the term of the Pyithu Hluttaw.

- (b) The first regular session of the Region or State Hluttaw shall be held within 15 days after the commencement of the term of the Hluttaw.

172. (a) The first regular session of the Region or State Hluttaw shall be convened by the State Peace and Development Council after the Constitution comes into operation.

- (b) The first regular sessions for the forthcoming terms of the Region or State Hluttaw shall be held by the Speaker

- of the Region or State Hluttaw who continues to perform his duties in accord with the provisions of the Constitution.
173. (a) The representatives of the Region or State Hluttaw shall take an affirmation of office as mentioned in Schedule Four before the Chairperson of the Region or State Hluttaw at the first regular session of the Region or State Hluttaw.
- (b) The representatives of the Region or State Hluttaw who have not taken an affirmation of office shall do so before the Speaker of the Hluttaw at the session of the Region or State Hluttaw at which they first attend.
174. The Speaker of the Region or State Hluttaw shall convene the regular session at least once a year. The maximum interval between regular sessions shall not exceed 12 months.
175. The following functions shall be carried out at the Region or State Hluttaw session:
- (a) recording the addresses delivered by the President;
 - (b) reading and recording the message sent by President and other messages permitted by the Speaker;
 - (c) recording the address delivered by the Chief Minister of the Region or the State;
 - (d) submitting, discussing and resolving on a Bill;
 - (e) discussing and resolving on the matters to be undertaken by the Region or State Hluttaw in accord with the provisions of the Constitution;
 - (f) discussing, resolving and recording the reports submitted to the Region or State Hluttaw;
 - (g) submitting proposal, discussing and resolving;
 - (h) raising questions and replying;
 - (i) undertaking matters approved by the Speaker of the Region or State Hluttaw.
176. Matters that require resolution, agreement and approval of the Region or State Hluttaw shall be implemented as follows:
- (a) if the Region or State Hluttaw is in session, the matter shall be resolved at that session;
 - (b) if the Region or State Hluttaw is not in session, the matter shall be resolved at the nearest Region or State Hluttaw session;
 - (c) a special session or an emergency session shall be convened to discuss and to resolve matters which need urgent action in the interest of the public.
177. The Speaker of the Region or State Hluttaw may convene a special session or an emergency session of the Region or State Hluttaw, if necessary.
178. The Speaker of the Region or State Hluttaw shall convene a special or an emergency session of the Region or State Hluttaw as soon as possible when the Chief Minister of the Region or State informs him to do so.
179. The Speaker of the Region or State Hluttaw shall convene a special session as soon as possible, if at least one-fourth of the total number of the Region or State Hluttaw representatives so require.
180. (a) The first day session of the Region or State Hluttaw shall be valid if more than half of the total number of Hluttaw representatives, who have the right to attend the Region or State Hluttaw session, are present. The session, if invalid, shall be adjourned.
- (b) The sessions that are adjourned due to invalidity in accord with the Sub-Section (a) as well as the valid session that are extended will be valid if at least one-third of the Hluttaw representatives are present.
181. (a) A matter that shall be resolved in the Region or State Hluttaw, save as otherwise provided by the Constitution, shall be determined by a majority of votes of the Region or State Hluttaw representatives who are present and voting.
- (b) The Speaker of the Region or State Hluttaw discharging duties as the Speaker at the Region or State Hluttaw shall not voted in the first instance in the sessions of the Region or State Hluttaw, but shall have and exercise a casting vote in the matter of an equality of votes.
182. If the Region or State Hluttaw representative is, without permission of the Region or State Hluttaw, absent from a Region or a State Hluttaw session for a period of at least 15 consecutive days, the Region or State Hluttaw may declare his seat vacant. In computing the said period of 15 days, it shall not be counted of any period during which the session is adjourned.
183. Although there are vacant seats, the Region or State Hluttaw shall have the right to carry out its functions. Moreover, the resolutions and proceedings of the Region or State Hluttaw shall not be annulled, notwithstanding the acts of some person who was not entitled to do so sat or voted or took part in the proceedings are later discovered.
184. The proceedings and the records of the Region or State Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Region or State Hluttaw shall not be published.
185. (a) Subject to the provisions of the Constitution and the provisions of the

law relating to the Region or State Hluttaw, the Region or State Hluttaw representatives shall have freedom of speech and voting at the Region or State Hluttaw and the Committee and Body formed by the Region or State Hluttaw. Concerning the discussing, submitting and performing at the Region or State Hluttaw and the Region or State Hluttaw Committees and Bodies, no action shall be taken against a Region or a State Hluttaw representative except under its laws.

- (b) Subjects to the provisions of the Constitution and the provisions of the law relating to the Region or State Hluttaw, members of the organizations or persons representing any of the Region or State level organizations formed under the Constitution who are permitted or invited to attend the session of the Region or State Hluttaw or any Committee and Body of the Region or State Hluttaw have the freedom of speech at the Region or State Hluttaw or the Region or State Hluttaw Committees and Bodies. No action shall be taken against such members or persons for their submissions and speeches in the Region or State Hluttaw by other law except under its laws.
- (c) If the persons mentioned in Sub-Sections (a) and (b) committed assault in exercising the said privileges, they shall be liable to punishment under the regulations, by laws, procedures of the Region or State Hluttaw or the existing laws.

- 186.(a) If there is a need to arrest a Region or a State Hluttaw representative attending the Region or State Hluttaw session or a person attending the Region or State Hluttaw session with the permission or invitation of the Speaker of the Hluttaw, the credible evidence shall be submitted to the Speaker of the Region or State Hluttaw. He shall not be arrested without the prior permission of the Speaker of the Region or State Hluttaw.
- (b) If there is a need to arrest a member of a Committee or a Body of the Region or State Hluttaw attending session of any Committee or Body formed by the Region or State Hluttaw, the credible evidence shall be submitted to the Speaker of the Region or State Hluttaw through the Head of the Committee or Body concerned. He shall not be arrested without the prior permission of the Speaker of the Hluttaw.
- (c) If a representative of the Region or

State Hluttaw is arrested, session of the Region or State Hluttaw or session of any Committee or any Body formed by the Hluttaw is not in session, the credible evidence in support of such arrest shall as soon as possible be submitted to the Speaker of the Region or State Hluttaw.

- 187.No action shall be instituted relating to the reports, documents and Hluttaw records published by the Region or State Hluttaw or under its authority.

Legislation

- 188.The Region or State Hluttaw shall have the right to enact laws for the entire or any part of the Region or State related to matters prescribed in Schedule Two of the Region or State Hluttaw Legislative List.

- 189.(a) When the Region or State Hluttaw enacts a law, it may:
 - (i) authorize to issue rules, regulations and by laws concerning that law to any Region or State level organization formed under the Constitution;
 - (ii) authorize to issue notifications, orders, directives and procedures to the respective organization or authority.
- (b) The rules, regulations, by laws, notifications, orders, directives and procedures issued under the power conferred by any law shall be in conformity with the provisions of the Constitution and the relevant law.
- (c) After issuing any rule, regulation or by law in accord with the law enacted by the Region or State Hluttaw, the Body concerned shall distribute and submit the said rule, regulation or by law to its representatives at the nearest regular session of the Region or State Hluttaw under the permitted arrangement of the Speaker of the Hluttaw.
- (d) If it is found that a rule, regulation or by law is in conformity with the provisions of relevant law, Hluttaw representatives may move to annul or amend the rule, regulation or by law to the Region or State Hluttaw within 90 days from the day that rule, regulation or by law is submitted and distributed.
- (e) If the Region or State Hluttaw passes a resolution to annul or amend any rule, regulation or by law, the resolution shall be without prejudice to the validity of any action previously taken under the relevant rules, regulations or by laws.

Submission of Bill

- 190.(a) The Region or State level organizations

formed under the Constitution shall have the right to submit the Bills relating to matters they administered among the matters included in the Schedule Two of the Region or State Legislative List to the Region or State Hluttaw in accord with the prescribed procedures.

- (b) Bills relating to regional plans, annual budgets and taxation of the Region or State, which are to be submitted exclusively by the Region or State government, shall be submitted to the Region or State Hluttaw in accord with the prescribed procedures.

191. Representatives of the Region or State Hluttaw shall submit the Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted exclusively by the Region or State Hluttaw stated in the Schedule Two of the Region or State Legislative List, to the Region or State Hluttaw in accord with the prescribed procedures.

192. (a) Members, who are representatives of the Region or State Hluttaw among members representing any Region or State level organization formed under the Constitution, are entitled to explain, converse, discuss and vote Bills or matters relating to their organizations at the Hluttaw sessions.

- (b) Members, who are not representatives of the Region or State Hluttaw among members representing any Region or State level organization formed under the Constitution, when they are attending Hluttaw session with the permission of the Speaker of the Hluttaw, are entitled to explain, converse and discuss Bills or matters relating to their organizations.

Submission of Region and State Budget Bill

193. (a) The Region or State Annual Budget Bill to which only by the Region or State Government has the right to be submitted only to the Region or State Hluttaw in accord with the prescribed procedures.

- (b) Relating to the Bill in Sub-Section (a), the Region or State Budget including finance received from the Union Fund of the Region or State under the Union Budget Law or the Supplementary Appropriation Law with the recommendation of the Chief Minister concerned shall be discussed, as may be necessary by the Region or State Hluttaw concerned and shall be carried out and approved, refused, curtailed with the majority consent. In doing so, the following matters may be discussed at

the Region Hluttaw or the State Hluttaw, but not refused or curtailed:

- (i) salary and allowance of Heads and members of the Region or State level organizations formed under the Constitution and expenditures of those organizations;
- (ii) salary and allowance of Heads and members of Leading Bodies of Self-Administered Area formed under the Constitution and expenditures of those bodies;
- (iii) debts for which the Region or State is liable and expenses relating to the debts, other expenses relating to the loans taken out by the Region or State;
- (iv) expenditures required to satisfy judgment, order or decree of any Court or Tribunal; other expenditures which are to be charged by any law enacted by the Region Hluttaw or the State Hluttaw.

194. The Region or State Hluttaw shall pass a resolution when the Region or State government submits the Region or State estimated budget in accord with the prescribed procedures.

Promulgation of Law

195. (a) The Chief Minister of the Region or State shall:

- (i) sign and promulgate the Bills approved by the Region or State Hluttaw as law within seven days after the day of receipt in accord with the prescribed procedures;
- (ii) sign and promulgate the Bills approved by the Leading Body of Self-Administered Division or Self-Administered Zone as law within 14 days after the day of receipt.

(b) If the Chief Minister of the Region or State does not sign and promulgate the Bill as law within the prescribed period, on the day after the completion of that period, the Bill shall become a law as if he had signed it.

(c) The laws signed by the Chief Minister of the Region or State and laws which deemed to have been signed by him, shall be promulgated by the publication in the official gazette. The Law shall come into operation on the day of such promulgation unless the contrary intention is expressed.

Self-Administered Division and Self-Administered Zone Leading Bodies

196. The legislative power relating to the matters listed in the Schedule Three for respective Divisions or Zones are allotted to the Self-Administered Division or the Self Administered Zone Leading Bodies.

Duties, powers and rights of the representatives of the Pyithu Hluttaw, the Amyotha Hluttaw and the Region or State Hluttaw

197. Duties, powers and rights of the representatives of the Pyithu Hluttaw, the Amyotha Hluttaw and the Region or State Hluttaw shall be prescribed by law.

Effect of Laws

198. The effect of laws enacted by different levels of the Hluttaw and the Leading Bodies of the Self-Administered Area is as follows:

- (a) if any provision of the law enacted by the Pyidaungsu Hluttaw, the Region Hluttaw, the State Hluttaw, the Leading Bodies of the Self-Administered Division or the Self-Administered Zone or, any existing law is inconsistent with any provision of the Constitution, the Constitution shall prevail;
- (b) if any provision of the law enacted by the Region Hluttaw or the State Hluttaw is inconsistent with any provision of the law enacted by the Pyidaungsu Hluttaw, the law enacted by the Pyidaungsu Hluttaw shall prevail;
- (c) if any provision of the law enacted by the Leading Body of the Self-Administered Division or the Self-Administered Zone is inconsistent with any provision of the law enacted by the Pyidaungsu Hluttaw, the law enacted by the Pyidaungsu Hluttaw shall prevail;
- (d) if any provision of the law enacted by the Leading Body of the Self-Administered Division or the Self-Administered Zone is inconsistent with any provision of the law enacted by the Region Hluttaw or the State Hluttaw concerned, the law enacted by the Region Hluttaw or the State Hluttaw concerned shall prevail.

CHAPTER V

Executive

The Union Government

- 199. (a) The Executive Head of the Union is the President.
- (b) (i) The executive power of the Union is distributed among the Union, Regions and States.

- (ii) Self-Administered power is distributed among Self-Administered Areas as prescribed by the Constitution.

Formation of the Union Government

200. The Union Government shall comprise the following persons:

- (a) The President;
- (b) Vice-Presidents;
- (c) Ministers of the Union;
- (d) The Attorney General of the Union.

Formation of the National Defence and Security Council

201. The National Defence and Security Council led by the President, to enable it to discharge the duties assigned by the Constitution or any law, shall be formed with the following persons:

- (a) The President;
- (b) Vice-Presidents;
- (c) Vice-Presidents;
- (d) Speaker of the Pyithu Hluttaw;
- (e) Speaker of the Amyotha Hluttaw;
- (f) Commander-in-Chief of the Defence Services;
- (g) Deputy Commander-in-Chief of the Defence Services;
- (h) Minister for Defence;
- (i) Minister for Foreign Affairs;
- (j) Minister for Home Affairs;
- (k) Minister for Border Affairs.

Powers and Functions of the President

202. The President, with the approval of the Pyidaungsu Hluttaw, may:

- (a) designate the Ministries of the Union Government as necessary, and may make changes and additions to the ministries;
- (b) designate the number of the Union Ministers as necessary, and may increase or decrease the number.

203. The President shall be responsible to the Pyidaungsu Hluttaw. The Vice-Presidents shall be responsible to the President and also to the Pyidaungsu Hluttaw through the President.

204. The President has:

- (a) the power to grant a pardon;
- (b) the power to grant amnesty in accord with the recommendation of the National Defence and Security Council.

205. The President may, in accord with the law, have:

- (a) the power to confer honorary titles and awards; and
- (b) the power to revoke conferred honorary titles and awards.

206. The President may establish or sever diplomatic relations with foreign countries with the approval of the Pyidaungsu Hluttaw. However, in situation which requires immediate action, the President may sever diplomatic relations with any foreign country after coordination with the National Defence and Security Council. The President shall submit that action to the Pyidaungsu Hluttaw for its approval.
207. The President, in accord with the law, may: appoint and recall the diplomats of its country; agree on the appointment of foreign diplomats and send information on the recall of diplomats; accept the letters of accreditation presented by foreign diplomats.
208. The President, in accord with the law, may appoint and dismiss Heads of the Bodies of Civil Services.
209. The President, in accord with the law:
- (a) shall enter into, ratify or annul international, regional or bilateral treaties which require the approval of the Pyidaungsu Hluttaw, or revoke from such treaties;
 - (b) may enter into, ratify or annul international, regional or bilateral treaties which do not require the approval of the Pyidaungsu Hluttaw, or revoke from such treaties.
210. The President shall have the right to occasionally deliver an address or send a message to the session of the Pyidaungsu Hluttaw or the Amyotha Hluttaw, or to the entire country relating to the policies and general situation of the Union.
211. The President may intimate the Speaker of the Pyidaungsu Hluttaw to summon an emergency or special session of the Pyidaungsu Hluttaw, if necessary.
212. (a) Except Union budget matters, the President shall have the right to promulgate an ordinance for administrative matters that need immediate action during the interval between sessions of the Pyidaungsu Hluttaw.
- (b) If the President has not revoked the ordinance promulgated under Sub-Section (a), he shall submit the ordinance for approval to the nearest session of the Pyidaungsu Hluttaw within 60 days after the promulgation of the ordinance.
 - (c) If the Pyidaungsu Hluttaw is not in session, the President shall, within 60 days after the promulgation of such ordinance, summon a special session of the Pyidaungsu Hluttaw for approval.
- (d) The ordinance shall cease to have effect from the day on which it is not approved by the Pyidaungsu Hluttaw. The ordinance promulgated by the President, with the approval of the Pyidaungsu Hluttaw, will continue to be in operation for the required period.
- (e) Notwithstanding that an ordinance has been already revoked within 60 days after its promulgation, it shall be submitted to the nearest session of the Pyidaungsu Hluttaw.
- (f) If an ordinance contains the provision to which the Pyidaungsu Hluttaw has no right to make a resolution in accord with the Constitution, the said provision shall cease to have effect.
213. The President:
- (a) shall have the right to take appropriate military action, in co-ordination with the National Defence and Security Council formed in accord with the Constitution, in case of aggression against the Union;
 - (b) shall submit the action so taken to the Pyidaungsu Hluttaw for approval if it is in session, or to summon an emergency session to submit that matter for approval if the Pyidaungsu Hluttaw is not in session;
 - (c) may declare war or make peace only with the assent of the Pyidaungsu Hluttaw.
214. The President shall take action in accord with the provisions of the Constitution and sign the laws passed and enacted by the Pyidaungsu Hluttaw. The said signed laws shall be promulgated in the Official Gazette.
215. The President shall not be answerable to either any Hluttaw or to any Court for the exercise of the powers and functions of his office or for any act done or purported to be done by him in the exercise of these powers and functions in accord with the Constitution or any law. However, the exemption does not deal with the provisions relating to impeachment of the President under the Constitution.

The Executive Power of the Union Government

216. Subject to the provisions of the Constitution, the executive power of the Union extends to administrative matters over which the Pyidaungsu Hluttaw has power to make laws.
217. Subject to the provisions of the Constitution, the executive power of the Union shall be vested in the President. Nothing in this Section shall prevent the Pyidaungsu Hluttaw from conferring functions and powers upon

any authoritative body or person, or be deemed to transfer to the President functions and powers vested in any administrative body or person concerned under the existing laws.

218. (a) All executive actions of the Union Government shall be taken as action in the name of the President.
- (b) The President shall, except in matters conferred on him by the Constitution to perform in his own discretion, have the right to issue necessary rules on matters to be performed by the Union Government, on allocation of the said matters to the Ministries of the Union Government, and on allocation to the person responsible to act under any law.
- (c) Orders and instruments executed in the name of the President shall be in accord with the manners of the prescribed rules issued by the President. Moreover, the validity of such order or instruments shall not be called in question on the ground that it was not done by the President
- (d) The President may, without prejudice to the generality of the provisions of Sub-Sections (a), (b) and (c) of this Section, allocate his duties regionally or according to the functions of the Government department.
219. The Union Government preserves stability of the Union, community peace and tranquility and prevalence of law and order.
220. The Union Government shall promulgate its policies in accord with the provisions of the Constitution. The necessary projects have to be drawn in accord with the said policies and shall be implemented with the approval of the Pyidaungsu Hluttaw.
221. The Union Government shall draft the Union Budget Bill based on the annual Union budget, after coordinating with the Financial Commission, and submit it for approval to the Pyidaungsu Hluttaw in accord with the provisions of the Constitution. The Union Government shall, if the Pyidaungsu Hluttaw is unable to promulgate the Union Budget Bill before the end of the Budget Year, expend within the framework of the general expenditure included in the last-enacted Budget Law of the Pyidaungsu Hluttaw.
222. The Union Government may, relating to the matters which may be enacted into law by the Pyidaungsu Hluttaw in accord with the provisions of the Constitution, submit the Bill to the Pyidaungsu Hluttaw.
223. The Ministries of the Union Government shall, in carrying out the functions of their

subordinate governmental departments and organizations, manage, guide, supervise and inspect in accord with the provisions of the Constitution and the existing laws.

224. In carrying out functions of the Region Government, the State Government, and the Leading Bodies of Self-Administered Division and Self-Administered Zone, the Union Government co-operates and co-ordinates with them to be effective and successful.
225. The Union Government, with the exception of Constitutional disputes and the disputes over territorial re-delineation shall:
225. mediate and if necessary, decide, on disputes over administration between the Region and State, among Regions, among States, between Region or State and Self-Administered Area, among Self-Administered Areas; and
226. mediate and if necessary, decide, on disputes over administration between the Region or State and Union territory, between Self-Administered Area and Union territory.
227. The Union Government, in accord with the law:
- (a) may form Civil Services organizations relating to the Union as necessary. In so forming, the functions and powers shall be prescribed;
- (b) may appoint the required civil service personnel.
228. The Union Government shall:
- (a) implement the administrative resolutions passed occasionally by the Pyidaungsu Hluttaw and report back the actions which have been taken to the Pyidaungsu Hluttaw;
- (b) submit occasionally matters relating to the general situation of the Union to the Pyidaungsu Hluttaw.

Formation of the Financial Commission

229. (a) The Financial Commission shall be formed with the following persons:
- (i) The President
- (ii) Vice-Presidents
- (iii) The Attorney General of the Union
- (iv) The Auditor General of the Union
- (v) Chief Ministers of the Regions and States
- (vi) The Nay Pyi Taw Council Chairperson
- (vii) The Minister of Finance of the Union
- (b) (i) In forming the Financial Commission, the President may appoint a suitable person as a temporary member if there is vacancy for any reason.
- (ii) The President shall promulgate the formation of the Financial Commission. Moreover, necessary orders or directives, so forth, for the Financial Commission may be promulgated

either by the President or the person assigned by him.

Duties and Functions of the Financial Commission

- 230.(a) The budgets of the Union Ministries and Union level organizations are to be vetted by a Vice-President assigned by the President, and the estimated budgets of the Union level organizations including the Union Ministries are to be submitted to the Financial Commission.
- (b) The budgets of the Region or State are to be vetted by the other Vice-President assigned by the President, and the estimated budgets of the Region or State are to be submitted to the Financial Commission.
- (c) The Financial Commission shall:
- (i) submit to the Pyidaungsu Hluttaw with recommendation for the Union Budget which includes the expenditure of the Union territory, a supplementary finance as suitable to the Regions or States from the Union Fund, giving grants as a special matter and permitting loans;
 - (ii) to advise financial matters that should be undertaken;
 - (iii) carry out the duties assigned by the Pyidaungsu Hluttaw through the promulgation of law for the emergence of a substantial financial system.
- (d) The Financial Commission shall submit with recommendation to the President, the Bill of Union Budget, which includes Union Budget, the distribution of suitable funds from Union Fund accounts to Regions or States, the provisions or funds as a special case and disbursing of necessary loans for submission them to the Pyidaungsu Hluttaw.
- (e) The Financial Commission may, if necessary, seek advice from financial experts.

Taxes and revenues to be paid to the Union Fund

- 231.(a) The Union shall, with the exception of the taxes and revenues listed in Schedule Five to be collected by Regions or States, collect all other taxes and revenues in accord with the law and deposit them in the Union Fund.
- (b) If it is necessary to collect designated receipts or incomes and taxes and revenues to be collected by the Regions or States for the Union territories, the Union shall collect them in accord with the law and deposit them in the Union Fund.

- (c) The Union has the right to expend the Union Fund in accord with the law.
- (d) The Union Ministers and the Deputy Ministers

Appointment of the Union Ministers

- 232.(a) The President shall appoint the Union Ministers who possess the following qualifications:
- (i) person who has attained the age of 40 years;
 - (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) person whose qualifications does not breach the provisions under Section 121 which disqualify the person from standing for election as the Pyithu Hluttaw representative;
 - (iv) person loyal to the Union and its citizens.
- (b) In order to appoint the Union Ministers, the President shall:
- (i) select suitable persons who have qualifications prescribed in Sub-Section (a) from among the Hluttaw representatives or persons who are not Hluttaw representatives;
 - (ii) obtain a list of suitable Defence Services personnel nominated by the Commander-in-Chief of the Defence Services for Ministries of Defence, Home Affairs and Border Affairs;
 - (iii) co-ordinate with the Commander-in-Chief of the Defence Services if he desires to appoint the Defence Services personnel as Union Ministers for other Ministries apart from Ministries of Defence, Home Affairs and Border Affairs.
- (c) The President shall compile the list of persons selected by him and the list of the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services and submit them to the Pyidaungsu Hluttaw for its approval.
- (d) The appointment of a person as a Union Minister nominated by the President shall not be refused by the Pyidaungsu Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Union Minister.
- (e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of a Union Minister.

- (f) The President shall appoint the persons who have been approved by the Pyidaungsu Hluttaw as Union Ministers. In doing so, the President shall designate Ministry or Ministries for each Union Minister to take responsibility.
- (g) The President shall intimate the Pyidaungsu Hluttaw whenever he appoints Union Ministers.
- (h) The Union Ministers shall be responsible to the President.
- (i) If the Union Minister is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as a Union Minister.
 - (i) If the Union Minister is a Civil Services personnel, it shall be deemed that he has retired according to the existing civil service rules and regulations from the day he is appointed as a Union Minister.
 - (ii) The Defence Services personnel who are appointed as Union Ministers for the Ministries of Defence, Home Affairs and Border Affairs are not required to retire or resign from the Defence Services.
- (j) If the Union Minister is a member of any political party, he shall not take part in its party activities during the term of office from the day he is appointed as a Union Minister.

Impeachment of the Union Minister

233. (a) Any Union Minister may be impeached on any of the following reasons:
- (i) high treason;
 - (ii) breach of any provision of the Constitution;
 - (iii) misconduct;
 - (iv) disqualification of qualification of the Union Minister prescribed in the Constitution;
 - (v) inefficient discharge of duties assigned by law.
- (b) If there is a need to impeach any Union Minister, the same procedure for the impeachment of the President or Vice-President under Section 71 shall be applied.
 - (c) The President shall remove the impeached Union Minister from office when the Hluttaw that had made an investigation had resolved and submitted to the President that the charge has been substantiated and the Union Minister is unfit to continue in office.
 - (d) If the Hluttaw concerned resolves that the charge has failed, the Speaker of the

Hluttaw shall report the resolution to the President.

Appointment of Deputy Ministers

234. (a) The President shall appoint the persons, from among Hluttaw representatives or from those who are not Hluttaw representatives, possessing the following qualifications, as Deputy Ministers to assist the Union Ministers:
- (i) persons who have attained the age of 35 years;
 - (ii) persons who have qualifications, with the exception of the age limit, prescribed in Section 120 for Pyithu Hluttaw representatives;
 - (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iv) persons loyal to the Union and its citizens.
- (b) The President shall, to appoint the Deputy Ministers for Ministries of Defence, Home Affairs and Border Affairs, have the list of suitable Defence Services personnel nominated by the Commander-in-Chief of the Defence Services.
 - (c) The President shall co-ordinate with the Commander-in-Chief of the Defence Services if he desires to appoint the Defence Services personnel as the Deputy Ministers of other Ministries apart from the Ministries of Defence, Home Affairs and Border Affairs.
 - (d) The President shall designate Ministries for each Deputy Minister to take responsibility.
 - (e) The Deputy Ministers shall be responsible to the relevant Union Minister, and to the President through the relevant Union Minister.
 - (f) If the Deputy Minister is a representative of a Hluttaw or a Civil Services personnel or a Defence Services personnel, or a member of a political party, the provisions of Sub-Sections (i), (j) and (k) of Section 232 shall be applied.

Term of office, resignation, termination of duties and filling vacancy of the Union Ministers and Deputy Ministers

235. (a) The term of the Union Minister and Deputy Minister is the same as that of the President.
- (b) The Union Minister or Deputy Minister may resign from office on his own volition due to a certain reason before the expiry of his term of office, after submitting his written resignation to the President.

- (c) The President:
 - (i) may direct any Union Minister or Deputy Minister who cannot discharge his duties efficiently to resign. If he fails to comply, he shall be terminated from his duties;
 - (ii) shall co-ordinate with the Commander-in-Chief of the Defence Services if it relates to a Defence Services personnel who is a Minister or Deputy Minister to resign or remove from office.
- (d) If the office of the Union Minister or Deputy Minister becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Union Minister or Deputy Minister in accord with the provisions of the Constitution relating to the appointment of the Union Minister or Deputy Minister. The term of office of the newly appointed Union Minister or Deputy Minister shall be the same as the remaining term of the President.
 - (i) When the President before the expiry of his term in office, has appointed the Union Ministers or Deputy Ministers, and the President's office is vacant due to resignation or death or any other reason, the Union Ministers and the Deputy Ministers shall continue to perform their duties until the new elected President has appointed and assigned duties to the new Union Ministers or Deputy Ministers.
 - (ii) The term of the newly appointed Union Ministers and Deputy Ministers shall be up to the expiry of the remaining term of the new President.
- (f) Duties, powers and rights of the Union Minister and Deputy Ministers shall be prescribed by law.

The Attorney General of the Union and the Deputy Attorney General

236. The Attorney General of the Union shall be called the Attorney General of the Union.

The appointment of the Attorney General of the Union

237. (a) The President, with the approval of the Pyidaungsu Hluttaw, shall appoint a person, from among Hluttaw representatives or persons who are not Hluttaw representatives having the following qualifications as the Attorney General of the Union to obtain legal advice and

assign duties on legal matters:

- (i) person who has attained the age of 45 years;
- (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) person whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as the Pyithu Hluttaw representatives;
 - (aa) person who has served as a Judge of the Region or State High Court for at least five years; or
 - (bb) person who has served as a judicial officer or law officer for at least 10 years not lower than that of the Region or State Level;
 - (cc) person who has practised as an advocate for at least 20 years;
 - (dd) person who is, in the opinion of the President, as an eminent jurist; person who is loyal to the Union and its citizens.
- (b) The appointment of a person as the Attorney General of the Union by the President shall not be refused by the Pyidaungsu Hluttaw unless it can clearly be proved that the person concerned does not meet the qualification of the Attorney General of the Union.
- (c) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of a person as the Attorney General of the Union.
- (d) The Attorney General of the Union is a member of the Union Government.
- (e) The Attorney General of the Union shall be responsible to the President.
- (f) If the Attorney General of the Union is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as Attorney General of the Union.
- (g) If the Attorney General of the Union is a Civil Services personnel, it shall be deemed that he has retired according to the existing civil service rules and regulations from the day he is appointed as the Attorney General of the Union.
- (h) If the Attorney General of the Union is a member of any political party, he shall not take part in its party activities during the term of office from the day he is

appointed as the Attorney General of the Union.

Impeachment of the Attorney General of the Union

238. If there is a need to impeach the Attorney General of the Union, the same procedure for the impeachment of the Union Minister under Section 233 shall be applied.

Appointment of the Deputy Attorney General

239. (a) The President shall appoint, in his own volition, the persons from among the Hluttaw representatives or from among those who are not Hluttaw representatives who have the following qualifications, as Deputy Attorney General to assist the Attorney General of the Union:
- (i) person who has attained the age of 40 years;
 - (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (aa) person who has served as a Judge of the Region or State High Court for at least five years; or
 - (bb) person who has served as a judicial officer or law officer for at least 10 years not lower than that of the Region or State Level; or
 - (cc) person who has practised as an advocate for at least 15 years;
 - (dd) person who is, in the opinion of the President, as an eminent jurist;
 - (v) person who is loyal to the Union and its citizens.
- (b) The Deputy Attorney General shall be responsible to the Attorney General of the Union and to the President through the Attorney General of the Union.
- (c) If the Deputy Attorney General of the Union is a representative of a Hluttaw or a Civil Services personnel or a member of a political party, the provisions of Sub-Sections (f), (g) and (h) of Section 237 shall be applied.

Term of office, resignation, termination of office, filling the vacancy of the Attorney General of the Union and the Deputy Attorney General

240. (a) The term of the Attorney General of the Union and the Deputy Attorney General is normally the same as that of the President.
- (b) The Attorney General of the Union or the Deputy Attorney General may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.
- (c) The President may direct to resign the Attorney General of the Union or the Deputy Attorney General who cannot discharge his duties efficiently. If either of them fails to comply, he shall be terminated from his duties.
- (d) If the office of the Attorney General of the Union or the Deputy Attorney General becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Attorney General of the Union or the Deputy Attorney General in accord with the provisions of the Constitution relating to the appointment of the Attorney General of the Union or the Deputy Attorney General. The term of the newly appointed Attorney General of the Union or the Deputy Attorney General shall be the same as the remaining term of office of the President.
- (e) (i) When the President before the expiry of his term in office, has appointed the Attorney General of the Union and the Deputy Attorney General, and the President's office is vacant due to resignation or death or any other reason, the Attorney General of the Union or the Deputy Attorney General may be continued to be assigned or shall continue to perform their duties until the new elected President has appointed and assigned duties to the new Attorney General of the Union or the Deputy Attorney General in accord with the provisions of the Constitution.
- (ii) The term of the new appointed Attorney General of the Union and the Deputy Attorney General shall be up to the expiry of the remaining term of the new President.
- (f) Duties, powers and rights of the Attorney General of the Union and the Deputy Attorney General shall be prescribed by law.

Auditor General of the Union and the Deputy Auditor General

241. The Auditor General of the Union shall be called the Auditor General of the Union.

Appointment of the Auditor General of the Union

242. (a) The President, with the approval of the Pyidaungsu Hluttaw, shall appoint a person from among Hluttaw representatives or from among those who are not Hluttaw representatives, who has the following qualifications, as the Auditor General of the Union so as to audit Union Budget and report thereon to the Pyidaungsu Hluttaw:

- (i) person who has attained the age of 45 years;
- (ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) persons whose qualification does not breach the provisions in Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (iv)(aa) person who has served as an auditor for at least 10 years not lower than that of the Region or State Level; or
- (bb) person who has served as a Registered Accountant or a Certified Public Accountant for at least 20 years; or
- (cc) person who is, in the opinion of the President, as an eminent accountant, statistician or economist.
- (v) (a) person who is loyal to the Union and its citizens.
- (b) The person nominated by the President to be appointed as the Auditor General of the Union shall not be refused by the Pyidaungsu Hluttaw unless it can clearly be proved that the person concerned does not meet the qualification to be the Auditor General of the Union.
- (c) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of the Auditor General of the Union.
- (d) The Auditor General of the Union shall be responsible to the President.
- (e) If the Auditor General of the Union

is a Hluttaw representative, it shall be deemed that he has resigned from the day he is appointed as the Auditor General of the Union.

- (f) If the Auditor General of the Union is a Civil Services personnel, it shall be deemed that he has retired according to the existing civil service rules and regulations from the day he is appointed as the Auditor General of the Union.
- (g) If the Auditor General of the Union is a member of any political party, he shall not take part in its party activities during the term of office from the day he is appointed as Auditor General of the Union.

Impeachment of the Auditor General of the Union

243. If there is a need to impeach the Auditor General of the Union, the same procedure for the impeachment of the Union Minister under Section 233 shall be applied.

Appointment of the Deputy Auditor General

244. (a) The President shall appoint, in his own volition, the persons from among the Hluttaw representatives or from those who are not Hluttaw representatives, who have the following qualifications, as the Deputy Auditor General to assist the Auditor General of the Union:

- (i) person who has attained the age of 40 years;
- (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (aa) person who has served as an auditor for at least 10 years not lower than that of the Region or State Level; or
- (bb) person who has served as a Registered Accountant or a Certified Public Accountant for at least 15 years; or
- (cc) person who is, in the opinion of the President, as an eminent accountant, statistician or economist.
- (v) person who is loyal to the Union and its citizens.

- (c) The Deputy Auditor General shall be responsible to the Auditor General of the Union and the President through the Auditor General of the Union.
- (d) If the Deputy Auditor General of the Union is a representative of a Hluttaw or civil service personnel or member of a political party, the provisions of Sub-Sections (e), (f) and (g) of Section 242 shall be applied.
- (ii) The term of the new appointed Auditor General of the Union or the Deputy Auditor General shall be up to the expiry of the remaining term of the new President.
- (f) Duties, powers and rights of the Auditor General of the Union and the Deputy Auditor General shall be prescribed by law.

Term of office, resignation, termination of office, filling the vacancy of the Auditor General of the Union and the Deputy Auditor General

- 245. (a) The term of the Auditor General of the Union and the Deputy Auditor General is normally the same as that of the President.
- (b) The Auditor General of the Union or the Deputy Auditor General may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.
- (c) The President may direct to resign the Auditor General of the Union or the Deputy Auditor General who cannot discharge his duties efficiently. If either of them fails to comply, he shall be terminated from his duties.
- (d) If the office of the Auditor General of the Union or the Deputy Auditor General becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Auditor General of the Union or the Deputy Auditor General in accord with the provisions of the Constitution relating to the appointment of the Auditor General of the Union or the Deputy Auditor General. The term of the newly appointed Auditor General of the Union or the Deputy Auditor General shall be the same as the remaining term of the President.
- (e) (i) When the President before the expiry of his term in office, has appointed the Auditor General of the Union and the Deputy Auditor General, and the President's office is vacant due to resignation or death or any other reason, the Auditor General of the Union or the Deputy Auditor General may be continued to be assigned or shall continue to perform their duties until the new elected President has appointed and assigned duties to the new Auditor General of the Union or the Deputy Auditor General in accord with the provisions of the Constitution.

Formation of the Union Civil Services Board

- 246. (a) The President shall form the Union Civil Services Board to enable to perform the duties of selecting, training the Civil services personnel and prescribing of Civil Service regulations.
- (b) The President shall appoint the persons who have the following qualifications as the Chairperson and Members of the Union Civil Services Board:
 - (i) person who has attained the age of 50 years;
 - (ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iv) experienced intelligentsia and intellectuals;
 - (v) person who is loyal to the Union and its citizens;
 - (vi) person who is not a member of a political party;
 - (vii) person who is not a Hluttaw representative.
- (c) If the Chairperson and members of the Union Civil Services Board are Civil Services personnel, it shall be deemed that they have retired according to the existing Civil Services rules and regulations from the day they are appointed as Chairperson and Members of the Union Civil Services Board of the Union.
- (d) The Chairperson of the Union Civil Services Board shall be responsible to the President, and members of the Union Civil Services Board shall be responsible to the President through the Chairperson of Union Civil Services Board.
- (e) The term of the Chairperson and members of the Union Civil Services Board is normally the same as that of the President.
- (f) Formation of the Union Civil Services Board, duties, powers and rights of the

Chairperson and Members, resignation and termination of duties shall be prescribed by law.

The Region Government or the State Government

247. (a) The Head of the Region or State shall be called the Chief Minister of the Region or State.
 (b) The Member of the Region or State Government shall be called the Minister of the Regions.

Formation of the Region Government or State Government

248. (a) The Region Government is formed in the Region and State Government is formed in the State respectively.
 (b) The Region or State Government is formed with the following persons:
 (i) the Chief Minister of the Region or State;
 (ii) the Ministers of the Region or State;
 (iii) the Advocate General of the Region or State.
 (c) The President, with the approval of the Region or State Hluttaw concerned, may:
 (i) specify the Region or State Ministries as may be necessary. Moreover, he may make changes and additions to the specified Ministries;
 (ii) specify the number of the Ministers of the Region or State as may be necessary. Moreover, the specified number may be increased or decreased.

Executive powers of the Region or State Government

249. Subject to the provisions of the Constitution, the executive power of the Region or State Government extends to the administrative matters which the Region or State Hluttaw has power to make laws. Moreover, it also extends to the matters which the Region or State Government is permitted to perform in accord with any Union Law.
 250. The Region or State Government shall have the responsibility to assist the Union Government in the preservation of the stability of the Union, community peace and tranquillity and prevalence of law and order.
 251. The Region or State Government shall, subject to the policies adopted by the Union Government and Union Laws, implement projects that are to be undertaken in the Region or State with the approval of the Region or State Hluttaw concerned.

252. The Region or State Government shall, in accord with the provisions of the Constitution, submit the Region or State Budget Bill based on the annual Union Budget to the Region or State Hluttaw concerned.
 253. The Region or State Government shall, if the Region or State Budget Bill is unable to promulgate before the end of the Budget year, expend within the framework of the general expenditure included in the last-enacted Budget Law of the Region or State Hluttaw.

Charges and Taxes to be Collected by the Region or State Government

254. (a) The Region or State shall collect the taxes and revenues listed in Schedule Five in accord with law and deposit them in the Region or State fund.
 (b) The Region or State has the right to expend the Region or State fund in accord with the law.
 255. The Region or State Government, in accord with the provisions of the Constitution, may submit the necessary Bill relating to matters listed in Schedule Two of the Region or State Legislative List to the Region or State Hluttaw.
 256. The Region or State Government:
 (a) shall, in carrying out the functions of the Region or State Ministries, their subordinate governmental departments and organizations, manage, guide, supervise and inspect in accord with the provisions of the Constitution and the existing laws;
 (b) may, relating to the performance of the civil service organizations discharging duties in their Region or State concerned, supervise, inspect and co-ordinate in accord with the law.
 257. The Region or State Government may, for enabling the performance of the functions to be carried out in accord with the Union Law for Civil Services and in co-ordination with the Union Government in advance:
 (a) form Civil Services organizations relating to the Region or State as necessary;
 (b) appoint the required number of Civil Services personnel.
 258. The Region or State Government shall:
 (a) implement the administrative resolutions passed occasionally by the Region or State concerned and report back the actions which has taken to the Region or State Hluttaw concerned;
 (b) submit the report on the general situations of its area to the Union Government and to the Region or State Hluttaw concerned.

259. The Region or State Government shall discharge the functions occasionally assigned by the Union Government.

Office of the Region or State Government

260. The Head of the General Administration Department of the Region or State is the ex-officio Secretary of the Region or State Government concerned. Moreover, the General Administration Department of the Region or State is the Office of the Region or State Government concerned.

Chief Minister of the Region or State

Appointment of the Chief Minister of the Region or State

261. (a) The Chief Minister of the Region or State shall have the following qualifications:
- (i) person who has attained the age of 35 years;
 - (ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) person whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iv) person who is loyal to the Union and its citizens.
- (b) In order to appoint the Chief Minister of the Region or State concerned, the President shall:
- (i) select a suitable Hluttaw representative who has the prescribed qualifications from among the Region or State Hluttaw representatives concerned;
 - (ii) submit the list of the elected Hluttaw representatives to the Region or State Hluttaw concerned for its approval.
- (c) The President shall appoint the Hluttaw representative approved by the Region or State Hluttaw as the Chief Minister of the Region or State concerned.
- (d) The appointment of a person as a Chief Minister of the Region or State nominated by the President shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Chief Minister of the Region or State.
- (e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of the Chief Minister.

Ministers of the Region or Ministers of the State

Appointment of the Ministers of the Region or Ministers of the State

262. (a) The Chief Minister of the Region or State shall:
- (i) select suitable persons who have prescribed qualifications under Sub-Section (a) of Section 261, from among the Region or State Hluttaw representatives or from among persons who are not Hluttaw representatives concerned;
 - (ii) request for a list of suitable Defence Services personnel nominated by the Commander-in-Chief of the Defence Services to assign responsibilities of Security and Border Affairs;
 - (iii) obtain a list of Chairpersons of Leading Bodies of the Self-Administered Division or the Self-Administered Zone in the Region or State concerned;
 - (iv) obtain the list of Hluttaw representatives elected to carry out the affairs of National races in the Region or State concerned from the relevant Election Commission.
- (b) The Chief Minister of the Region or State shall compile the list of persons selected by him and the list of the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services and submit them to the Region or State Hluttaw concerned for its approval.
- (c) The appointment of a person as a Minister of the Region or State nominated by the Chief Minister of the Region or State shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not have the qualifications of the Minister of the Region or State.
- (d) The Chief Minister of the Region or State has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of a Minister of the Region or State.
- (e) The Chief Minister of the Region or State shall submit the list of persons who are approved by the Region or State Hluttaw or Chairpersons of the Self-Administered Division or Self-Administered Zone and the list of persons who are representatives elected to undertake the affairs of National races to appoint as the Ministers of the Region or State to the President.

- (f) The President shall appoint the persons who have been approved by the Chief Minister of the Region or State as Ministers of the Region or State. In doing so, he shall, in co-ordination with the Chief Minister of the Region or State concerned, designate the Ministry or Ministries which each Region or the State Minister to take responsibility.
- (g) The President shall:
- (i) assign duties to the Chairpersons of the Self-Administered Division and the Self-Administered Zone who are the Ministers of the Region or State, to perform the affairs of the Self-Administered Division or Self-Administered Zone concerned;
 - (ii) assign duties to the Hluttaw representatives who are the Ministers of the Region or State, to perform the affairs of National races concerned.
- (h) The President shall relax the prescribed age limit under the Constitution in appointing the Minister of the Region or State, the Chairperson of the Self-Administered Division or the Self-Administered Zone or elected Hluttaw representative to perform the affairs of National races concerned.
- (i) The President may, in co-ordination with the Chief Minister, appoint Ministers for the Self-Administered Division or the Self-Administered Zone or Ministers for National races affairs as Ministers concurrently in charge of other Ministries.
- (j) The Chief Minister of the Region or State shall, if he wishes to assign the Defence Services personnel as the Region or State Ministers for other duties apart from security and border affairs, obtain their list from the Commander-in-Chief of the Defence Services with the approval of the Region or State Hluttaw concerned, submit it to the President.
- (k) The President shall intimate the appointments of the Chief Minister and Ministers of the Region or State to the Region or State Hluttaw concerned and Pyidaungsu Hluttaw.
- (l) (i) The Chief Minister of the Region or State shall be responsible to the President.
- (ii) The Ministers of the Region or State shall be responsible to the Chief Minister of the Region or State concerned and to the President through the Chief Minister of the Region or State concerned.
- (m) The term of the Chief Minister and Ministers of the Region or State is the same as that of the President.
- (n) (i) If the Minister of the Region or State is a Civil Services personnel, it shall be deemed that he has retired according to the existing Civil Services rules and regulations from the day he is appointed as Minister of the Region or State.
- (ii) The Defence Services personnel who are appointed as Ministers of the Region or State for Ministries of Security and Border Affairs are not required to retire or resign from the Defence Services.

Impeachment of the Chief Minister of the Region or State or any Minister

263. (a) The Chief Minister of the Region or State or any Minister, may be impeached for one of the following reasons:
- (i) high treason;
 - (ii) breach of any of the provisions of the Constitution;
 - (iii) misconduct;
 - (iv) disqualification of qualification of the Chief Minister or Minister of the Region or State prescribed in the Constitution;
 - (v) inefficient discharge of duties assigned by law.
- (b) If there is a need to impeach the Chief Minister or any of the Ministers of the Region or State, a charge signed by not less than one-fourth of the total number of representatives of either the Region or State Hluttaw concerned shall be submitted to the Speaker of the Hluttaw concerned.
- (c) The Speaker of the Hluttaw concerned shall form a body of investigation to investigate the charge. The term of the completion of the investigation shall be determined on the volume of work.
- (d) When the charge is being investigated, the Chief Minister or Minister of the Region or State shall have the right to defend himself in person or through a representative.
- (e) (i) If an Investigation Body submits its investigation concerning the impeachment of the Chief Minister or any Minister of the Region or State by the Region or State Hluttaw concerned, the Speaker of the Hluttaw shall submit it to the relevant Region or State Hluttaw.
- If, after the investigation, on submitting the findings of the charge has been substantiated and that Chief Minister or any Minister of the Region or State is unfit to continue in office

by not less than two-thirds of the total number of representatives of the Hluttaw concerned which investigated, the Speaker shall submit the resolution to the President.

- (ii) The President, upon receipt of the report, shall remove the impeached Chief Minister or Minister of the Region or State.
- (iii) If the Hluttaw concerned resolves that the charge has been failed, the Speaker of the Hluttaw shall submit the resolution to the President.

Resignation, termination of office, filling the vacancy of the Chief Minister or Minister of the Region or State

264. (a) The Chief Minister or any Minister of the Region or State may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.

- (b) The President shall:
 - (i) direct to resign the Chief Minister or Minister of the Region or State who cannot discharge his duties efficiently. If he fails to comply, he shall be terminated from his duties;
 - (ii) co-ordinate with the Commander-in-Chief of the Defence Services concerning the Defence Services personnel who is Minister of the Region or State who has to resign or be terminated from his duties.
- (c) If the office of the Chief Minister or Ministers of the Region or State becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Chief Minister of the Region or State in accord with the provisions of the Constitution relating to the appointment of the Chief Minister or Ministers of the Region or State. The term of the newly appointed Chief Minister or Ministers of the Region or State shall be the same as the remaining term of the President.
- (d) Duties, powers and rights of the Chief Minister and Ministers of the Region or State shall be prescribed by law.

Advocate General of the Region or Advocate General of the State

265. The Advocate General of the Region or the Advocate General of the State shall be called the Advocate General of the Region or the Advocate General of the State.

The Appointment of the Advocate General of the Region or State

266. (a) The Chief Minister of the Region or State shall, with the approval of the Region or State Hluttaw concerned, appoint a person from among the Region or State Hluttaw representatives or from those who are not the Hluttaw representatives having the following qualifications as the Advocate General of the Region or State to obtain legal advice and assign duties on legal matters:

- (i) person who has attained the age of 40 years;
 - (ii) person who has qualifications, with the exception of age limit, as the Pyithu Hluttaw representatives, prescribed in Section 120; persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iii) person who has served as a judicial officer or law officer for at least five years not lower than that of the Region or State High Court; or person who has served as a judicial officer or law officer for at least 10 years not lower than that of the District Level;
 - (iv) person who has been an advocate for at least 15 years.
 - (v) person loyal to the Union and its citizens.
- (b) The President, with the approval of the Hluttaw shall appoint a person from among Hluttaw representatives as the Advocate General of the Region or State.
 - (c) The appointment of a person as the Advocate General of the Region or State nominated by the Chief Minister of the Region or State, to be appointed as the Advocate General of the Region or State shall not be refused by the Region or State Hluttaw concerned unless it can clearly be proved that the person concerned does not meet the qualifications of the Advocate General of the Region or State.
 - (d) The Chief Minister of the Region or State has the right to submit again the list for the appointment of a person as the Advocate General of the Region or State to the Region or State Hluttaw concerned instead of the one who has not been approved by the Region or State Hluttaw.
 - (e) The Advocate General of the Region or State is a member of the Government of the Region or State concerned.

- (f) The Advocate General of the Region or State shall:
 - (i) be responsible to the President through the Chief Minister of the Region or State concerned;
 - (ii) be responsible to the relevant Advocate General of the Union or the relevant Chief Minister of the Region or State.

Impeachment of the Advocate General of the Region or State

267. If there is a need to impeach the Advocate General of the Region or State, the same procedure for the impeachment of the Chief Minister or any Minister of the Region or State under Section 263 shall be applied.

Resignation, termination of office, filling vacancy of the Advocate General of the Region or State

268. The Advocate General of the Region or State is, subject to provisions of Sections 262 (n) and 264 prescribed for the relevant Chief Minister or the relevant Ministers of the Region or State concerning resignation, termination of office, filling the vacancy and deeming the person to have retired in case he is a Civil Services personnel.

269. Duties, powers and rights of the Advocate General of the Region or State shall be prescribed by law.

Auditor General of the Region or Auditor General of the State

270. The Auditor General of the Region or State shall be called the Auditor General of the Region or Auditor General of the State.

Appointment of the Auditor General of the Region or the Auditor General of the State

271. (a) The Chief Minister of the Region or State shall appoint a person from Hluttaw representatives or from those who are not Hluttaw representatives, who has the following qualifications, with the approval of the relevant Region or State Hluttaw as the Auditor General of the Region or State so as to audit the Region or State budget and report it:

- (i) person who has attained the age of 40 years;
- (ii) person who has qualifications, with the exception of age limit, as the Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) persons whose qualifications does not breach the provisions under Section 121 which disqualify a person from

standing for election as Pyithu Hluttaw representatives;

- (aa) person who has served as an auditor of the Region or State for at least five years not lower than that of the Region or State Level; or person who has served as an auditor at least 10 years not lower than that of the District Level; or
- (bb) person who has served as a Registered Accountant or a Certified Public Accountant for at least 15 years;
- (b) person who is loyal to the Union and its citizens .
- (c) The President shall appoint the person submitted by the relevant Chief Minister of the Region or State with the approval of the Hluttaw concerned as the Auditor General of the Region or State.
- (d) The person nominated by the Chief Minister of the Region or State concerned to be appointed as the Auditor General of the Region or State shall not be refused by the Region or State Hluttaw concerned unless it can clearly be proved that the person concerned is not qualified to be the Auditor General of the Region or State.
- (e) The Chief Minister of the Region or State has the right to submit again the new list for the appointment of a person as the Auditor General of the Region or State to the Region or State Hluttaw concerned instead of the one who has not been approved by the Region or State Hluttaw.
- (f) The Auditor General of the Region or State shall:
 - (i) be responsible to the President through the Chief Minister of the Region or State concerned;
 - (ii) be responsible to the Auditor General of the Union and to the Chief Minister of the Region or State concerned.

Impeachment of the Auditor General of the Region or the Auditor General of the State

272. If there is a need to impeach the Auditor General of the Region or State, the same procedure for the impeachment of the Chief Minister or any Minister of the Region or State under Section 263 shall be applied.

Resignation, termination of office, filling the vacancy of the Auditor General of the Region or the Auditor General of the State

273. The Auditor General of the Region or State is, subject to provisions of Section 264 prescribed for the Chief Minister or Ministers of the Region or State concerning resignation,

termination of office, filling the vacancy and deeming as the person to have retired in case he is a Civil Services personnel.

274. Duties, powers and rights of the Auditor General of the Region or State shall be prescribed by law.

Administrative Body of the Self-Administered Division or Self-Administered Zone

275. The Administrative Body of Self-Administered Division or Self-Administered Zone shall be called the leading body of the Self-Administered Division or leading body of the Self-Administered Zone.

Formation of Leading Bodies of the Self-Administered Division and the Self-Administered Zone

276. (a) Being Self-Administered Areas, the Self-Administered Division and the Self-Administered Zones are of equal status.

(b) Leading Bodies of the Self-Administered Division and the Self-Administered Zone are formed respectively in each and every Self-Administered Division and the Self-Administered Zone. Such Leading Bodies exercise legislative power vested under the Schedule Three of the Constitution.

(c) Leading Bodies of the Self-Administered Division or the Self-Administered Zone shall consist of at least 10 members.

(d) Leading Bodies of the Self-Administered Division or the Self-Administered Zone shall be formed with the following persons:

(i) Region or State Hluttaw representatives elected from townships in the Self-Administered Division or Self-Administered Zone concerned;

(ii) the Defence Services personnel representatives nominated by the Commander-in-Chief of the Defence Services to assign duties relating to Security or Border Affairs;

(iii) Additional representatives selected by persons stated in Sub-Section (d) (i) and (ii).

(e) Members of the Leading Bodies of the Self-Administered Division or the Self-Administered Zone stated in above Sub-Section (d)(i) and (ii) shall, after co-ordinating among themselves, select a suitable person as the Chairperson of the Self-Administered Division or the Self-Administered Zone from the Region or State Hluttaw representatives elected from the townships in the Self-Administered Division or the Self-Administered Zone. The name of the person so elected shall

be submitted to the President through the Chief Minister of the Region or State concerned.

(f) The President shall appoint the person who is nominated as the Chairperson of the Self-Administered Division or the Self-Administered Zone concerned.

(g) The Chairperson of the Self-Administered Division or the Self-Administered Zone is the ex-officio Minister in the Region or State concerned. Except for the method of the appointment of the Minister of the Region or State, the other provisions of the Constitution shall be applied to the Chairperson of the Self-Administered Division or Self-Administered Zone.

(h) The Chairperson of the Self-Administered Division or Self-Administered Zone and members of the Leading Body concerned shall:

(i) except the National races who have already obtained the Self-Administered Division or Self-Administered Zone concerned residing in the Self-Administered Division or Self-Administered Zone concerned, if they are National races that are deemed by the authority concerned to have a population of over 10,000, from the remaining National races, each representative of the said National races shall be elected and appointed as a member of the Leading Body. The elected member of the Leading Body shall have the prescribed qualifications of Hluttaw representatives of the Region or State under Section 169;

(ii) if the number of members of the Leading Body of the Self-Administered Division or Self-Administered Zone is less than 10 members, the required number of members from those residing in the Self-Administered Division or Self-Administered Zone concerned and who have qualifications prescribed for the Region or State Hluttaw representatives shall be elected and appointed to fill up 10 members as they desire.

(i) The Commander-in-Chief of the Defence Services shall assign the duties to the one-fourth of the total number of members with the Defence Services personnel in the Leading Bodies of the Self-Administered Division or Self-Administered Zone, as necessary.

(j) The Defence Services personnel, nominated in accord with the law by the Commander-in-Chief of the Defence

Services, to be assigned as the members of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall have qualifications of the Region or State Hluttaw representatives.

- (k) (i) The Chairperson of the Leading Bodies of the Self-Administered Division or Self-Administered Zone concerned shall declare the name of the members of the Leading Bodies of the Self-Administered Division or Self-Administered Zone.
- (ii) The Chairperson of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be responsible to the Region or State Chief Minister concerned, and to the President through the Chief Minister concerned.
- (iii) Members of Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be responsible to their Chairperson.
- (iv) The term of office, taking action, resignation, termination of duty and filling the vacancy of the Chairperson of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be prescribed by law.
- (l) Duties, powers and rights of the Chairperson and members of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be prescribed by law.

Executive Powers of the Leading Bodies of the Self-Administered Division or Self-Administered Zone

277. Subject to provisions of the Constitution, the Self- executive power of the Leading Bodies of the Self-Administered Division or Self-Administered Zone extend to the following matters:
- (a) on which the Leading Bodies of the Self-Administered Division or Self-Administered Zone has power to make law under Schedule Three;
 - (b) on which the Leading Bodies of the Self-Administered Division or Self-Administered Zone has power to implement in accord with any law enacted by the Pyidaungsu Hluttaw;
 - (c) on which the Leading Bodies of the Self-Administered Division or Self-Administered Zone has power to implement in accord with any law enacted by the Region or State Hluttaw concerned.

278. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be responsible to assist the Union Government in preserving stability of the Union, community peace and tranquility and prevalence of law and order.

279. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall:
- (a) subject to the policies of the Union Government draw work programmes for the development of their territory and shall co-ordinate with the Region or State Government concerned;
 - (b) draw annual budgets and co-ordinate for approval with the Region or State Government concerned in accord with the provisions of the Constitutions;
 - (c) have the right to expend the allotted fund included in the Budget Law of the Region or State Government concerned in accord with the rules;
 - (d) have the right to expend within the permitted framework to the general expenditure included in the last-enacted Budget Law of the Region or State Hluttaw if the Region or State Hluttaw is unable to pass the Region or State Budget Bill submitted by the Region or State Government.

280. The Leading Bodies of the Self-Administered Division or Self-Administered Zone may, in accord with the law, supervise, co-operate and co-ordinate the functions of the Civil Services organizations which are performing the duties within their territory.

281. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall submit reports of the general situations of their territory to the Union Government and the Region or State Government concerned.

282. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall perform the functions which are occasionally assigned by the Union Government and the Region or State Government concerned.

Office of the Leading Bodies of the Self-Administered Division or Self-Administered Zone

283. The Head of General Administration Department of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall serve as the Secretary of the Leading Bodies of the Self-Administered Division or Self-Administered Zone. Moreover, the General Administration Department of the Self-Administered Division or Self-Administered Zone is also the Office of the Leading Bodies of the Self-Administered Division or Self-Administered Zone.

Administration of Nay Pyi Taw, the Union Territory

284. (a) Nay Pyi Taw which is the Union Territory, shall consist of all districts and townships that are Nay Pyi Taw development territory, on the day the Constitution come into operation.
- (b) The President may change, if necessary, the demarcation of districts and townships in Nay Pyi Taw which is the Union Territory.

Formation of the Nay Pyi Taw Council

285. (a) The Chairperson and members of the Nay Pyi Taw Council shall have the following qualifications:
- (i) person who has attained the age of 35 years;
 - (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) persons whose qualifications does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iv) who have other qualifications prescribed by the President.
- (b) The President:
- (i) shall form a Nay Pyi Taw Council;
 - (ii) shall appoint persons who have the prescribed qualifications as Chairperson and members of Nay Pyi Taw Council;
 - (iii) shall obtain the nomination of suitable Defence Services personnel who have prescribed qualifications for appointment as Council member or members from the Commander-in-Chief of the Defence Services for co-ordination of Security matters of Nay Pyi Taw which is the Union Territory;
 - (iv) may prescribe the number of members, including the Chairperson, to serve in Nay Pyi Taw Council in accord with the law as necessary.
- (c) The Chairperson of the Nay Pyi Taw Council shall be responsible to the President and the members shall be responsible to the Chairperson of the Nay Pyi Taw Council and the President through the Chairperson of the Nay Pyi Taw Council.
- (d) If the Chairperson or a member of the Nay Pyi Taw Council is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as Chairperson or a member of the Nay Pyi Taw Council.

- (e) If the Chairperson or a member of the Nay Pyi Taw Council is a Civil Services personnel, it shall be deemed that he has retired according to the existing Civil Services rules and regulations from the day he is appointed as the Chairperson or a member of the Nay Pyi Taw Council.
- (f) The Defence Services personnel who are appointed as a member or members of the Nay Pyi Taw Council, to co-ordinate Security Affairs, are not required to retire or resign from the Defence Services.
- (g) If the Chairperson or a member of the Nay Pyi Taw Council is a member of any political party, he shall not take part in its party activities during the term from the day he is appointed as the Chairperson or a member of the Nay Pyi Taw Council.

Resignation, termination of office, filling the vacancy of the Chairperson and members of the Nay Pyi Taw Council

286. (a) (i) The term of the Chairperson and members of the Nay Pyi Taw Council is the same as that of the President.
- (ii) The Chairperson and any member of the Nay Pyi Taw Council may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.
 - (iii) The President may:
 - (aa) direct the Chairperson and any member of the Nay Pyi Taw Council to resign if he cannot discharge his duties efficiently. If he fails to comply, he shall be terminated from his office;
 - (bb) co-ordinate with the Commander-in-Chief of the Defence Services concerning with the Defence Services personnel who is the member of the Nay Pyi Taw Council and has to resign or be terminated from office.
 - (iv) If the office of the Chairperson or member of the Nay Pyi Taw Council becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Chairperson or member of the Nay Pyi Taw Council in accord with the provisions of the Constitution. The term of the newly appointed Chairperson or member of the Nay Pyi Taw Council shall be the same as that of the remaining term of the President.

- (b) The formation of Nay Pyi Taw Council, duties, powers and rights of the Chairperson and members of Nay Pyi Taw Council shall be prescribed by law.

Office of Nay Pyi Taw Council

287. The Head of General Administration Department of Nay Pyi Taw is ex-officio the secretary of the Nay Pyi Taw Council. General Administration Department of Nay Pyi Taw is the office of the Nay Pyi Taw Council.

Administration of district and township

288. Administration of district and township level shall be assigned to the Civil Services personnel.

Administration of ward and village tract

289. Administration of ward or village tract shall be assigned in accord with the law to a person whose integrity is respected by the community.

Civil Services Personnel

290. Matters relating to the appointment, promotion, retirement, enforcement of rules and regulations and taking action on the Civil services personnel shall be exercised in accord with the law.

291. With respect to the Defence Services personnel who are also Civil Services personnel whose nature of work, is of special significant, they shall be given by the relevant Military laws.

292. With respect to members of Myanmar Police Force who are also Civil Services personnel whose nature of work, is of special significant, they shall be given by the specified law which shall be enacted.

CHAPTER VI JUDICIARY

Formation of Courts

293. Courts of the Union are formed as follows:
- (a) Supreme Court of the Union, High Courts of the Region, High Courts of the State, Courts of the Self-Administered Division, Courts of the Self-Administered Zone, District Courts, Township Courts and the other Courts constituted by law;
 - (b) Courts-Martial;
 - (c) Constitutional Tribunal of the Union.

Supreme Court of the Union Constitution of the Supreme Court of the Union

294. In the Union, there shall be a Supreme Court of the Union. Without affecting the powers of the Constitutional Tribunal and the Courts-Martial, the Supreme Court of the Union is the highest Court of the Union.

Original Jurisdiction of the Supreme Court of the Union

295. (a) Only the Supreme Court of the Union has the following original jurisdiction:
- (i) in matters arising out of bilateral treaties concluded by the Union;
 - (ii) in other disputes, except the Constitutional problems, between the Union Government and the Region or State Governments;
 - (iii) in other disputes, except the Constitutional problems, among the Regions, among the States, between the Region and the State and between the Union Territory and the Region or the State;
 - (iv) other matters as prescribed by any law.
- (b) As the Supreme Court of the Union is the highest court of the Union, it is the court of final appeal.
- (c) The judgments of the Supreme Court of the Union are final and conclusive and have no right of appeal.
- (d) The Supreme Court of the Union, subject to any provision of the Constitution or any provision of other law, has the appellate jurisdiction to decide judgments passed by the High Courts of the Regions or the States. Moreover, the Supreme Court of the Union also has the appellate jurisdiction to decide judgments passed by the other courts in accord with the law.
- (e) The Supreme Court of the Union has the revisional jurisdiction in accord with the law.
296. The Supreme Court of the Union:
- (a) has the power to issue the following writs:
 - (i) Writ of Habeas Corpus;
 - (ii) Writ of Mandamus;
 - (iii) Writ of Prohibition;
 - (iv) Writ of Quo Warranto;
 - (v) Writ of Certiorari.
 - (b) The applications to issue writs shall be suspended in the areas where the state of emergency is declared.

Judiciary Budget

297. The Supreme Court of the Union shall submit judiciary budget to the Union Government in order to include and present in the Annual Budget Bill of the Union in accord with the provisions of the Constitution.

Submission of the Judiciary Situation

298. The Chief Justice of the Union may submit important judiciary situation concerning the Union or the public, either to the session of

the Pyidaungsu Hluttaw or the Pyithu Hluttaw or the Amyotha Hluttaw from time to time.

Appointment of the Chief Justice of the Union and the Judges of the Supreme Court of the Union

299. (a) The Head of the Supreme Court of the Union shall be called the Chief Justice of the Union.
- (b) Judges of the Supreme Court of the Union including the Chief Justice of the Union may be appointed in the Supreme Court from a minimum of seven and a maximum of 11 in number.
- (c) (i) The President shall submit the nomination of the person suitable to be appointed as the Chief Justice of the Union to the Pyidaungsu Hluttaw and seek its approval.
- (ii) The Pyidaungsu Hluttaw shall have no right to refuse the person nominated by the President for the appointment of Chief Justice of the Union and Judges of the Supreme Court of the Union unless it can clearly be proved that the persons do not meet the qualifications for the post prescribed in Section 301.
- (iii) The President has the right to submit again the list furnished with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of the Chief Justice of the Union.
- (iv) The President shall appoint the person who has been approved by the Pyidaungsu Hluttaw as the Chief Justice of the Union.
- (d) (i) The President, in co-ordination with the Chief Justice of the Union, shall submit the nomination of the persons suitable to be appointed as the Judges of the Supreme Court of the Union to the Pyidaungsu Hluttaw and seek its approval.
- (ii) The Pyidaungsu Hluttaw has no right to refuse the persons nominated by the President for the appointment of the Chief Justice of the Union and Judges of the Supreme Court of the Union unless it can clearly be proved the persons concerned do not possess the qualifications prescribed for Judges of Supreme Court of the Union. in Section 301. The President has the right to submit again the list furnished with a new name replacing the one who has not been approved by Pyidaungsu Hluttaw for the appointment of a Judge of the Supreme Court of the Union.

(iii) The President shall appoint the persons approved by Pyidaungsu Hluttaw as Judges of the Supreme Court of the Union.

300. (a) The Chief Justice of the Union or Judges of the Supreme Court of the Union must be free from party politics.
- (b) The Chief Justice of the Union or Judges of the Supreme Court of the Union, if they are Civil Services personnel, shall be deemed to have retired in accord with the existing Civil Services Regulations commencing from the day of the appointment as the Chief Justice of the Union or Judge of the Supreme Court of the Union.

Qualifications of the Chief Justice of the Union and Judges of the Supreme Court of the Union

301. The Chief Justice of the Union and Judges of the Supreme Court of the Union shall be a person of following qualifications:
- (a) not younger than 50 years and not older than 70 years;
- (b) who has qualifications, with the exception of the age limit, prescribed in Section 120 for Pyithu Hluttaw representatives;
- (c) whose qualifications does not breach the provisions under the Section 121 which disqualify him from standing for election as Pyithu Hluttaw representatives;
- (d) (i) who has served as a Judge of the High Court of the Region or State for at least five years; or
- (ii) who has served as a Judicial Officer or a Law Officer at least 10 years not lower than that of the Region or State level; or
- (iii) who has practised as an Advocate for at least 20 years; or
- (iv) who is, in the opinion of the President, an eminent jurist;
- (e) loyal to the Union and its citizens;
- (f) who is not a member of a political party;
- (g) who is not a Hluttaw representative.

Impeachment of the Chief Justice of the Union and Judges of the Supreme Court of the Union

- 302.(a) The President or the representatives of the Pyithu Hluttaw or Amyotha Hluttaw may impeach the Chief Justice of the Union or any Judge of the Supreme Court of the Union for any of the following reasons:
- (i) high treason;
- (ii) breach of any provision of the Constitution;
- (iii) misconduct;

- (iv) disqualifications of the qualifications of the Chief Justice of the Union and Judges of the Supreme Court of the Union prescribed under Section 310;
 - (v) inefficient discharge of duties assigned by law.
- (b) If the President wishes to impeach:
- (i) he shall submit the charge to the Speaker of the Pyidaungsu Hluttaw;
 - (ii) the Speaker of the Pyidaungsu Hluttaw shall form an investigation body and cause the charge to be investigated in accord with the law;
 - (iii) in forming the investigation body, an equal number of representatives of the Pyithu Hluttaw and Amyotha Hluttaw shall be included and any suitable member of the body be assigned as the Chairperson of such body;
 - (iv) the time for the completion of the investigation shall be determined on the volume of work;
 - (v) the President may, himself in person or through a representative, explain and present the charge before the investigation body and has also the right to submit evidence and witnesses;
 - (vi) when the charge is being investigated, the person being charged shall be given the right to defend himself in person or through a representative;
 - (vii) the Speaker of the Pyidaungsu Hluttaw shall, on being submitted the findings of the investigation concerning the impeachment by the investigation body, present it to the Pyidaungsu Hluttaw;
 - (viii) the Speaker of the Pyidaungsu Hluttaw shall, if the resolution is passed that the charge has been substantiated and the alleged person is unfit to continue to serve as the Chief Justice of the Union or a Judge of the Supreme Court of the Union by the two-thirds of the total number of the Pyidaungsu Hluttaw representatives, present and report the said resolution to the President;
 - (ix) on presentation of the report, the President shall, proceed to remove the Chief Justice of the Union or the Judge of the Supreme Court of the Union who has been impeached from office;
 - (x) if the Pyidaungsu Hluttaw resolves that the charges has failed, the Speaker of the Pyidaungsu Hluttaw shall present and report the said resolution to the President;
- (c) if the representatives of the Pyithu Hluttaw or the Amyotha Hluttaw wish to impeach:
 - (i) the provisions for the impeachment of the President or the Vice-President under Section 71 shall be applied;
 - (ii) the President shall, if the Hluttaw which made the investigation resolves and reports that the charge made upon the Chief Justice of the Union or any Judge of the Supreme Court of the Union has been substantiated and the person being charged is unfit to continue to serve as the Chief Justice of the Union or Judge of the Supreme Court of the Union, proceed to remove the Chief Justice of the Union or the Judge of the Supreme Court of the Union who has been impeached from office;
 - (iii) if the Hluttaw which made the investigation resolves that the charge has been failed, the Chairperson of the Hluttaw concerned shall present and report the resolution to the President.

Term of the Chief Justice of the Union and Judges of the Supreme Court of the Union

303. The Chief Justice of the Union and Judges of the Supreme Court of the Union shall hold office up to the age of 70 years unless one of the following occurs:

- (a) resignation on his own volition;
- (b) being impeached in accord with the provisions under the Constitution and removed from office;
- (c) being found to be unable to continue to serve due to permanent disability caused by either physical or mental defect according to the findings of the medical board formed by law;
- (d) death.

304. Duties, powers and rights of the Chief Justice of the Union and Judges of the Supreme Court of the Union shall be prescribed by law.

High Courts of the Region or High Courts of the State

Formation of High Courts of the Region or High Courts of the State

305. There is the High Court of the Region in the Region and the High Court of the State in the State.

Jurisdictions of High Courts of the Region or High Courts of the State

306. High Courts of the Region or State shall have the following jurisdictions in accord with the law:

- (a) adjudicating on original case;
- (b) adjudicating on appeal case;
- (c) adjudicating on revision case;
- (d) adjudicating on matters prescribed by any law.

307. (a) For the purpose of judicial administration, the High Court of Mandalay Region is the High Court of the Courts situated in Nay Pyi Taw.
- (b) For the purpose of judicial administration, where any area located in the Region or State is designated as a Union Territory, the High Court of the Region or State concerned is the High Court of the Courts situated in the said Union Territory.

Appointment of the Chief Justice and Judges of the High Court of the Region or the High Court of the State

308. (a) (i) The Head of the High Court of the Region or the High Court of the State shall be called the Chief Justice of the High Court of the Region or the Chief Justice of the High Court of the State.
- (ii) In the High Court of the Region or the High Court of the State, judges of the High Court of the Region or Judges of the High Court of the State including the Chief Justice of the High Court of the Region or the Chief Justice of the High Court of the State may be appointed from a minimum of three and a maximum of seven in number.
- (b) (i) The President, in co-ordination with the Chief Justice of the Union and the Chief Minister of the Region or State concerned, shall prepare the nomination for the appointment of the Chief Justice of the High Court of the Region or State concerned and the Chief Minister of the Region or State concerned, in co-ordination with the Chief Justice of the Union, shall prepare the nomination for the appointment of the Judges of the High Court of the Region or State concerned, and the said nomination shall be sent to the Region or State Hluttaw concerned.
- (ii) The Region or State Hluttaw concerned shall have no right to refuse the person or persons nominated by the President, in co-ordination with the Chief Justice of the Union and the Chief Minister of the Region or State concerned, for the appointment of the Chief Justice of the High Court of the Region or State concerned, or the person or persons nominated by the Chief Minister of the Region or State concerned, in co-ordination with the Chief Justice of the Union, for the appointment of Judges of the High Court of the Region or State concerned unless it can clearly be

proved that the person does not meet the qualifications prescribed under Section 310 for the Chief Justice of the High Court of the Region or State and the Judge of the High Court of the Region or State.

- (iii) There is the right to resubmit a new nomination list as prescribed in place of the persons who are refused under Sub-Section (ii).
- (iv) The President shall appoint persons approved by the Region or State Hluttaw as the Chief Justice of the High Court of the Region or State concerned and Judges of the High Court of the Region or State concerned.
309. (a) The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State must be free from party politics.
- (b) The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State, if they are civil service personnel, shall be deemed to have retired from the civil service in accord with the existing Civil Service Regulations commencing from the day they have been appointed as the Chief Justice of the High Court of the Region or State and the Judge of the High Court of the Region or State.

Qualification of the Chief Justice of the High Court of the Region or the High Court of the State and Judges of the High Court of the Region or the High Court of the State

310. The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State shall be a person of the following qualifications:
- (a) not younger than 45 years and not older than 65 years of age;
- (b) who has the qualifications, with the exception of the age limit, prescribed under Section 120 for the Pyithu Hluttaw representatives;
- (c) whose qualifications does not breach the provisions under Section 121 which disqualify him from standing for election as Pyithu Hluttaw representatives;
- (d) (i) who has served as a Judicial Officer or Law Officer at least five years not lower than that of the Region or State level or as a Judicial Officer or Law Officer at least 10 years not lower than that of the District level for; or
- (ii) who has practised as an Advocate for at least 15 years; or

- (iii) who is, in the opinion of the President, an eminent jurist.
- (e) loyal to the Union and its citizens;
- (f) who is not a member of a political party;
- (g) who is not a Hluttaw representative.

Impeachment of the Chief Justice of the High Court of the Region or the High Court of the State and Judges of the High Court of the Region or the High Court of the State

311. (a) The Chief Justice of the High Court of the Region or State or Judges of the High Court of the Region or State may be impeached on any of the following reasons:
- (i) high treason;
 - (ii) breach of any provision of the Constitution;
 - (iii) misconduct;
 - (iv) disqualification of the qualification of the Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State prescribed under Section 310;
 - (v) inefficient discharge of duties assigned by law.
- (b) If the President wishes to impeach the Chief Justice of the High Court of the Region or State or the Chief Minister of the Region or State wishes to impeach any of the Judges of the High Court of the Region or State concerned, he shall submit the charge to the Speaker of the Region or State Hluttaw.
- (c) If the representatives of the Region or State Hluttaw wish to impeach the Chief Justice of the High Court of the Region or State concerned or the Judge of the High Court of the Region or State concerned, the charge signed by not less than one-fourth of the total number of representatives of the Region or State Hluttaw concerned shall be submitted to the Speaker of the Region or State Hluttaw concerned.
- (d) The Speaker of the Region or State Hluttaw shall form an investigation body and cause the charge to be investigated in accord with the law. The time for the completion of the investigation shall be determined on the volume of work.
- (e) (i) If the President or the Chief Minister of the Region or the Chief Minister of the State wishes to carry out the impeachment, an investigation body shall be formed with the representatives of the Region or State Hluttaw concerned and a suitable

person from among the members of the investigation body shall be assigned as the Chairperson.

- (ii) The President or the Chief Minister of the Region or State concerned may, himself in person or through a representative, explain the charge before the investigation body and has also the right to submit relevant evidences and witnesses.
- (f) When the charge is being investigated, the person being charged shall be given the right to defend himself in person or through a representative.
- (g) The Speaker of the Region or State Hluttaw shall, on being submitted the findings of the investigation concerning the impeachment by the investigation body, report it to the Region or State Hluttaw.
- (h) The Speaker of the Region or State Hluttaw shall, if the resolution is passed that the charge has been substantiated and the alleged person is unfit to continue to serve as the Chief Justice of the High Court of the Region or State or a Judge of the High Court of the Region or State by two-thirds of the total number of the representatives of the Region or State Hluttaw, if it is the case concerning the Chief Justice of the High Court of the Region or State, the said resolution is submitted to the President and if it is the case concerning a Judge of the High Court of the Region or State, the said resolution is submitted to the Chief Minister of the Region or State concerned. The Chief Minister of the Region of the State shall, on receiving the said resolution, submit it to the President.
- (i) On receiving the report, the President shall, proceed to remove the Chief Justice of the High Court of the Region or State or the Judge of the High Court of the Region or State who has been impeached from office.
- (j) If the Region or State Hluttaw concerned resolves that the charge has failed, the Speaker of the Region or State Hluttaw shall, if it is the case concerning the Chief Justice of the High Court of the Region or State, such resolution is submitted to the President and if it is the case concerning the Judge of the High Court of the Region or State, such resolution is submitted to the Chief Minister of the Region or State concerned.

Term of the Chief Justice of the High Court of the Region or the High Court of the State and Judges of the High Court of the Region or High Court of the State

312. The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State shall hold office up to the age of 65 years unless any of the following occurs:

- (a) resignation on his own volition;
- (b) being impeached in accord with the provisions under the Constitution and removed from office;
- (c) being found to be unable to continue to serve due to permanent disability caused by either physical or mental defect according to the findings of the medical board formed by law;
- (d) death.

313. Duties, powers and rights of the Chief Justice of the High Court of the Region or State and the Judges of the High Court of the Region or State shall be prescribed by law.

Courts under the Supervision of the High Court of the Region or the High Court of the State

314. The following levels of Courts are under the supervision of the High Court of the Region or State:

- (a) if there is no Self-Administered Areas in the Region or State:
 - (i) District Courts;
 - (ii) Township Courts
- (b) if there is Self-Administered Areas in the Region or State:
 - (i) In the Self-Administered Division:
 - (aa) Court of the Self-Administered Division;
 - (bb) Township Courts.
 - (ii) In the Self-Administered Zone:
 - (aa) Court of the Self-Administered Zone;
 - (bb) Township Courts.
 - (iii) In the remaining areas:
 - (aa) District Courts;
 - (bb) Township Courts.
- (c) In the Union Territory:
 - (i) District Courts;
 - (ii) Township Courts.
- (d) Other Courts constituted by law.

Jurisdiction of the District Courts and Township Courts

315. District Courts, Courts of the Self-Administered Division, and Courts of the Self-Administered Zone, in accord with the law, have the jurisdiction relating to original criminal cases, original civil cases, appeal cases, revision cases or matters prescribed by any law.

316. Township Courts, in accord with the law,

have the jurisdiction relating to original criminal cases, original civil cases or matters prescribed by any law.

317. The Judges appointed in accord with the law at the Courts formed by the Constitution or any other law shall administer all judicial affairs in the entire Union.

319. (a) Appointment of Judges at various levels of Courts under the supervision of the High Court of the Region or State, conferring judicial powers, prescribing the duties, powers and rights shall be in accord with the law.

(b) Formation of staff organizations, comprising of officers and other ranks at the Supreme Court of the Union, the High Courts of the Region or State and other Courts, and prescribing duties, powers and rights shall be in accord with the law.

Courts-Martial

319. According to Sub-Section (b) of Section 293, the Courts-Martial shall be constituted in accord with the Constitution and the other law and shall adjudicate Defence Services personnel.

The Constitutional Tribunal of the Union Formation of the Constitutional Tribunal of the Union

320. The Constitutional Tribunal of the Union shall be formed with nine members including the Chairperson.

321. The President shall submit the candidature list of total nine persons, three members chosen by him, three members chosen by the Speaker of the Pyithu Hluttaw and three members chosen by the Speaker of the Amyotha Hluttaw, and one member from among nine members to be assigned as the Chairperson of the Constitutional Tribunal of the Union, to the Pyidaungsu Hluttaw for its approval.

Functions and Duties of the Constitutional Tribunal of the Union

The functions and the duties of the Constitutional Tribunal of the Union are as follows:

322. (a) interpreting the provisions under the Constitution;

(b) vetting whether the laws promulgated by the Pyidaungsu Hluttaw, the Region Hluttaw, the State Hluttaw or the Self-Administered Division Leading Body and the Self-Administered Zone Leading Body are in conformity with the Constitution or not;

(c) vetting whether the measures of the executive authorities of the Union,

the Regions, the States, and the Self-Administered Areas are in conformity with the Constitution or not;

- (d) deciding Constitutional disputes between the Union and a Region, between the Union and a State, between a Region and a State, among the Regions, among the States, between a Region or a State and a Self-Administered Area and among the Self-Administered Areas;
- (e) deciding disputes arising out of the rights and duties of the Union and a Region, a State or a Self-Administered Area in implementing the Union Law by a Region, State or Self-Administered Area;
- (f) vetting and deciding matters intimated by the President relating to the Union Territory;
- (g) functions and duties conferred by laws enacted by the Pyidaungsu Hluttaw.

Effect of the Resolution of the Constitutional Tribunal of the Union

- 323. In hearing a case by a Court, if there arises a dispute whether the provisions contained in any law contradict or conform to the Constitution, and if no resolution has been made by the Constitutional Tribunal of the Union on the said dispute, the said Court shall stay the trial and submit its opinion to the Constitutional Tribunal of the Union in accord with the prescribed procedures and shall obtain a resolution. In respect of the said dispute, the resolution of the Constitutional Tribunal of the Union shall be applied to all cases.
- 324. The resolution of the Constitutional Tribunal of the Union shall be final and conclusive.

Submission to obtain the interpretation, resolution and opinion of the Constitutional Tribunal of the Union

- 325. The following persons and organizations shall have the right to submit matters directly to obtain the interpretation, resolution and opinion of the Constitutional Tribunal of the Union:
 - (a) the President;
 - (b) the Speaker of the Pyidaungsu Hluttaw;
 - (c) the Speaker of the Pyithu Hluttaw;
 - (d) the Speaker of the Amyotha Hluttaw;
 - (e) the Chief Justice of the Union;
 - (f) the Chairperson of the Union Election Commission.
- 326. The following persons and organizations shall have the right to submit matters to obtain the interpretation, resolution and opinion of the Constitutional Tribunal of the Union in accord with the prescribed procedures:

- (a) the Chief Minister of the Region or State;
- (b) the Speaker of the Region or State Hluttaw;
- (c) the Chairperson of the Self-Administered Division Leading Body or the Self-Administered Zone Leading Body;
- (d) Representatives numbering at least ten percent of all the representatives of the Pyithu Hluttaw or the Amyotha Hluttaw.

Appointment of the Chairperson and members of the Constitutional Tribunal of the Union

- 327. The President shall appoint the Chairperson and members of the Constitutional Tribunal of the Union approved by the Pyidaungsu Hluttaw.
- 328. The Pyidaungsu Hluttaw shall have no right to refuse the persons nominated for members of the Constitutional Tribunal of the Union by the President unless it can clearly be proved that they are disqualified.
- 329. The President has the right to submit again, in accord with the provisions of the Constitution, the new nomination list to replace the person who has not been approved by the Pyidaungsu Hluttaw for appointment as member of the Constitutional Tribunal of the Union.
- 330. A member of the Constitutional Tribunal of the Union shall:
 - (a) if he is a representative of any Hluttaw, be deemed to have resigned as representative of the Hluttaw commencing from the day he has been appointed as a member of the Constitutional Tribunal of the Union;
 - (b) if he is a Civil Services personnel, be deemed to have retired from the Civil Services in accord with the existing Civil Services Regulations commencing from the day he has been appointed as a member of the Constitutional Tribunal of the Union;
 - (c) if he is a member of any political party, he shall not take part in its party activities during his term, commencing from the day he has been appointed a member of the Constitutional Tribunal of the Union.
- 331. If a member of the Constitutional Tribunal of the Union wishes to resign on his own volition from office before the expiry of his term due to any reason, he may do so, after submitting his resignation in writing to the President.
- 332. If the position of a member of the Constitutional Tribunal of the Union is vacant for any reason, the President may appoint a new member of the Constitutional Tribunal of the Union in accord with the provisions under the Constitution.

Qualifications of the Member of the Constitutional Tribunal of the Union

333. The President, the Speaker of the Pyithu Hluttaw and the Speaker of the Amyotha Hluttaw shall select from among the Hluttaw representatives or among those who are not Hluttaw representatives with three members each who has the following qualifications:
- (a) person who has attained the age of 50 years;
 - (b) person who has qualifications, with the exception of the age limit, prescribed in Section 120 for Pyithu Hluttaw representatives;
 - (c) person whose qualification does not breach the provisions under Section 121 which disqualify a person standing for election as Pyithu Hluttaw representatives;
 - (d)(i) person who has served as a Judge of the High Court of the Region or State for at least five years; or
 - (ii) person who has served as a Judicial Officer or a Law Officer at least 10 years not lower than that of the Region or State level for;
 - (iii) person who has practised as an Advocate for at least 20 years; or
 - (iv) person who is, in the opinion of the President, an eminent jurist.
 - (e) person who is not a member of a political party;
 - (f) person who is not a Hluttaw representative;
 - (g) person who has political, administrative, economic and security outlook;
 - (h) person loyal to the Union and its citizens.

Impeachment of the Chairperson and the Members of the Constitutional Tribunal of the Union

334. (a) The Chairperson and members of the Constitutional Tribunal of the Union may be impeached on any of the following reasons:
- (i) high treason;
 - (ii) breach of any of the provisions under the Constitution;
 - (iii) misconduct;
 - (iv) disqualification of the qualifications of member of the Constitutional Tribunal of the Union prescribed under Section 333;
 - (v) inefficient discharge of duties assigned by law.
- (b) If the Chairperson or any member of the Constitutional Tribunal of the Union is to be impeached, it shall be done so in accord with the impeachment provisions

as prescribed under Section 302 of the Chief Justice of the Union or a Judge of the Supreme Court of the Union.

Term of the Constitutional Tribunal of the Union

335. The term of the Constitutional Tribunal of the Union is the same as that of the Pyidaungsu Hluttaw being five years. However, the ongoing Constitution Tribunal of the Union, on expiry of its term, shall continue its functions till the President forms a new Tribunal under the Constitution.
336. The formation and communication of the Constitutional Tribunal of the Union, duties, powers and rights of the Chairperson and members of the Tribunal shall be prescribed by law.

**CHAPTER VII
Defence Services**

337. The main armed force for the Defence of the Union is the Defence Services.
338. All the armed forces in the Union shall be under the command of the Defence Services.
339. The Defence Services shall lead in safeguarding the Union against all internal and external dangers.
340. With the approval of the National Defence and Security Council, the Defence Services has the authority to administer the participation of the entire people in the Security and Defence of the Union. The strategy of the people's militia shall be carried out under the leadership of the Defence Services.
341. The Defence Services shall render assistance when calamities that affects the Union and its citizens occur in the Union.
342. The President shall appoint the Commander-in-Chief of the Defence Services with the proposal and approval of the National Defence and Security Council.
343. In the adjudication of Military justice:
- (a) the Defence Services personnel may be administered in accord with law collectively or singly;
 - (b) the decision of the Commander-in-Chief of the Defence Services is final and conclusive.
344. A law shall be enacted to provide assistance and care for disabled Defence Services personnel and the families of deceased or fallen Defence Services personnel.

**CHAPTER VIII
Citizen, Fundamental Rights and Duties of the Citizens**

345. All persons who have either one of the following qualifications are citizens of the Republic of the Union of Myanmar:

- (a) person born of parents both of whom are nationals of the Republic of the Union of Myanmar;
 - (b) person who is already a citizen according to law on the day this Constitution comes into operation.
346. Citizenship, naturalization and revocation of citizenship shall be as prescribed by law.
347. The Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.
348. The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.
349. Citizens shall enjoy equal opportunity in carrying out the following functions:
- a) public employment;
 - b) occupation;
 - c) trade;
 - d) business;
 - e) technical know-how and vocation;
 - f) exploration of art, science and technology.
350. Women shall be entitled to the same rights and salaries as that received by men in respect of similar work.
351. Mothers, children and expectant women shall enjoy equal rights as prescribed by law.
352. The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.
353. Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person.
354. Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality:
- (a) to express and publish freely their convictions and opinions;
 - (b) to assemble peacefully without arms and holding procession;
 - (c) to form associations and organizations;
 - (d) to develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths.
355. Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to law.
356. The Union shall protect according to law movable and immovable properties of every citizen that are lawfully acquired.
357. The Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this Constitution.
358. The Union prohibits the enslaving and trafficking in persons.
359. The Union prohibits forced labor except hard labor as a punishment for crime duly convicted and duties assigned by the Union in accord with the law in the interest of the public.
360. (a) The freedom of religious right given in Section 34 shall not include any economic, financial, political or other secular activities that may be associated with religious practice.
- (b) The freedom of religious practice so guaranteed shall not debar the Union from enacting law for the purpose of public welfare and reform.
361. The Union recognizes special position of Buddhism as the faith professed by the great majority of the citizens of the Union.
362. The Union also recognizes Christianity, Islam, Hinduism and Animism as the religions existing in the Union at the day of the coming into operation of this Constitution.
363. The Union may assist and protect the religions it recognizes to its utmost.
364. The abuse of religion for political purposes is forbidden. Moreover, any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution law may be promulgated to punish such activity.
365. Every citizen shall, in accord with the law, have the right to freely develop literature, culture, arts, customs and traditions they cherish. In the process, they shall avoid any act detrimental to national solidarity. Moreover, any particular action which might adversely affect the interests of one or several other national races shall be taken only after co-coordinating with and obtaining the settlement of those affected.
366. Every citizen, in accord with the educational policy laid down by the Union:
- (a) has the right to education;
 - (b) shall be given basic education which the Union prescribes by law as compulsory;
 - (c) have the right to conduct scientific research explore science, work with creativity and write to develop the arts and conduct research freely other branches of culture.

367. Every citizen shall, in accord with the health policy laid down by the Union, have the right to health care.
368. The Union shall honour and assist citizens who are outstanding in education irrespective of race, religion and sex according to their qualifications.
369. (a) Subject to this Constitution and relevant laws, every citizen has the right to elect and right to be elected to the Pyithu Hluttaw, the Amyotha Hluttaw, and the Region or State Hluttaw.
(b) Relevant electorate has the right to recall a Hluttaw representative in accord with the law.
370. Every citizen has, in accord with the law, the right to conduct business freely in the Union, for national economic development.
371. The Union may assist the access to technology, investment, machinery, raw material, so forth, for national economic development.
372. The Union guarantees the right to ownership, the use of property and the right to private invention and patent in the conducting of business if it is not contrary to the provisions of this Constitution and the existing laws.
373. Any person who committed a crime, shall be convicted only in accord with the relevant law then in operation. Moreover, he shall not be penalized to a penalty greater than that is applicable under that law.
374. Any person convicted or acquitted by a competent court for an offence shall not be retried unless a superior court annuls the judgment and orders the retrial.
375. An accused shall have the right of defence in accord with the law.
376. No person shall, except matters on precautionary measures taken for the security of the Union or prevalence of law and order, peace and tranquility in accord with the law in the interest of the public, or the matters permitted according to an existing law, be held in custody for more than 24 hours without the remand of a competent magistrate.
377. In order to obtain a right given by this Chapter, application shall be made in accord with the stipulations, to the Supreme Court of the Union.
378. (a) In connection with the filing of application for rights granted under this Chapter, the Supreme Court of the Union shall have the power to issue the following writs as suitable:
(1) Writ of Habeas Corpus;
(2) Writ of Mandamus;
(3) Writ of Prohibition;
(4) Writ of Quo Warranto;
(5) Writ of Certiorari.
- (b) The right to issue writs by the Supreme Court of the Union shall not affect the power of other courts to issue order that has the nature of writs according to the existing laws.
379. At the time of the occurrence the following situation, the rights under Section 377 shall not be suspended unless the public safety may so require:
(a) in time of war;
(b) in time of foreign invasion;
(c) in time of insurrection.
380. Every citizen who has relations with foreign countries shall have the right to seek protection of the Union at home or abroad.
381. Except in the following situations and time, no citizen shall be denied redress by due process of law for grievances entitled under law:
(a) in time of foreign invasion;
(b) in time of insurrection;
(c) in time of emergency.
382. In order to carry out their duties fully and to maintain the discipline by the Defence Forces personnel or members of the armed forces responsible to carry out peace and security, the rights given in this Chapter shall be restricted or revoked through enactment to law.
383. Every citizen has the duty to uphold:
(a) non-disintegration of the Union;
(b) non-disintegration of national solidarity;
(c) perpetuation of sovereignty.
384. Every citizen has duty to abide by the provisions of this Constitution.
385. Every citizen has the duty to safeguard independence, sovereignty and territorial integrity of the Republic of the Union of Myanmar.
386. Every citizen has the duty to undergo military training in accord with the provisions of the law and to serve in the Armed Forces to defend the Union.
387. Every citizen, with the Union Spirit, has the duty to enhance unity among national races and to ensure public peace and stability.
388. Every citizen has the duty for the emergence of a modern developed Nation.
389. Every citizen has the duty to pay taxes to be levied according to the law.
390. Every citizen has the duty to assist the Union in carrying out the following matters:
(a) preservation and safeguarding of cultural heritage;
(b) environmental conservation;
(c) striving for development of human resources;
(d) protection and preservation of public property.

**CHAPTER IX
ELECTION**

Election of People's Representatives to the Hluttaws

391. In electing people's representatives to the Hluttaws:

- (a) every citizen who has attained 18 years of age on the day on which the election commences, who is not disqualified by law, who is eligible to vote, and person who has the right to vote under the law, shall have the right to vote;
- (b) every citizen who is eligible to vote and person who has the right to vote under the law shall cast a vote only for each Hluttaw at a constituency in an election;
- (c) Moreover, the relevant national races having right to vote in accord with the provisions contained in this Constitution have also the right to vote to elect Hluttaw representatives of national races for their Region or State Hluttaw;
- (d) secret balloting system shall be practised.

392. The following persons shall have no right to vote:

- (a) members of religious orders;
- (b) persons serving prison terms;
- (c) persons determined to be of unsound mind and stands so declared by a competent Court;
- (d) persons who have not yet been declared free from insolvent;
- (e) persons disqualified by election law.

393. A Hluttaw candidate has, in an election:

- (a) the right to be elected to one Hluttaw only;
- (b) the right to stand for one constituency only.

394. (a) The electorate residing in the Union Territory or Union Territories designated by enactment of Pyidaungsu Hluttaw law have the right to elect the Pyithu Hluttaw and Amyotha Hluttaw representatives only.

- (b) A Region or State Hluttaw representative elected from a territory designated as a Union Territory through enactment of a Pyidaungsu Hluttaw law, save as otherwise provided by the law, shall not continue to stand as a representative of the said Hluttaw.

395. Every citizen who is not disqualified by the provisions under this Constitution or the provisions of the election law shall have the right to stand for election to any Hluttaw.

Recalling a representative of the Hluttaw

396. (a) A representative of the Hluttaw may be recalled on any of the following reasons:

- (1) high treason;
- (2) breach of any provision of this Constitution;

- (3) misbehavior;
- (4) disqualification prescribed in this Constitution for the Hluttaw representative;
- (5) inefficient discharge of duties assigned to.

(b) A minimum of one percent out of the original voters of the electorate of the constituency concerned shall submit the complaint to the Union Election Commission against the Hluttaw representative on whom it wishes to recall.

(c) The Union Election Commission shall conduct the investigation in accord with the law.

(d) In conducting the investigation on an allegation made to a Hluttaw representative, he has a right to defend himself in person or through an agent.

(e) If the Union Election Commission considers that the allegation is true and that the alleged person should not continue to serve as a Hluttaw representative any longer, the Union Election Commission shall proceed in accord with the law.

397. The Pyidaungsu Hluttaw shall enact the necessary laws on matters relating to 'Election' and on matters relating to 'Recall'.

Formation of the Union Election Commission

398. (a) The President shall constitute a Union Election Commission. In constituting the Commission, he may appoint a minimum of five members including the chairman of the Union Election Commission in accord with the provisions on appointment of the Union Minister prescribed in this Constitution.

(b) The chairman and members of the Union Election Commission shall be persons who:

- (1) have attained 50 years of age;
- (2) with the exception of the age limit, shall have the qualifications prescribed for the Pyithu Hluttaw representatives;

(3) (aa) have served in the position of the Chief Justice of the Union or Judge of the Supreme Court of the Union or Judge of the High Court of the Region or State or a similar position for a minimum of five years; or

(bb) have served in the position of the judicial officer or the law officer not lower than the rank of the Region or State level for a period of 10 years; or

(cc) have served as a practising lawyer for a minimum of 20 years as an Advocate; or

- (dd) shall be deemed by the President to be an eminent person. shall have integrity and (4) experience;
- (5) shall be not relevant with the provisions for disqualification of election as the Pyithu Hluttaw representative;
- (6) shall be loyal to the State and its citizens;
- (7) shall not be a member of a political party;
- (8) shall not be a Hluttaw representative;
- (9) shall not be a person who accepts the position that entitles salary, allowance or money.

Duties of the Union Election Commission

399. The duties of the Union Election Commission are as follows:

- (a) holding Hluttaw elections;
- (b) supervising Hluttaw elections; forming different levels of sub-commissions and supervising thereof;
- (c) designating and amending the constituencies;
- (d) compiling lists of voters and amending thereof;
- (e) postponing elections of the constituencies where free and fair election cannot be held due to natural disaster or due to local security situation;
- (f) prescribing rules relating to elections or political parties in accord with the provisions of this Constitution, and procedures, directives, so forth, in accord with the relevant laws;
- (g) constituting the election tribunals for trial of disputes relating to election in accord with the law;
- (h) performing duties assigned under a law.

Impeachment of the Chairman or the members of the Union Election Commission

400. (a) The President may impeach the Chairman or the members of the Union Election Commission for one of the following reasons:
- (1) high treason;
 - (2) breach of any provision of this Constitution;
 - (3) misconduct;
 - (4) disqualification on conditions prescribed for the representative concerned prescribe in this Constitution;
 - (5) inefficient discharge of duties assigned to.
- (b) Impeachment shall be conducted in accord with the procedure laid down in this Constitution relating to the impeachment of the Chief Justice of the

Union or a Judge of the Supreme Court of the Union.

401. (a) If the Chairman or a member of the Union Election Commission during this term of service wishes to resign on his own accord due to any reason, he may submit his resignation in writing to the President.
- (b) If the seat of the Chairman or the member of the Union Election Commission is vacant due to resignation, termination of duties, death or any other reason, the President may appoint a new Chairman, or a member of the Union Election Commission in accord with the provisions of appointment of a Union Minister prescribed in this Constitution.
- (c) If the Chairman or member of the Union Election Commission is a Civil Services Personnel it shall be deemed that he has been retired from service in accord with the existing service regulations from the day of appointment of the Chairman or member of the Union Election Commission.

Resolutions and Functions of the Union Election Commission

402. The resolutions and functions made by the Union Election Commission on the following matters shall be final and conclusive:

- (a) election functions;
- (b) appeals and revisions relating to the resolutions and orders of the election tribunals;
- (c) matters taken under the law relating to political party.

403. Duties, powers and privileges of the Chairman and members of the Union Election Commission shall be prescribed by law.

**CHAPTER X
POLITICAL PARTIES**

Formation of the Political Parties

404. A political party shall:
- (a) set the objective of non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty;
 - (b) be loyal to the State.
405. A political party shall:
- (a) accept and practise a genuine and discipline-flourishing multi-party democratic system;
 - (b) abide by and respect this Constitution and the existing laws;
 - (c) form and register as a political party in accord with the law.
406. A political party shall, in accord with the law,

have the right in the Union to:

- (a) organize freely;
- (b) participate and compete in the elections.

The right of Non-Existence of Political Parties

407. If a political party infringe one of the following stipulations, it shall have no right of continued existence:

- (a) having been declared an unlawful association under the existing law;
- (b) directly or indirectly contacting or abetting the insurgent group launching armed rebellion against the Union or the associations and persons determined by the Union to have committed terrorist acts or the association declared to be an unlawful association;
- (c) directly or indirectly receiving and expending financial, material and other assistance from a foreign government, a religious association, other association or a person from a foreign country;
- (d) abusing religion for political purpose.

408. If the body having authority to register political parties finds that a political party infringes one of the stipulations contained in Section 407, the party's registration shall be revoked.

409. The Pyidaungsu Hluttaw shall enact necessary laws concerning political parties.

CHAPTER XI

Provisions on State of Emergency

410. If the President learns that or if the respective local administrative body submits that the administrative functions cannot be carried out in accord with the Constitution in a Region or a State or a Union territory or a Self-Administered Area, he may, after coordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency.

411. In the matter concerning the declaration of a state of emergency in accord with Section 410, the President:

- (a) may exercise the executive power of a Region or a State or a Self-Administered Area concerned. Moreover, he may form an appropriate body or a suitable person and entrust the said executive power;
- (b) in doing so, if necessary, has the right to exercise the legislative power only for executive matters from among the matters that may be legislated by the respective Region, State or Self-Administered Areas. However, the legislative power shall not be empowered on any body or any person.

412. (a) If the President, learns that or if the respective local administrative body

submits that there arises or is sufficient reason to arise a state of emergency endangering the lives, shelter and property of the public in a Region or a state or a Union Territory or a Self-Administered Area, after co-coordinating with the National Defence and Security Council, may promulgate an ordinance and declare a state of emergency.

- (b) If all the members are unable to attend the meeting held by the President to co-ordinate with the National Defence and Security Council under Sub-Section (a), the President may declare in time a state of emergency after co-coordinating with the Commander-in-Chief of the Defence Services, the Deputy Commander-in-Chief of the Defence Services, the Minister for Defence, and the Minister for Home Affairs who are members. The said declaration shall be submitted to the National Defence and Security Council for approval as soon as possible.

413. According to Section 412, concerning the declaration of a state of emergency:

- (a) the local administrative bodies and their members and the Civil Services organizations and their members may obtain the assistance of the Defence Services to effectively carry out their duties in accord with the existing laws in order to quickly restore to its original situation in an area where the declaration of a state of emergency has been in operation;
- (b) the President may, if necessary, declare a military administrative order. In the said order, the executive powers and duties and the judicial powers and duties concerning community peace and tranquility and prevalence of law and order shall be conferred on the Commander-in-Chief of the Defence Services. The Commander-in-Chief of the Defence Services may exercise the said powers and duties himself or empower on any suitable military authority to exercise thereof.

414. The President, in promulgating an ordinance and declaring a state of emergency:

- (a) shall specify in the said ordinance the areas and the duration that the state of emergency is in operation;
- (b) may, if necessary, restrict or suspend as required, one or more fundamental rights of the citizens residing in the areas where the state of emergency is in operation.

415. The President shall, relating to the measures taken under Sections 410 and 411, and relating to the measures taken under Sections 412 and

- 413 in declaring a state of emergency, carry out such measures in accord with Section 212 (b), (c) and (e).
416. If the Pyidaungsu Hluttaw session besides approving the submission of the President under Section 415 also extends the duration of the ordinance, it shall remain in operation up to the expiry of the extended duration.
417. If there arises or if there is sufficient reason for a state of emergency to arise that may disintegrate the Union or disintegrate national solidarity or that may cause the loss of sovereignty, due to acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means, the President may, after co-ordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency. In the said ordinance, it shall be stated that the area where the state of emergency in operation is the entire Nation and the specified duration is one year from the day of promulgation.
418. (a) In the matter concerning the declaration of the state of emergency according to Section 417, the President shall declare the transferring of legislative, executive and judicial powers of the Union to the Commander-in-Chief of the Defence Services to enable him to carry out necessary measures to speedily restore its original situation in the Union. It shall be deemed that the legislative function so fall Hluttaws and leading bodies shall be suspended from the day of declaration. It shall also be deemed that on the expiry of the term of the said Hluttaws, the relevant Hluttaws have been dissolved automatically.
- (b) Notwithstanding anything contained in the Constitution, commencing from the day of transfer of the sovereign power to the Commander-in-Chief of the Defence Services, it shall be deemed that the members appointed and assigned duties by approval of the relevant Hluttaws in accord with the Constitution, Self-Administered Division Leading Bodies or the members of Self-Administered Zone Leading Bodies, with the exception of the President and the Vice-Presidents, have been terminated from duty.
419. The Commander-in-Chief of the Defence Services to whom the sovereign power has been transferred shall have the right to exercise the powers of legislature, executive and judiciary. The Commander-in-Chief of the Defence Services may exercise the legislative power either by himself or by a body including him. The executive power and the judicial power may be transferred to and exercised by an appropriate body that has been formed or a suitable person.
420. The Commander-in-Chief of the Defence Services may, during the duration of the declaration of a state of emergency, restrict or suspend as required, one or more fundamental rights of the citizens in the required area.
421. The President:
- (a) shall submit the matter of transferring the sovereign power to the Commander-in-Chief of the Defence Services, after declaring a state of emergency under Sections 417 and 418, to a regular session of the Pyidaungsu Hluttaw if it is in session, or to an emergency session of the Pyidaungsu Hluttaw by summoning it, if it is not in regular session;
- (b) may, if the Commander-in-Chief of the Defence Services submits the extension of the prescribed duration by giving reasons why he has not yet been able to accomplish the duties assigned to him, and after co-ordinating with the National Defence and Security Council, normally permit two extensions of the prescribed duration for a term of six months for each extension. The matter relating to the extension shall be reported to the emergency session of the Pyidaungsu Hluttaw by summoning it.
422. The President shall, on submission of a report that the Commander-in-Chief of the Defence Services has accomplished the duties assigned, declare the annulment of the ordinance transferring the sovereign power to the Commander-in-Chief of the Defence Services under Section 418, after co-ordinating with the National Defence and Security Council, on the day of submission of the report by convening an emergency session of the Pyidaungsu Hluttaw if the term of the Pyidaungsu Hluttaw has not expired, or on the day that the submission of the report of the Commander-in-Chief of the Defence Services is received if that term of the Pyidaungsu Hluttaw has expired.
423. The President shall, on receiving the report of the Commander-in-Chief of the Defence Services under Section 422, revoke the temporary suspension of the legislative functions of all Hluttaws and Leading Bodies if the term of the Pyidaungsu Hluttaw has not expired. The New executive and judicial bodies prescribed in the Constitution shall then be formed and assigned duties in accord with the Constitution. Such bodies shall only carry out the duties for the remaining term of the Hluttaw.

424. Notwithstanding that the term of the Pyidaungsu Hluttaw has expired, the President and the Vice-Presidents, or the Speaker of the Pyithu Hluttaw and the Speaker of the Amyotha Hluttaw shall remain in their office until the new President and the new Vice-Presidents, or the new Speaker of the Pyithu Hluttaw and the new Speaker of the Amyotha Hluttaw have been elected in accord with the Constitution.
425. The National Defence and Security Council may, if the Commander-in-Chief of the Defence Services submits the extension of the prescribed duration by giving reasons why he has not been able to accomplish the assigned duties, on the expiry of the term of the Pyidaungsu Hluttaw, normally permit two extensions of the prescribed duration for a term of six months for each extension.
426. The National Defence and Security Council shall, concerning the matter of transferring of sovereign power by the President to the Commander-in-Chief of the Defence Services by declaring a state of emergency under Sections 417 and 418, declare the annulment of the ordinance transferring the sovereign power to him under Section 418 on receiving the report that the Commander-in-Chief of the Defence Services has accomplished the duties assigned to him.
427. The National Defence and Security Council:
- (a) exercises the powers of the legislature, executive and judiciary before the Hluttaws are formed in accord with the Constitution;
 - (b) has the right to exercise the sovereign power until the new President has been elected and the Union level administrative bodies have been formed in accord with the provisions in this Constitution. In exercising thereof, the legislative power shall be exercised by itself. The executive power and the judicial power may be transferred to and exercised by the appropriate Bodies that have been formed or a suitable person at the Union, Region or State and Self-Administered Area levels.
428. The National Defence and Security Council shall form and assign duties to different levels of administrative bodies, the Self-Administered Division Leading Body, or the Self-Administered Zone Leading Bodies and Election Commission prescribed in the Constitution with persons who meet the relevant qualifications prescribed in the Constitution.
429. The National Defence and Security Council shall hold the general election in accord with

the provisions of the Constitution within a duration of six months commencing from the day on which the ordinance is annulled under Section 426.

430. The bodies formed under Section 428 shall continue to perform their functions and duties until legislative, executive and judicial bodies have been formed in accord with the Constitution after holding the general election.
431. The National Defence and Security Council shall exercise the sovereign power in the name of the President.
432. The legitimate measures of any administrative body or any of its members, any Civil Services body or any of its members, and any military body or any of its members assigned powers and duties to take measures as required in order to speedily restore the security, stability, community peace and tranquility and prevalence of law and order to its original state on behalf of the President while a declaration of emergency is in operation or during the duration the sovereign power is being exercised by the Commander-in-Chief of the Defence Services or during the duration the sovereign power is being exercised by the National Defence and Security Council, shall be valid. No legal action shall be taken on such legitimate measures.

CHAPTER XII AMENDMENT OF THE CONSTITUTION

433. Any provision of this Constitution may be amended in the manner herein after provided:
- (a) the proposal to amend the Constitution shall be submitted in the form of a Bill;
 - (b) the Bill to amend the Constitution shall not contain other proposals.
434. The Bill to amend the Constitution shall be submitted to the Pyidaungsu Hluttaw.
435. If twenty percent of the total number of the Pyidaungsu Hluttaw representatives submit the Bill to amend the Constitution, it shall be considered by the Pyidaungsu Hluttaw.
436. (a) If it is necessary to amend the provisions of Sections 1 to 48 in Chapter I, Sections 49 to 56 in Chapter II, Sections 59 and 60 in Chapter III, Sections 74, 109, 141 and 161 in Chapter IV, Sections 200, 201, 248 and 276 in Chapter V, Sections 293, 294, 305, 314 and 320 in Chapter VI, Sections 410 to 432 in Chapter XI and Sections 436 in Chapter XII of this Constitution, it shall be amended with the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which in

a nation-wide referendum only with the votes of more than half of those who are eligible to vote.

- (b) Provisions other than those mentioned in Sub-Section (a) shall be amended only by a vote of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw.

**CHAPTER XIII
State Flag, State Seal, National Anthem
and Capital**

437. (a) The State Flag shall be as shown below:



- (b) Law shall be promulgated concerning the State Flag.

438. (a) The State Seal shall be as shown below:



- (b) Law shall be promulgated concerning the State Seal.

439. (a) The present National Anthem shall be prescribed as the National Anthem.

- (b) Law shall be promulgated concerning the National Anthem.

440. The Capital of the Republic of the Union of Myanmar is Nay Pyi Taw.

**CHAPTER XIV
TRANSITORY PROVISIONS**

441. A nation-wide referendum held for adoption of this Constitution where more than half of the eligible voters voted, of which majority of these voters adopted this Constitution, shall come into operation throughout the Union from the day the first session of the Pyidaungsu Hluttaw is convened.

442. The State Peace and Development Council shall continue to exercise State sovereignty before this Constitution comes into operation.

443. The preparatory work done by the State Peace and Development Council, before this

Constitution comes into operation, to bring the Constitution into operation, shall be deemed to have been carried out in accord with this Constitution.

444. (a) The Government that exists on the day this Constitution comes into operation shall continue to discharge the respective duties until the emergence of the new Government formed and assigned duties in accord with this Constitution.

- (b) All courts existing on the day the coming into operation of this Constitution shall continue to exercise their jurisdiction until new courts are constituted by law in accord with this Constitution. All cases, civil, criminal and revenue, pending in the said courts, shall be disposed of in accord with the laws exercised on the day on which the cases came up for trial.

445. All policy guidelines, laws, rules, regulations, notifications and declarations of the State Law and Order Restoration Council and the State Peace and Development Council or actions, rights and responsibilities of the State Law and Order Restoration Council and the State Peace and Development Council shall devolve on the Republic of the Union of Myanmar. No proceeding shall be instituted against the said Councils or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties.

446. Existing laws shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Pyidaungsu Hluttaw.

447. Existing rules, regulations, by laws, notifications, orders, directives and procedures shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Union Government.

448. All functioning Civil Services personnel of departmental organizations including the Defence Services under the State Peace and Development Council on the day this Constitution comes into operation, shall continue in their functions unless otherwise prescribed by the Government of the Republic of the Union of Myanmar.

**CHAPTER XV
GENERAL PROVISIONS**

449. This Constitution is the Basic Law of all the laws of the Union.

450. Myanmar language is the official language.

451. The application of the Basic Principles of the Union in the legislation and administration

shall be the care of the Union but shall not be enforceable in any Court of law.

452. Interpretation of the preamble, Sections, Sub-Sections, expressions, individual words and ideas of this Constitution shall be based only on the Myanmar text.
453. In interpretation of expressions contained in this Constitution reference shall be made to the existing Interpretation Law.
454. The Myanmar text of this Constitution shall be kept as record in the National Archives. Such text shall be conclusive evidence of the provisions of this Constitution.
455. The Government of the Union may, in the interest of the Union, relating to any of the economic activity prescribed to be carried out only by the Government of the Union:
- (a) permit the Region government or the State government to form a joint venture with the Government of the Union or to operate under terms and conditions;
 - (b) permit a co-operative organization, economic organization and an individual person to form a joint venture with the Government of the Union or to operate under terms and conditions.
456. The Republic of the Union of Myanmar shall honour all legitimate obligations arising out of treaties or agreements which before the commencement of this Constitution have been in operation between the Government of the Union of Myanmar and the Government of other State, provided that such other State honours any reciprocal obligations towards the Union of Myanmar.
457. (a) Any proceedings relating to contract or liabilities which might have been brought against the Government of the Union of Myanmar before this Constitution comes into operation, may be brought against the Government of the Union of Myanmar.
- (b) The Republic of the Union of Myanmar may sue and be sued in the name of the Republic of the Union of Myanmar.

SCHEDULE ONE

Union Legislative List

(Refer to Section 96)

1. Union Defence and Security Sector

- (a) Defence of the Republic of the Union of Myanmar and every part thereof and preparation for such defence;
- (b) Defence and Security industries;
- (c) Arms, ammunition and explosives including biological and chemical weapons;
- (d) Atomic energy, nuclear fuel and radiation and mineral resources essential to its production;
- (e) Declaration of war and conclusion of peace;
- (f) Stability, peace and tranquility of the Union

and prevalence of law and order; and
(g) Police force.

2. Foreign Affairs Sector

- (a) Representatives of the diplomatic, consular and other affairs;
- (b) United Nations;
- (c) Participation in international, regional and bilateral conferences, seminars, meetings, associations and other organizations and implementation of resolutions thereof;
- (d) Conclusion and implementation of international and regional treaties, agreements, conventions and bilateral agreements and treaties;
- (e) Passports and identification certificates;
- (f) Visas, admission into the Republic of the Union of Myanmar, stay, departure, immigration and deportation; and
- (g) Extradition and request for extradition.

3. Finance and Planning Sector

- (a) The Union Budget;
- (b) The Union Fund;
- (c) Currency and coinage;
- (d) The Central Bank of Myanmar and financial institutions;
- (e) Foreign exchange control;
- (f) Capital and money markets;
- (g) Insurance;
- (h) Income tax;
- (i) Commercial tax;
- (j) Stamp duty;
- (k) Customs duty;
- (l) Union lottery;
- (m) Tax appeal;
- (n) Services of the Union;
- (o) Sale, lease and other means of execution of property of the Union;
- (p) Disbursement of loans from the Union Funds;
- (q) Investment of the Union Funds;
- (r) Domestic and foreign loans;
- (s) Acquisition of property for the Union; and
- (t) Foreign aid and financial assistance.

4. Economic Sector

- (a) Economy;
- (b) Commerce;
- (c) Co-operatives;
- (d) Corporations, boards, enterprises, companies and partnerships;
- (e) Imports, exports and quality control thereon;
- (f) Hotels and lodging houses; and
- (g) Tourism.

5. Agriculture and Livestock Breeding Sector

- (a) Land administration;
- (b) Reclamation of vacant, fallow and virgin lands;
- (c) Settlements and land records;
- (d) Land survey;

- (e) Dams, embankments and irrigation works managed by the Union;
- (f) Meteorology, hydrology and seismic survey;
- (g) Registration of documents;
- (h) Mechanized agriculture;
- (i) Agricultural research;
- (j) Production of chemical fertilizers and insecticides;
- (k) Marine fisheries; and
- (l) Livestock proliferation, prevention and treatment of diseases and research works.

6. Energy, Electricity, Mining and Forestry Sector

- (a) Petroleum, natural gas, other liquids and substances declared by the Union Law to be dangerously inflammable;
- (b) Production and distribution of electricity of the Union;
- (c) Minerals, mines, safety of mine workers, and environmental conservation and restoration;
- (d) Gems;
- (e) Pearls;
- (f) Forests; and
- (g) Environmental protection and conservation including wildlife, natural plants and natural areas.

7. Industrial Sector

- (a) Industries to be undertaken by the Union level;
- (b) Industrial zones;
- (c) Basic standardization and specification for manufactured products;
- (d) Science and technology and research thereon;
- (e) Standardization of weights and measures; and
- (f) Intellectual property such as copyrights, patents, trademarks and industrial designs.

8. Transport, Communication and Construction Sector

- (a) Inland water transport;
- (b) Maintenance of waterways;
- (c) Development of water resources and rivers and streams;
- (d) Carriage by sea;
- (e) Major ports;
- (f) Lighthouses, lightships and lighting plans;
- (g) Shipbuilding, repair and maintenance;
- (h) Air transport;
- (i) Air navigation, control and airfields construction;
- (j) Land transport;
- (k) Railways;
- (l) Major highways and bridges managed by the Union;
- (m) Posts, telegraphs, telephones, fax, e-mail, internet, intranet and similar means of communication; and

- (n) Television, satellite communication, transmission and reception, and similar means of communication and housing and buildings.

9. Social Sector

- (a) Educational curricula, syllabus, teaching methodology, research, plans, projects and standards;
- (b) Universities, degree colleges, institutes and other institutions of higher education;
- (c) Examinations prescribed by the Union;
- (d) Private schools and training;
- (e) National sports;
- (f) National health;
- (g) Development of traditional medicinal science and traditional medicine;
- (h) Charitable hospitals and clinics and private hospitals and clinics;
- (i) Maternal and child welfare;
- (j) Red cross society;
- (k) Prevention from adulteration, manufacture and sale of foodstuffs, drugs, medicines and cosmetics;
- (l) Welfare of children, youths, women, the disabled, the aged and the homeless;
- (m) Relief and rehabilitation;
- (n) Fire Brigade;
- (o) Working hours, resting-hours, holidays and occupational safety;
- (p) Trade disputes;
- (q) Social security;
- (r) Labour organizations;
- (s) Managements by the Union, the following:
 - (i) libraries Ancient culture or historical sites, buildings, monuments, records, stone inscriptions, ink inscriptions on stucco, palm-leaf parabaiks, handwritings, handiworks, inanimate objects and archaeological works;
 - (ii) Museums and.
- (t) Literature, dramatic arts, music, traditional arts and crafts, cinematographic films and videos; and
- (u) Registration of births and deaths.

10. Management Sector

- (a) General administration;
- (b) Administration of town and village land;
- (c) Tenants;
- (d) Narcotic drugs and psychotropic substances;
- (e) Union secrets;
- (f) Associations;
- (g) Prisons;
- (h) Development of border areas;
- (i) Census;
- (j) Citizenship, naturalization, termination and revocation of citizenship, citizenship scrutiny and registration; and
- (k) Titles and honours.

11. Judicial Sector

- (a) Judiciary;
- (b) Lawyers;
- (c) Criminal Laws and procedures;
- (d) Civil Laws and procedures including contract, arbitration, actionable wrong, insolvency, trust and trustees, administrator and receiver, family laws, guardians and wards, transfer of property and inheritance;
- (e) Law of Evidence;
- (f) Limitation;
- (g) Suit valuation;
- (h) Specific relief;
- (i) Foreign jurisdiction;
- (j) Admiralty jurisdiction; and
- (k) Piracies, crimes committed in international waters or in outer space and offences against the international law on land or in international waters or in outer space.

SCHEDULE TWO

**Region or State Legislative List
(Refer to Section 188)**

1. Finance and Planning Sector

- (a) The Region or State budget;
- (b) The Region or State fund;
- (c) Land revenue;
- (d) Excise duty (not including narcotic drugs and psychotropic substances);
- (e) Municipal taxes such as taxes on buildings and lands, water, street lightings and wheels;
- (f) Services of the Region or State;
- (g) Sale, lease and other means of execution of property of the Region or State;
- (h) Disbursement of loans in the country from the Region or State funds;
- (i) Investment in the country from the Region or State funds;
- (j) Local plan; and
- (k) Small loans business.

2. Economic Sector

- (a) Economic matters undertaken in the Region or State in accord with law enacted by the Union;
- (b) Commercial matters undertaken in the Region or State in accord with law enacted by the Union; and
- (c) Co-operative matters undertaken in the Region or State in accord with law enacted by the Union.

3. Agriculture and Livestock Breeding Sector

- (a) Agriculture;
- (b) Protection against and control of plants and crop pests and diseases;
- (c) Systematic use of chemical fertilizers and systematic production and use of natural fertilizers;

- (d) Agricultural loans and savings;
- (e) Dams, embankments, lakes, drains and irrigation works having the right to be managed by the Region or State;
- (f) Fresh water fisheries; and
- (g) Livestock breeding and systematic herding in accord with the law enacted by the Union.

4. Energy, Electricity, Mining and Forestry Sector

- (a) Medium and small scale electric power production and distribution that with national power grid, except large scale electric power production and distribution having the right to be managed by the Union;
- (b) Salt and salt products;
- (c) Cutting and polishing of gemstones within the Region or State;
- (d) Village firewood plantation; and
- (e) Recreation centers, zoological garden and botanical garden.

5. Industrial Sector

Industries other than those prescribed to be undertaken by the Union level; and Cottage industries.

6. Transport, Communication and Construction Sector

- (a) Ports, jetties and pontoons having the right to be managed by the Region or State;
- (b) Roads and bridges having the right to be managed by the Region or State; and
- (c) Systematic running of private vehicles within the Region or State.

7. Social Sector

- (a) Matters on traditional medicine not contrary to traditional medicine policies prescribed by the Union;
- (b) Social welfare works within the Region or State;
- (c) Preventive and precautionary measures against fire and natural disasters;
- (d) Stevedoring;
- (e) Having the right of management by the Region or State, the following:
 - (i) preservation of cultural heritage;
 - (ii) museums and libraries.
- (f) Theatres, cinemas and video houses; and
- (g) Exhibitions such as photographs, paintings and sculptures.

8. Management Sector

- (a) Development matters;
- (b) Town and housing development; and
- (c) Honorary certificates and awards.

SCHEDULE THREE

List of Legislation of the Leading Body of Self-Administered Division or Self-Administered Area (Refer to Section 196)

- (a) The Region or State budget;
- (b) The Region or State fund;
- (c) Land revenue;
- (d) Excise duty (not including narcotic drugs and psychotropic substances);
- (e) Municipal taxes such as taxes on buildings and lands, water, street lightings and wheels;
- (f) Services of the Region or State;
- (g) Sale, lease and other means of execution of property of the Region or State;
- (h) Disbursement of loans in the country from the Region or State funds;
- (i) Investment in the country from the Region or State funds;
- (j) Local plan; and
- (k) Small loans business.

SCHEDULE FOUR

Form of Oaths or Affirmation (Refer to Section 125)

I.....do solemnly and sincerely promise that as an elected representative of the Pyithu Hluttaw/ the Amyotha Hluttaw/ the Region or State Hluttaw, I will uphold and abide by the Constitution of the Union. I will be loyal to the Republic of the Union of Myanmar and citizenry and hold always in esteem non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty. In addition, I will carry out the responsibilities uprightly to the best of my ability.

SCHEDULE FIVE

Taxes Collected by Region or States (Refer to Section 254)

- 1. Land revenue.
- 2. Excise revenue.
- 3. Water tax and embankment tax based on dams and reservoirs managed by the Region or State and tax on use of electricity generated by such facilities managed by the Region or State.
- 4. Toll fees from using roads and bridges managed by the Region or State.
- 5. (a) Royalty collected on fresh water fisheries.
(b) Royalty collected on marine fisheries within the permitted range of territorial water.
- 6. Taxes collected on vehicles on road transport and vessels on inland waterway transport, in accord with law, in a Region or a State.
- 7. Proceeds, rent fees and other profits from those properties owned by a Region or a State.

- 8. Fees, taxes and other revenues collected on services enterprises by a Region or a State.
- 9. Fines imposed by judicial courts in a Region or a State including Region Taya Hluttaw or State Taya Hluttaw and taxes collected on service provision and other revenues.
- 10. Interests from disbursed by a Region or State.
- 11. Profits returned from investment of a Region or State.
- 12. Taxes collected on extraction of the following items from the forests in a Region or a State:
 - (a) Taxes collected on all other woods except teak and other restricted hard woods;
 - (b) Taxes collected on firewood, charcoal, rattan, bamboo, birdnests, catch, thanetkha, turpentine, eaglewood and honey-based products.
- 13. Registration fees.
- 14. Taxes on entrainments.
- 15. Salt tax.
- 16. Revenue received from the Union Fund Account.
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PREAMBLE

We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.

ARTICLE 1:

NATIONAL TERRITORY

The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

ARTICLE 2:

DECLARATION OF PRINCIPLES AND STATE POLICIES

Principles

SEC. 1.

The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them.

SEC. 2.

The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law

of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

SEC. 3.

Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.

SEC. 4.

The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal military or civil service.

SEC. 5.

The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

SEC. 6.

The separation of Church and State shall be inviolable.

State Policies

SEC. 7.

The State shall pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination.

SEC. 8.

The Philippines, consistent with the national interest, adopts and pursues a policy of freedom from nuclear weapons in its territory.

SEC. 9.

The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

SEC. 10.

The State shall promote social justice in all phases of national development.

SEC. 11.

The State values the dignity of every human person and guarantees full respect for human rights.

SEC. 12.

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.

SEC. 13.

The State recognizes the vital role of the youth in nationbuilding and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

SEC. 14.

The State recognizes the role of women in nationbuilding, and shall ensure the fundamental equality before the law of women and men.

SEC. 15.

The State shall protect and promote the right to health of the people and instill health consciousness among them.

SEC. 16.

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

SEC. 17.

The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.

SEC. 18.

The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

SEC. 19.

The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.

SEC. 20.

The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.

SEC. 21.

The State shall promote comprehensive rural development and agrarian reform.

SEC. 22.

The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.

SEC. 23.

The State shall encourage non-governmental, communitybased, or sectoral organizations that promote the welfare of the nation.

SEC. 24.

The State recognizes the vital role of communication and information in nation-building.

SEC. 25.

The State shall ensure the autonomy of local governments.

SEC. 26.

The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law.

SEC. 27.

The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

SEC. 28.

Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

ARTICLE 3: BILL OF RIGHTS

Principles

SEC. 1.

No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

SEC. 2.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable

searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

SEC. 3.

- (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.
- (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

SEC. 4.

No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

SEC. 5.

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

SEC. 6.

The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.

SEC. 7.

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

SEC. 8.

The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

SEC. 9.

Private property shall not be taken for public use without just compensation.

SEC. 10.

No law impairing the obligation of contracts shall be passed.

SEC. 11.

Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

SEC. 12.

- (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
- (2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.
- (3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.
- (4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families.

SEC. 13.

All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

SEC. 14.

- (1) No person shall be held to answer for a criminal offense without due process of law.
- (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

SEC. 15.

he privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion when the public safety requires it.

SEC. 16.

All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

SEC. 17.

No person shall be compelled to be a witness against himself.

SEC. 18.

1. No person shall be detained solely by reason of his political beliefs and aspirations.
2. No involuntary servitude in any form shall exist except as punishment for a crime whereof the party shall be duly convicted.

SEC. 19.

- (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.
- (2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

SEC. 20.

No person shall be imprisoned for debt or non-payment of a poll tax.

SEC. 21.

No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

SEC. 22.

No ex post facto law or bill of attainder shall be enacted.

**ARTICLE 4:
CITIZENSHIP****SEC. 1.**

The following are citizens of the Philippines:

- (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
- (2) Those whose fathers or mothers are citizens of the Philippines;
- (3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and

- (4) Those who are naturalized in accordance with law.

SEC. 2.

Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship. Those who elect Philippine citizenship in accordance with paragraph 3., Section 1 hereof shall be deemed naturalborn citizens.

SEC. 3.

Philippine citizenship may be lost or reacquired in the manner provided by law.

SEC. 4.

Citizens of the Philippines who marry aliens shall retain their citizenship, unless by their act or omission they are deemed, under the law, to have renounced it.

SEC. 5.

Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law.

**ARTICLE 5:
Suffrage****SEC. 1.**

Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage.

SEC. 2.

The Congress shall provide a system for securing the secrecy and sanctity of the ballot as well as a system for absentee voting by qualified Filipinos abroad.

The Congress shall also design a procedure for the disabled and the illiterates to vote without the assistance of other persons. Until then, they shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate to protect the secrecy of the ballot.

**ARTICLE 6:
LEGISLATIVE DEPARTMENT****SEC. 1.**

The legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum.

SEC. 2.

The Senate shall be composed of twenty-four Senators who shall be elected at large by the qualified voters of the Philippines, as may be provided by law.

SEC. 3.

No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

SEC. 4.

The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon on the thirtieth day of June next following their election. No Senator shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

SEC. 5.

- (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.
- (2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to partylist representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.
- (3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.
- (4) Within three years following the return of every census, the Congress shall make a reappointment of legislative districts based on the standards provided in this section.

SEC. 6.

No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

SEC. 7.

The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

No member of the House of Representatives shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

SEC. 8.

Unless otherwise provided by law, the regular election of the Senators and the Members of the House of Representatives shall be held on the second Monday of May.

SEC. 9.

In case of vacancy in the Senate or in the House of Representatives, a special election may be called to fill such vacancy in the manner prescribed by law, but the Senator or Member of the House of Representatives thus elected shall serve only for the unexpired term.

SEC. 10.

The salaries of Senators and Members of the House of Representatives shall be determined by law. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and the House of Representatives approving such increase.

SEC. 11.

A Senator or Member of the House of Representatives shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. No member shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof.

SEC. 12.

All Members of the Senate and the House of Representatives shall, upon assumption of office, make a full disclosure of their financial and business interests. They shall notify the House

concerned of a potential conflict of interest that may arise from the filing of a proposed legislation of which they are authors.

SEC. 13.

No Senator or a Member of the House of Representatives may hold any other office or employment in the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his term without forfeiting his seat. Neither shall he be appointed to any office which may have been created or the emoluments thereof increased during the term for which he was elected.

SEC. 14.

No Senator or Member of the House of Representatives may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office.

SEC. 15.

The Congress shall convene once every year on the fourth Monday of July for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays, Sundays, and legal holidays. The President may call a special session at any time.

SEC. 16.

- (1) The Senate shall elect its President and the House of Representatives its Speaker, by a majority vote of all its respective Members. Each House shall choose such other officers as it may deem necessary.
- (2) A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent Members in such manner, and under such penalties, as such House may provide.
- (3) Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, suspend or expel a Member. A penalty for suspension, when imposed, shall not exceed sixty days.

- (4) Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may, in its judgment, affect national security; and the yeas and nays on any question shall, at the request of one-fifth of the members present, be entered in the Journal. Each House shall also keep a Record of its proceedings.
- (5) Neither House during the sessions of the Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 17.

The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

SEC. 18.

There shall be a Commission on Appointments consisting of the President of the Senate, as ex officio Chairman, twelve Senators, and twelve Members of the House of Representatives, elected by each House on the basis of proportional representation from the political parties or organizations registered under the party-list system represented therein. The Chairman of the Commission shall not vote, except in case of a tie. The Commission shall act on all appointments submitted to it within thirty session days of the Congress from their submission. The Commission shall rule by a majority vote of all the Members.

SEC. 19.

The Electoral Tribunals and the Commission on Appointments shall be constituted within thirty days after the Senate and the House of Representatives shall have been organized with the election of the President and the Speaker. The Commission on Appointments shall meet only while the Congress is in session, at the call of its Chairman or a majority of all its Members, to discharge such powers and functions as are herein conferred upon it.

SEC. 20.

The records and books of accounts of the Congress shall be preserved and be open to the public in accordance with law, and such books shall be audited by the Commission on Audit which shall publish annually an itemized list of amounts paid to and expenses incurred for each Member.

SEC. 21.

The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected.

SEC. 22.

The heads of departments may upon their own initiative, with the consent of the President, or upon the request of either House, as the rules of each House shall provide, appear before and be heard by such House on any matter pertaining to their departments. Written questions shall be submitted to the President of the Senate or the Speaker of the House of Representatives at least three days before their scheduled appearance. Interpellations shall not be limited to written questions, but may cover matters related thereto. When the security of the State or the public interest so requires and the President so states in writing, the appearance shall be conducted in executive session.

SEC. 23.

- (1) The Congress, by a vote of two-thirds of both Houses in joint session assembled, voting separately, shall have the sole power to declare the existence of a state of war.
- (2) In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Congress, such powers shall cease upon the next adjournment thereof.

SEC. 24.

All appropriation, revenue or tariff bills, bills authorizing increase of public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments.

SEC. 25.

- (1) The Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of preparation of the budget shall be prescribed by law.

- (2) No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.
- (3) The procedure in approving appropriations for the Congress shall strictly follow the procedure for approving appropriations for other departments or agencies.
- (4) A special appropriations bill shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposed therein.
- (5) No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.
- (6) Discretionary funds appropriated for particular officials shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law.
- (7) If, by the end of any fiscal year, the Congress shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be deemed reenacted and shall remain in force and effect until the general appropriations bill is passed by the Congress.

SEC. 26.

- (1) Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof.
- (2) No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its members three days before its passage, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the yeas and nays entered in the Journal.

SEC. 27.

- (1) Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same, he shall sign it; otherwise, he shall veto it and return the

same with his objections to the House where it originated, which shall enter the objections at large in its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the Members of such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of all the Members of that House, it shall become a law. In all such cases, the votes of each House shall be determined by yeas or nays, and the names of the Members voting for or against shall be entered in its Journal. The President shall communicate his veto of any bill to the House where it originated within thirty days after the day of receipt thereof; otherwise, it shall become a law as if he had signed it.

- (2) The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.

SEC. 28.

- (1) The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation.
- (2) The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.
- (3) Charitable institutions, churches and parsonages or covenants appurtenant thereto, mosques, nonprofit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.
- (4) No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of the Congress.

SEC. 29.

- (1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.
- (2) No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, or other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces,

or to any penal institution, or government orphanage or leprosarium.

- (3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

SEC. 30.

No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence.

SEC. 31.

No law granting a title of royalty or nobility shall be enacted.

SEC. 32.

The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom, whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof passed by the Congress or local legislative body after the registration of a petition therefor signed by at least ten per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters thereof.

**ARTICLE 7:
EXECUTIVE DEPARTMENT**

SEC. 1.

The executive power shall be vested in the President of the Philippines.

SEC. 2.

No person may be elected President unless he is a naturalborn citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

SEC. 3.

There shall be a Vice-President who shall have the same qualifications and term of office and be elected with and in the same manner as the President. He may be removed from office in the same manner as the President.

The Vice-President may be appointed as a Member of the Cabinet. Such appointment requires no confirmation.

SEC. 4.

The President and the Vice-President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the thirtieth

day of June following the day of the election and shall end at noon of the same date six years thereafter. The President shall not be eligible for any reelection. No person who has succeeded as President and has served as such for more than four years shall be qualified for election to the same office at any time.

No Vice-President shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of the service for the full term for which he was elected.

Unless otherwise provided by law, the regular election for President and Vice-President shall be held on the second Monday of May.

The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty days after the day of the election, open all certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.

The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of the Congress, voting separately.

The Congress shall promulgate its rules for the canvassing of the certificates.

The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

SEC. 5.

Before they enter on the execution of their office, the President, the Vice-President, or the Acting President shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as President (or Vice-President or Acting President) of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man, and consecrate myself to the service of the Nation. So help me God." (In case of affirmation, last sentence will be omitted.)

SEC. 6.

The President shall have an official residence.

The salaries of the President and Vice-President shall be determined by law and shall not be decreased during their tenure. No increase in said compensation shall take effect until after the expiration of the term of the incumbent during which such increase was approved. They shall not receive during their tenure any other emolument from the Government or any other source.

SEC. 7.

The President-elect and the Vice-President-elect shall assume office at the beginning of their terms.

If the President-elect fails to qualify, the Vice-President-elect shall act as President until the President-elect shall have qualified.

If a President shall not have been chosen, the Vice-President-elect shall act as President until a President shall have been chosen and qualified.

If at the beginning of the term of the President, the President-elect shall have died or have become permanently disabled, the Vice-President-elect shall become President.

Where no President and Vice-President shall have been chosen or shall have qualified, or where both shall have died or become permanently disabled, the President of the Senate or, in case of his inability, the Speaker of the House of Representatives shall act as President until a President or a Vice-President shall have been chosen and qualified.

The Congress shall provide for the manner in which one who is to act as President shall be selected until a President or a Vice-President shall have qualified, in case of death, permanent disability, or inability of the officials mentioned in the next preceding paragraph.

SEC. 8.

In case of death, permanent disability, removal from office, or resignation of the President, the Vice-President shall become the President to serve the unexpired term. In case of death, permanent disability, removal from office, or resignation of both the President and Vice-President, the President of the Senate or, in case of his inability, the Speaker of the House of Representatives, shall then act as President until the President or Vice-President shall have been elected and qualified.

The Congress shall, by law, provide who shall serve as President in case of death, permanent disability, or resignation of the Acting President. He shall serve until the President or the Vice-President shall have been elected and qualified, and be subject to the same restrictions of powers and disqualifications as the Acting President.

SEC. 9.

Whenever there is a vacancy in the Office of the Vice-President during the term for which he was elected, the President shall nominate a Vice-President from among the Members of the Senate and the House of Representatives who shall assume office upon confirmation of a majority vote of all the Members of both Houses of the Congress, voting separately.

SEC. 10.

The Congress shall, at ten o'clock in the morning of the third day after the vacancy in the offices of the President and Vice-President occurs, convene in accordance with its rules without need of a call and within seven days enact a law calling for a special election to elect a President and a Vice-President to be held not earlier than forty-five days nor later than sixty days from the time of such call. The bill calling such special election shall be deemed certified under paragraph 2, Section 26, Article VI of this Constitution and shall become law upon its approval on third reading by the Congress. Appropriations for the special elections shall be charged against any current appropriations and shall be exempt from the requirements of paragraph 4, Section 25, Article VI of this Constitution. The convening of the Congress cannot be suspended nor the special election postponed. No special election shall be called if the vacancy occurs within eighteen months before the date of the next presidential election.

SEC. 11.

Whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice-President as Acting President.

Whenever a majority of all the Members of the Cabinet transmit to the President of the Senate and to the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice-President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President of the Senate and to the Speaker of the House of Representatives his written declaration that no inability exists, he shall reassume the powers and duties of his office.

Meanwhile, should a majority of all the Members of the Cabinet transmit within five days to the President of the Senate and to the Speaker of the House of Representatives their written declaration

that the President is unable to discharge the powers and duties of his office, the Congress shall decide the issue. For that purpose, the Congress shall convene, if it is not in session, within forty-eight hours, in accordance with its rules and without need of call.

If the Congress, within ten days after receipt of the last written declaration, or, if not in session, within twelve days after it is required to assemble, determines by a two-thirds vote of both Houses, voting separately, that the President is unable to discharge the powers and duties of his office, the Vice-President shall act as the President; otherwise, the President shall continue exercising the powers and duties of his office.

SEC. 12.

In case of serious illness of the President, the public shall be informed of the state of his health. The Members of the Cabinet in charge of national security and foreign relations and the Chief of Staff of the Armed Forces of the Philippines, shall not be denied access to the President during such illness.

SEC. 13.

The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office.

The spouse and relatives by consanguinity or affinity within the fourth civil degree of the President shall not during his tenure be appointed as members of the Constitutional Commissions, or the Office of the Ombudsman, or as Secretaries, Undersecretaries, chairmen or heads of bureaus or offices, including government-owned or controlled corporations and their subsidiaries.

SEC. 14.

Appointments extended by an Acting President shall remain effective, unless revoked by the elected President within ninety days from his assumption or reassumption of office.

SEC. 15.

Two months immediately before the next presidential elections and up to the end of his term, a President or Acting President shall not make appointments, except temporary appointments to executive positions when continued vacancies

therein will prejudice public service or endanger public safety.

SEC. 16.

The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive department, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or involuntary, but such appointments shall be effective only until after disapproval by the Commission on Appointments or until the next adjournment of the Congress.

SEC. 17.

The President shall control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

SEC. 18.

The President shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion. In case of invasion or rebellion, when the public safety requires it, he may, for a period not exceeding sixty days, suspend the privilege of the writ of habeas corpus or place the Philippines or any part thereof under martial law. Within forty-eight hours from the proclamation of martial law or the suspension of the privilege of the writ of habeas corpus, the President shall submit a report in person or in writing to the Congress. The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President.

Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it.

The Congress, if not in session, shall, within twentyfour hours following such proclamation or suspension, convene in accordance with its rules without any need of a call.

The Supreme Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof, and must promulgate its decision thereon within thirty days from its filing.

A state of martial law does not suspend the operation of the Constitution, nor supplant the functioning of the civil courts or the legislative assemblies, nor authorize the conferment of jurisdiction on military courts and agencies over civilians where civil courts are able to function, nor automatically suspend the privilege of the writ.

The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or offenses inherent in or directly connected with the invasion.

During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released.

SEC. 19.

Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment.

He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.

SEC. 20.

The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the Congress a complete report of its decisions on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and containing other matters as may be provided by law.

SEC. 21.

No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

SEC. 22.

The President shall submit to the Congress within thirty days from the opening of the regular session, as the basis of the general appropriations bill, a budget of expenditures and sources of financing, including receipts from existing and proposed revenue measures.

SEC. 23.

The President shall address the Congress at the opening of its regular session. He may also appear before it at any other time.

Article 8:**Judicial Department****SEC. 1.**

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

SEC. 2.

The Congress shall have the power to define, prescribe, and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 hereof.

No law shall be passed reorganizing the Judiciary when it undermines the security of tenure of its Members.

SEC. 3.

The Judiciary shall enjoy fiscal autonomy. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released.

SEC. 4.

- (1) The Supreme Court shall be composed of a Chief Justice and fourteen Associate Justices. It may sit en banc or, in its discretion, in divisions of three, five, or seven Members. Any vacancy shall be filled within ninety days from the occurrence thereof.
- (2) All cases involving the constitutionality of a treaty, international or executive agreement, which shall be heard by the Supreme Court en banc, and all other cases which under the Rules of Court are required to be heard en banc, including those involving the constitutionality, application, or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.
- (3) Cases or matters heard by a division shall be decided or resolved with the concurrence of a

majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided en banc; Provided, that no doctrine or principle of law laid down by the court in a decision rendered en banc or in division may be modified or reversed except by the court sitting en banc.

SEC. 5.

The Supreme Court shall have the following powers:

- (1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.
- (2) Review, revise, modify, or affirm on appeal on certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
 - (a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.
 - (b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.
 - (c) All cases in which the jurisdiction of any lower court is in issue.
 - (d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.
 - (e) All cases in which only an error or question of law is involved.
- (3) Assign temporarily judges of lower courts to other stations as public interest may require. Such temporary assignment shall not exceed six months without the consent of the judge concerned.
- (4) Order a change of venue or place of trial to avoid a miscarriage of justice.
- (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.
- (6) Appoint all officials and employees of the judiciary in accordance with the Civil Service Law.

SEC. 6.

The Supreme Court shall have the administrative supervision over all courts and the personnel thereof.

SEC. 7.

- (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age and, must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.
- (2) The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar.
- (3) A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence.

SEC. 8.

- (1) A Judicial and Bar Council is hereby created under the supervision of the Supreme Court composed of the Chief Justice as ex officio Chairman, the Secretary of Justice, and a representative of the Congress as ex officio Members, a representative of the Integrated Bar, a professor of law, a retired Member of the Supreme Court, and a representative of the private sector.
- (2) The regular Members of the Council shall be appointed by the President for a term of four years with the consent of the Commission on Appointments. Of the Members first appointed, the representative of the Integrated Bar shall serve for four years, the professor of law for three years, the retired Justice for two years, and the representative of the private sector for one year.
- (3) The Clerk of the Supreme Court shall be the Secretary ex officio of the Council and shall keep a record of its proceedings.
- (4) The regular Members of the Council shall receive such emoluments as may be determined by the Supreme Court. The Supreme Court shall provide in its annual budget the appropriations for the Council.
- (5) The Council shall have the principal function of recommending appointees to the Judiciary. It may exercise such other functions and duties as the Supreme Court may assign to it.

SEC. 9.

The Members of the Supreme Court and judges of lower courts shall be appointed by the President from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation.

For the lower courts, the President shall issue the appointments within ninety days from the submission of the list.

SEC. 10.

The salary of the Chief Justice and of the Associate Justices of the Supreme Court, and of judges of lower courts shall be fixed by law. During their continuance in office, their salary shall not be decreased.

SEC. 11.

The Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reached the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court en banc shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

SEC. 12.

The Members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions.

SEC. 13.

The conclusions of the Supreme Court in any case submitted to it for decision en banc or in division shall be reached in consultation before the case is assigned to a Member for the writing of the opinion of the Court. A certification to this effect signed by the Chief Justice shall be issued and a copy thereof attached to the record of the case and served upon the parties. Any Member who took no part, or dissented, or abstained from a decision or resolution must state the reason therefor. The same requirements shall be observed by all lower collegiate courts.

SEC. 14.

No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

SEC. 15.

- (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

- (2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pending, brief, or memorandum required by the Rules of Court or by the court itself.
- (3) Upon the expiration of the corresponding period, a certification to this effect signed by the Chief Justice or the presiding judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties. The certification shall state why a decision or resolution has not been rendered or issued within said period.
- (4) Despite the expiration of the applicable mandatory period, the court, without prejudice to such responsibility as may have been incurred in consequence thereof, shall decide or resolve the case or matter submitted thereto for determination, without further delay.

SEC. 16.

The Supreme Court shall, within thirty days from the opening of each regular session of the Congress, submit to the President and the Congress an annual report on the operations and activities of the Judiciary.

Article 9:**Constitutional Commissions****A. Common Provisions****SEC. 1.**

The Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

SEC. 2.

No Member of a Constitutional Commission shall, during his tenure, hold any other office or employment. Neither shall he engage in the practice of any profession or in the active management or control of any business which in any way be affected by the functions of his office, nor shall he be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege granted by the Government, any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporation or their subsidiaries.

SEC. 3.

The salary of the Chairman and the Commissioners shall be fixed by law and shall not be decreased during their tenure.

SEC. 4.

The Constitutional Commissions shall appoint their officials and employees in accordance with law.

SEC. 5.

The Commission shall enjoy fiscal autonomy. Their approved annual appropriations shall be automatically and regularly released.

SEC. 6.

Each Commission en banc may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules, however, shall not diminish, increase, or modify substantive rights.

SEC. 7.

Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

SEC. 8.

Each Commission shall perform such other functions as may be provided by law.

B. The Civil Service Commission**SEC. 1.**

- (1) The Civil Service shall be administered by the Civil Service Commission composed of a Chairman and two Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, with proven capacity for public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment.
- (2) The Chairman and the Commissioners shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, the Chairman shall hold office for seven years, a Commissioner for five years, and another Commissioner for three years, without reappointment. Appointment to any vacancy shall be only for the unexpired term of the predecessor. In no case shall any member be appointed or designated in a temporary or acting capacity.

SEC. 2.

- (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

- (2) Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and, except to positions which are policy-determining, primarily confidential, or highly technical, by competitive examination.
- (3) No officer or employee of the civil service shall be removed or suspended except for cause provided by law.
- (4) No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign.
- (5) The right to self-organization shall not be denied to government employees.
- (6) Temporary employees of the Government shall be given such protection as may be provided by law.

SEC. 3.

The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

SEC. 4.

All public officers and employees shall take an oath or affirmation to uphold and defend this Constitution.

SEC. 5.

The Congress shall provide for the standardization of compensation of government officials, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for their positions.

SEC. 6.

No candidate who has lost in any election shall, within one year after such election, be appointed to any office in the Government of any government-owned or controlled corporations or in any of its subsidiaries.

SEC. 7.

No elective official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure. Unless otherwise allowed by law or by the primary functions of his position, no appointive official shall hold any other office or employment in the Government or any

subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries.

SEC. 8.

No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government.

Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

C. The Commission on Elections

SEC 1.

- (1) There shall be a Commission on Elections composed of a Chairman and six Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a college degree, and must not have been candidates for any elective position in the immediately preceding elections. However, a majority thereof, including the Chairman, shall be Members of the Philippine Bar who have been engaged in the practice of law for at least ten years.
- (2) The Chairman and the Commissioners shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, three Members shall hold office for seven years, two Members for five years, and the last Members for three years, without reappointment.

Appointment to a vacancy shall be only for the unexpired term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

SEC. 2.

The Commission on Elections shall exercise the following powers and functions:

- (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
- (2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.
- (3) Decide, except those involving the right to

vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

- (4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.
- (5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizen's arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration. Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.
- (6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.
- (7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidates.
- (8) Recommend to the President the removal of any officer or employer it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.
- (9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

SEC. 3.

The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation

controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

SEC. 4.

The Commission may, during the election period, supervise or regulate the enjoyment or utilization of all franchises or permits for the operation of transportation and other public utilities, media of communication or information, all grants, special privileges, or concessions granted by the Government or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation or its subsidiary. Such supervision or regulation shall aim to ensure equal opportunity, time and space, and the right to reply, including reasonable, equal rates therefor, for public information campaigns and forums among candidates in connection with the objective of holding free, orderly, peaceful, and credible elections.

SEC. 5.

No pardon, amnesty, parole, or suspension of sentence for violation of election rules, and regulations shall be granted by the President without a favorable recommendation of the Commission.

SEC. 6.

A free and open party system shall be allowed to evolve according to the free choice of the people, subject to the provisions of this Article.

SEC. 7.

No votes cast in favor of a political party, organization, or coalition shall be valid, except for those registered under the party-list system as provided in this Constitution.

SEC. 8.

Political parties, or organizations or coalitions registered under the party-list system, shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers, or other similar bodies. However, they shall be entitled to appoint poll watchers in accordance with law.

SEC. 9.

Unless otherwise fixed by the Commission in special cases, the election period shall commence ninety days before the day of the election and shall end thirty days after.

SEC. 10.

Bona fide candidates for any public office shall be free from any form of harassment and discrimination.

SEC. 11.

Funds certified by the Commission as necessary to defray the expenses for holding regular and special elections, plebiscites, initiatives, referenda, and recalls, shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission.

D. Commission on Audit

SEC. 1.

(1) There shall be a Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, certified public accountants with not less than ten years of auditing experience, or members of the Philippine Bar who have been engaged in the practice of law for at least ten years, and must not have been candidates for any elective position in the election immediately preceding their appointment. At no time shall all Members of the Commission belong to the same profession.

(2) The Chairman and the Commissioners shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, the Chairman shall hold office for seven years, one Commissioner for five years, and the other Commissioner for three years, without reappointment. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

SEC. 2.

(1) The Commission on Audit shall have the power, authority and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law of the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control

system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special preaudit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

(2) The Commission shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, inexpensive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

SEC. 3.

No law shall be passed exempting any entity of the Government or its subsidiary in any guise whatever, or any investment of public funds, from the jurisdiction of the Commission on Audit.

SEC. 4.

The Commission shall submit to the President and the Congress, within the time fixed by law, an annual report covering the financial condition and operation of the Government, its subdivisions, agencies, and instrumentalities, including government-owned or controlled corporations, and non-governmental entities subject to its audit, and recommend measures necessary to improve their effectiveness and efficiency. It shall submit such other reports as may be required by law.

**Article 10:
Local Government**

General Provisions

SEC. 1.

The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.

SEC. 2.

The territorial and political subdivisions shall enjoy local autonomy.

SEC. 3.

The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election,

appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of local units.

SEC. 4.

The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.

SEC. 5.

Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

SEC. 6.

Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

SEC. 7.

Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

SEC. 8.

The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

SEC. 9.

Legislative bodies of local governments shall have sectoral representation as may be prescribed by law.

SEC. 10.

No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.

SEC. 11.

The Congress may, by law, create special metropolitan political subdivisions, subject to a plebiscite as set forth in Section 10 hereof. The component cities and municipalities shall retain their basic autonomy and shall be entitled to their own local executives and legislative assemblies. The jurisdiction of the metropolitan authority that will hereby be created shall be limited to basic services requiring coordination.

SEC. 12.

Cities that are highly urbanized, as determined by law, and component cities whose charters prohibit their voters from voting for provincial elective officials, shall be independent of the province. The voters of component cities within a province, whose charters contain no such prohibition, shall not be deprived of their right to vote for elective provincial officials.

SEC. 13.

Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them in accordance with law.

SEC. 14.

The President shall provide for regional development councils and other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the region for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region.

Autonomous Region

SEC. 15.

There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

SEC. 16.

The President shall exercise general supervision over autonomous regions to ensure that the laws are faithfully executed.

SEC. 17.

All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

SEC. 18.

The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The organic act shall define the basic structure of government from the region consisting of the executive department and legislative assembly, both of which shall be reflective and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws. The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

SEC. 19.

The first Congress elected under this Constitution shall, within eighteen months from the time of organization of both Houses, pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras.

SEC. 20.

Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:

- (1) Administrative organization;
- (2) Creation of sources of revenues;
- (3) Ancestral domain and natural resources;
- (4) Personal, family, and property relations;
- (5) Regional urban and rural planning development;
- (6) Economic, social, and tourism development;
- (7) Educational policies;
- (8) Preservation and development of the cultural heritage; and
- (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

SEC. 21.

The preservation of peace and order within the regions shall be the responsibility of the local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws. The defense and security of the regions shall be the responsibility of the National Government.

Article 11:

Accountability of Public Officers

SEC. 1.

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

SEC. 2.

The President, Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

SEC. 3.

- (1) The House of Representatives shall have the exclusive power to initiate all cases of impeachment.
- (2) A verified complaint may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.
- (3) A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.
- (4) In case the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.
- (5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year.
- (6) The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

(7) Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold any office under the Republic of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment according to law.

(8) The Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section.

SEC. 4.

The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.

SEC. 5.

There is hereby created the independent Office of the Ombudsman, composed of the Ombudsman to be known as Tanodbayan, one overall Deputy, and at least one Deputy each for Luzon, Visayas, and Mindanao. A separate Deputy for the military establishment may likewise be appointed.

SEC. 6.

The officials and employees of the Office of the Ombudsman, other than the Deputies, shall be appointed by the Ombudsman according to the Civil Service Law.

SEC. 7.

The existing Tanodbayan shall hereafter be known as the Office of the Special Prosecutor. It shall continue to function and exercise its powers as now or hereafter may be provided by law, except those conferred on the Office of the Ombudsman created under this Constitution.

SEC. 8.

The Ombudsman and his Deputies shall be naturalborn citizens of the Philippines, and at the time of their appointment, at least forty years old, of recognized probity and independence, and members of the Philippine Bar, and must not have been candidates for any elective office in the immediately preceding election. The Ombudsman must have for ten years or more been a judge or engaged in the practice of law in the Philippines. During their tenure, they shall be subject to the same disqualifications and prohibitions as provided for in Section 2 of Article IX-A of this Constitution.

SEC. 9.

The Ombudsman and his Deputies shall be appointed by the President from a list of at least six nominees prepared by the Judicial and Bar Council, and from a list of three nominees for every vacancy thereafter. Such appointments shall require no confirmation. All vacancies shall be filled within three months after they occur.

SEC. 10.

The Ombudsman and his Deputies shall have the rank of Chairman and Members, respectively, of the Constitutional Commissions, and they shall receive the same salary, which shall not be decreased during their term of office.

SEC. 11.

The Ombudsman and his Deputies shall serve for a term of seven years without reappointment. They shall not be qualified to run for any office in the election immediately succeeding their cessation from office.

SEC. 12.

The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any agency, subdivision or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the actions taken and the result thereof.

SEC. 13.

The Office of the Ombudsman shall have the following powers, functions, and duties :

- (1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.
- (2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.
- (3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith.
- (4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts and transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action.
- (5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.
- (6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence.

- (7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency.
- (8) Promulgate its rules and procedure and exercise such other powers or perform such functions or duties as may be provided by law.

SEC. 14.

The Office of the Ombudsman shall enjoy fiscal autonomy. Its approved annual appropriations shall be automatically and regularly released.

SEC. 15.

The right of the State to recover properties unlawfully acquired by public officials and employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel.

SEC. 16.

No loan, guaranty, or other form of financial accommodation for any business purpose may be granted, directly or indirectly, by any government-owned or controlled bank or financial institution to the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, and the Constitutional Commissions, the Ombudsman, or to any firm or entity in which they have controlling interest, during their tenure.

SEC. 17.

A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.

SEC. 18.

Public officers and employees owe the State and this Constitution allegiance at all times, and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law.

Article 12:

National Economy and Patrimony

SEC. 1.

The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding

productivity as the key raising the quality of life for all, especially the underprivileged. The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices. In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.

SEC. 2.

All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons.

The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local

scientific and technical resources. The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.

SEC. 3.

Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant. Taking into account the requirements of conservation, ecology, and development, and subject to the requirements of agrarian reform, the Congress shall determine, by law, the size of lands of the public domain which may be acquired, developed, held, or leased and the conditions therefor.

SEC. 4.

The Congress shall, as soon as possible, determine by law the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished, except by law.

The Congress shall provide, for such period as it may determine, measures to prohibit logging in endangered forests and watershed areas.

SEC. 5.

The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being,

The Congress may provide for the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domain.

SEC. 6.

The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote

distributive justice and to intervene when the common good so demands.

SEC. 7.

Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

SEC. 8.

Notwithstanding the provisions of Section 7 of this Article, a natural-born citizen of the Philippines who has lost its Philippine citizenship may be a transferee of private lands, subject to limitations provided by law.

SEC. 9.

The Congress may establish an independent economic and planning agency headed by the President, which shall, after consultations with the appropriate public agencies, various public sectors, and local government units, recommend to Congress, and implement continuing integrated and coordinated programs and policies for national development.

Until the Congress provides otherwise, the National Economic and Development Authority shall function as the independent planning agency of the government.

SEC. 10.

The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty per centum of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments. The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos.

The State shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities.

SEC. 11.

No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise

or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.

SEC. 12.

The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help them competitive.

SEC. 13.

The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.

SEC. 14.

The sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State. The State shall encourage appropriate technology and regulate its transfer for the national benefit.

The practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.

SEC. 15.

The Congress shall create an agency to promote the viability and growth of cooperatives as instruments for social justice and economic development.

SEC. 16.

The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.

SEC. 17.

In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.

SEC. 18.

The State may, in the interest of national welfare or defense, establish and operate vital industries and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

SEC. 19.

The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.

SEC. 20.

The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

Until the Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

SEC. 21.

Foreign loans may only be incurred in accordance with law and the regulation of the monetary authority. Information on foreign loans obtained or guaranteed by the Government shall be made available to the public.

SEC. 22.

Acts which circumvent or negate any of the provisions of this Article shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law.

Article 13:

Social Justice and Human Rights

SEC. 1.

The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

SEC. 2.

The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

Labor**SEC. 3.**

The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to self-organizations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law. The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace. The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

Agrarian and Natural Resources Reform**SEC. 4.**

The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the rights of small landowners. The State shall further provide incentives for voluntary landsharing.

SEC. 5.

The State shall recognize the right of farmers, farmworkers, and landowners, as well as cooperatives, and other independent farmers' organizations to participate in the planning, organization, and management of the program, and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services.

SEC. 6.

The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands. The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law.

SEC. 7.

The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of local marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.

SEC. 8.

The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises. Financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice.

Urban Land Reform and Housing**SEC. 9.**

The State shall, by law, and for the common good, undertake, in cooperation with the public sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners.

SEC. 10.

Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner. No resettlement of urban and rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.

Health

SEC. 11.

The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

SEC. 12.

The State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems.

SEC. 13.

The State shall establish a special agency for disabled persons for rehabilitation, self-development and self-reliance, and their integration into the mainstream of society.

Women

SEC. 14.

The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

Role and Rights of People's Organizations

SEC. 15.

The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means. People's organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.

SEC. 16.

The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

Human Rights

SEC. 17.

- (1) There is hereby created an independent office called Commission on Human Rights.
- (2) The Commission shall be composed of a Chairman and four Members who must be natural-born citizens of the Philippines and a

majority of whom shall be members of the Bar. The term of office and other qualifications and disabilities of the Members of the Commission shall be provided by law.

- (3) Until this Commission is constituted, the existing Presidential Committee on Human Rights shall continue to exercise its present functions and powers.
- (4) The approved annual appropriations of the Commission shall be automatically and regularly released.

SEC. 18.

The Commission on Human Rights shall have the following powers and functions:

- (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- (2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;
- (4) Exercise visitorial powers over jails, prisons, or detention facilities;
- (5) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;
- (6) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;
- (7) Monitor the Philippine Government's compliance with international treaty obligations on human rights;
- (8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- (9) Request the assistance of any department, bureau, office, or agency in the performance of its functions;
- (10) Appoint its officers and employees in accordance with law; and
- (11) Perform such other duties and functions as may be provided by law.

SEC. 19.

The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations.

**Article 14:
Education, Science and Technology, Arts,
Culture, and Sports**

Education

SEC. 1.

The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

SEC. 2.

The State shall:

- (1) Establish, maintain, and support a complete, adequate, and integrated system of education relevant to the needs of the people and society;
- (2) Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school age;
- (3) Establish and maintain a system of scholarship grants, student loan programs, subsidies, and other incentives which shall be available to deserving students in both public and private schools, especially to the underprivileged;
- (4) Encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs; and
- (5) Provide adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills.

SEC. 3.

- (1) All educational institutions shall include the study of the Constitution as part of the curricula.
- (2) They shall inculcate patriotism and nationalism, foster love of humanity, respect for human rights, appreciation of the role of national heroes in the historical development of the country, teach the rights and duties of citizenship, strengthen ethical and spiritual values, develop moral character and personal discipline, encourage critical and creative thinking, broaden scientific and technological knowledge, and promote vocational efficiency.
- (3) At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools within the regular class hours by instructors designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the Government.

SEC. 4.

- (1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.
- (2) Educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. The Congress may, however, require increased Filipino equity participation in all educational institutions.

The control and administration of educational institutions shall be vested in citizens of the Philippines.

No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. The provisions of this subsection shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.

- (3) All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law. Propriety educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment.
- (4) Subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax.

SEC. 5.

- (1) The State shall take into account regional and sectoral needs and conditions and shall encourage local planning in the development of educational policies and programs.
- (2) Academic freedom shall be enjoyed in all institutions of higher learning.
- (3) Every citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements.
- (4) The State shall enhance the right of teachers to professional advancement. Non-teaching academic and non-academic personnel shall enjoy the protection of the State.

(5) The State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment.

Language

SEC. 6.

The national language of the Philippines is Filipino. As it evolves, it shall be further developed and enriched on the basis of existing Philippine and other languages.

Subject to provisions of law and as the Congress may deem appropriate, the Government shall take steps to initiate and sustain the use of Filipino as a medium of official communication and as language of instruction in the educational system.

SEC. 7.

For purposes of communication and instruction, the official languages of the Philippines are Filipino and, until otherwise provided by law, English.

The regional languages are the auxiliary official languages in the regions and shall serve as auxiliary media of instruction therein.

Spanish and Arabic shall be promoted on a voluntary and optional basis.

SEC. 8.

This Constitution shall be promulgated in Filipino and English and shall be translated into major regional languages, Arabic, and Spanish.

SEC. 9.

The Congress shall establish a national language commission composed of representatives of various regions and disciplines which shall undertake, coordinate, and promote researches for the development, propagation, and preservation of Filipino and other languages.

Science and Technology

SEC. 10.

Science and technology are essential for national development and progress. The State shall give priority to research and development, invention, innovation, and their utilization; and to science and technology education, training, and services. It shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.

SEC. 11.

The Congress may provide for incentives, including tax deductions, to encourage private participation in programs of basic and applied scientific research.

Scholarships, grants-in-aid, or other forms of incentives shall be provided to deserving science students, researchers, scientists, inventors, technologists, and specially gifted citizens.

SEC. 12.

The State shall regulate the transfer and promote the adaptation of technology from all sources for the national benefit. It shall encourage the widest participation of private groups, local governments, and community-based organizations in the generation and utilization of science and technology.

SEC. 13.

The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law.

Arts and Culture

SEC. 14.

The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

SEC. 15.

Arts and letters shall enjoy the patronage of the State. The State shall conserve, promote, and popularize the nation's historical and cultural heritage and resources, as well as artistic creations.

SEC. 16.

All the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition.

SEC. 17.

The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

SEC. 18.

- (1) The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, scholarships, grants and other incentives, and community cultural centers, and other public venues.
- (2) The State shall encourage and support researches and studies on the arts and culture.

Sports

SEC. 19.

- (1) The State shall promote physical education and encourage sports programs, league

competitions, and amateur sports, including training for international competitions, to foster self-discipline, teamwork, and excellence for the development of a healthy and alert citizenry.

- (2) All educational institutions shall undertake regular sports activities throughout the country in cooperation with athletic clubs and other sectors.

**Article 15:
The Family**

SEC. 1.

The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.

SEC. 2.

Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

SEC. 3.

The State shall defend :

- (1) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;
- (2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development;
- (3) The right of the family to a family living wage and income; and
- (4) The right of families or family associations to participate in the planning and implementation of policies and programs that affect them.

SEC. 4.

The family has the duty to care for its elderly members but the State may also do so through just programs of social security.

**Article 16:
General Provisions**

SEC 1.

The flag of the Philippines shall be red, white, and blue, with a sun and three stars, as consecrated and honored by the people and recognized by law.

SEC. 2.

The Congress may, by law, adopt a new name for the country, a national anthem, or a national seal, which shall be truly reflective and symbolic of the ideals, history, and traditions of the people. Such law shall take effect only upon its ratification by the people in a national referendum.

SEC. 3.

The State may not be sued without its consent.

SEC. 4.

The Armed Forces of the Philippines shall be composed of a citizen armed force which shall undergo military training and serve, as may be provided by law. It shall keep a regular force necessary for the security of the State.

SEC. 5.

- (1) All members of the armed forces shall take an oath or affirmation to uphold and defend this Constitution.
- (2) The State shall strengthen the patriotic spirit and nationalist consciousness of the military, and respect for people's rights in the performance of their duty.
- (3) Professionalism in the armed forces and adequate remuneration and benefits of its members shall be a prime concern of the State. The armed forces shall be insulated from partisan politics. No member of the military shall engage directly or indirectly in any partisan political activity, except to vote.
- (4) No member of the armed forces in the active service shall, at any time, be appointed or designated in any capacity to a civilian position in the Government including government-owned or controlled corporations or any of their subsidiaries.
- (5) Laws on retirement of military officers shall not allow extension of their service.
- (6) The officers and men of the regular force of the armed forces shall be recruited proportionately from all provinces and cities as far as practicable.
- (7) The tour of duty of the Chief of Staff of the Armed forces shall not exceed three years. However, in times of war or other national emergency declared by the Congress, the President may extend such tour of duty.

SEC. 6.

The State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law.

SEC. 7.

The State shall provide immediate and adequate care, benefits, and other forms of assistance to war veterans and veterans of military campaigns, their surviving spouses and orphans. Funds shall be provided therefor and due consideration shall be given them in the disposition of agricultural lands of the public domain and, in appropriate cases, in the utilization of natural resources.

SEC. 8.

The State shall, from time to time, review to upgrade the pensions and other benefits due to retirees of both the government and the private sectors.

SEC. 9.

The State shall protect consumers from trade malpractices and from substandard or hazardous products.

SEC. 10.

The State shall provide the policy environment for the full development of Filipino capability and the emergence of communication structures suitable to the needs and aspirations of the nation and the balanced flow of information into, out of, and across the country, in accordance with a policy that respects the freedom of speech and of the press.

SEC. 11.

- (1) The ownership and management of mass media shall be limited to citizens of the Philippines, or to corporations, cooperatives or associations, wholly owned and managed by such citizens. The Congress shall regulate or prohibit monopolies in commercial mass media when the public interest so requires. No combinations in restraint of trade or unfair competition therein shall be allowed.
- (2) The advertising industry is impressed with public interest, and shall be regulated by law for the protection of consumers and the promotion of the general welfare.

Only Filipino citizens or corporations or associations at least seventy per centum of the capital of which is owned by such citizens shall be allowed to engage in the advertising industry.

The participation of foreign investors in the governing body of entities in such industry shall be limited to their proportionate share in the capital thereof, and all the executive and managing officers of such entities must be citizens of the Philippines.

SEC. 12.

The Congress may create a consultative body to advise the President on policies affecting indigenous cultural communities, the majority of the members of which shall come from such communities.

**Article 17:
Amendments or Revisions**

SEC. 1.

Any amendment to, or revision of, this Constitution may be proposed by:

- (1) The Congress, upon a vote of three-fourths of

- all its Members; or
- (2) A constitutional convention.

SEC. 2.

Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter.

The Congress shall provide for the implementation of the exercise of this right.

SEC. 3.

The Congress may, by a vote of two-thirds of all its Members, call a constitutional convention, or by a majority vote of all its Members, submit to the electorate the question of calling such a convention.

SEC. 4.

Any amendment to, or revision of, this Constitution under Section 1 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the approval of such amendment or revision.

Any amendment under Section 2 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the certification by the Commission on Elections of the sufficiency of the petition.

**Article 18:
Transitory Provisions**

SEC. 1.

The first elections of the Members of the Congress under this Constitution shall be held on the second Monday of May, 1987.

The first local elections shall be held on a date to be determined by the President, which may be simultaneous with the election of the Members of the Congress. It shall include the election of all Members of the city or municipal councils in the Metropolitan Manila area.

SEC. 2.

The Senators, Members of the House of Representatives, and the local officials first elected under this Constitution shall serve until noon of June 30, 1992.

Of the Senators elected in the election of 1992, the first twelve obtaining the highest number of votes shall serve six years and the remaining twelve for three years.

SEC. 3.

All existing laws, decrees, executive orders, proclamations, letters of instructions, and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed, or revoked.

SEC. 4.

All existing treaties or international agreements which have not been ratified shall not be renewed or extended without the concurrence of at least two-thirds of all the Members of the Senate.

SEC. 5.

The six-year term of the incumbent President and Vice-President elected in the February 7, 1986 election is, for purposes of synchronization of elections, hereby extended to noon of June 30, 1992.

The first regular elections for the President and Vice-President under this Constitution shall be held on the second Monday of May, 1992.

SEC. 6.

The incumbent President shall continue to exercise legislative powers until the first Congress is convened.

SEC. 7.

Until a law is passed, the President may fill by appointment from a list of nominees by the respective sectors the seats reserved for sectoral representation in paragraph 2., Section 5 of Article VI of this Constitution.

SEC. 8.

Until otherwise provided by the Congress, the President may constitute the Metropolitan Authority to be composed of the heads of all local government units comprising the Metropolitan Manila area.

SEC. 9.

A sub-province shall continue to exist and operate until it is converted into a regular province or until its component municipalities are reverted to the mother province.

SEC. 10.

All courts existing at the time of the ratification of this Constitution shall continue to exercise their jurisdiction, until otherwise provided by law. The provisions of the existing Rules of Court, judiciary acts, and procedural laws not inconsistent with this Constitution shall remain operative unless amended or repealed by the Supreme Court or the Congress.

SEC. 11.

The incumbent Members of the Judiciary shall continue in office until they reach the age of seventy

years or become incapacitated to discharge the duties of their office or are removed for cause.

SEC. 12.

The Supreme Court shall, within one year after the ratification of this Constitution, adopt a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court or the lower courts prior to the effectivity of this Constitution. A similar plan shall be adopted for all special courts and quasi-judicial bodies.

SEC. 13.

The legal effect of the lapse, before the ratification of this Constitution, of the applicable period for the decision or resolution of the cases or matters submitted for adjudication by the courts, shall be determined by the Supreme Court as soon as practicable.

SEC. 14.

The provisions of paragraphs 3. and 4., Section 15 of Article VIII of this Constitution shall apply to cases or matters filed before the ratification of this Constitution, when the applicable period lapses after such ratification.

SEC. 15.

The incumbent Members of the Civil Service Commission, the Commission on Elections, and the Commission on Audit shall continue in office for one year after the ratification of this Constitution, unless they are sooner removed for cause or become incapacitated to discharge the duties of their office or appointed to a new term thereunder. In no case shall any Member serve longer than seven years including service before the ratification of this Constitution.

SEC. 16.

Career civil service employees separated from the service not for cause but as a result of the reorganization pursuant to Proclamation No. 3 dated March 25, 1986 and the reorganization following the ratification of this Constitution shall be entitled to appropriate separation pay and to retirement and other benefits accruing to them under the laws of general application in force at the time of their separation. In lieu thereof, at the option of the employees, they may be considered for employment in the Government or in any of its subdivisions, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries. This provision also applies to career officers whose resignation, tendered in line with the existing policy, had been accepted.

SEC. 17.

Until the Congress provides otherwise, the President shall receive an annual salary of three

hundred thousand pesos; the Vice-President, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, two hundred forty thousand pesos each; the Senators, the Members of the House of Representatives, the Associate Justices of the Supreme Court, and the Chairmen of the Constitutional Commissions, two hundred four thousand pesos each; and the Members of the Constitutional Commissions, one hundred eighty thousand pesos each.

SEC. 18.

At the earliest possible time, the Government shall increase the salary scales of other officials and employees of the National Government.

SEC. 19.

All properties, records, equipment, buildings, facilities, and other assets of any office or body abolished or reorganized under Proclamation No. 3 dated March 25, 1986 or this Constitution shall be transferred to the office or body to which its powers, functions, and responsibilities substantially pertain.

SEC. 20.

The first Congress shall give priority to the determination of the period for the full implementation of free public secondary education.

SEC. 21.

The Congress shall provide efficacious procedures and adequate remedies for the reversion to the State of all lands of the public domain and real rights connected therewith which were acquired in violation of the Constitution or the public land laws, or through corrupt practices. No transfer or disposition of such lands or real rights shall be allowed until after the lapse of one year from the ratification of this Constitution.

SEC. 22.

At the earliest possible time, the Government shall expropriate idle or abandoned lands as may be defined by law, for distribution to the beneficiaries of the agrarian reform program.

SEC. 23.

Advertising entities affected by paragraph (2), Section 11 of Article XVI of this Constitution shall have five years from its ratification to comply on a graduated or proportionate basis with the minimum Filipino ownership requirement therein.

SEC. 24.

Private armies and other armed groups not recognized by duly constituted authority shall be dismantled. All paramilitary forces including Civilian Home Defense Forces not consistent

with the citizen armed force established in this Constitution, shall be dissolved or, where appropriate, converted into the regular force.

SEC. 25.

After the expiration in 1991 of the Agreement between the Republic of the Philippines and the United States of America concerning Military Bases, foreign military bases, troops, or facilities shall not be allowed in the Philippines except under a treaty duly concurred in by the Senate and, when the Congress so requires, ratified by a majority of the votes cast by the people in a national referendum held for that purpose, and recognized as a treaty by the other contracting State.

SEC. 26.

The authority to issue sequestration or freeze orders under Proclamation No. 3 dated March 25, 1986 in relation to the recovery of ill-gotten wealth shall remain operative for not more than eighteen months after the ratification of this Constitution. However, in the national interest, as certified by the President, the Congress may extend said period.

A sequestration or freeze order shall be issued only upon showing of a prima facie case. The order and the list of the sequestered or frozen properties shall forthwith be registered with the proper court. For orders issued before the ratification of this Constitution, the corresponding judicial action or proceeding shall be filed within six months from its ratification. For those issued after such ratification, the judicial action or proceeding shall be commenced within six months from the issuance thereof.

The sequestration or freeze order is deemed automatically lifted if no judicial action or proceeding is commenced as herein provided.

SEC. 27.

This Constitution shall take effect immediately upon its ratification by a majority of the votes cast in a plebiscite held for the purpose and shall supersede all previous Constitutions.

Ratified: February 2, 1987

SINGAPORE

CONSTITUTION OF THE REPUBLIC OF SINGAPORE

CITATION

1. This Constitution may be cited as the Constitution of the Republic of Singapore.

INTERPRETATION

2. (1) In this Constitution, unless it is otherwise provided or the context otherwise requires
 - “Cabinet” means the Cabinet constituted under this Constitution;
 - “Civil List” means the provision made under Article 22J for the maintenance of the President;
 - “citizen of Singapore” means any person who, under the provisions of this Constitution, has the status of a citizen of Singapore;
 - “commencement” , used with reference to this Constitution, means 9th August 1965;
 - “Consolidated Fund” means the Consolidated Fund established by this Constitution;
 - “Council of Presidential Advisers” means the Council of Presidential Advisers constituted under Part VA;
 - “existing law” means any law having effect as part of the law of Singapore immediately before the commencement of this Constitution;
 - “Government” means the Government of Singapore;
 - “Judge of the Supreme Court” includes the Chief Justice, a Judge of Appeal and a Judge of the High Court;
 - “law” includes written law and any legislation of the United Kingdom or other enactment or instrument whatsoever which is in operation in Singapore and the common law in so far as it is in operation in Singapore and any custom or usage having the force of law in Singapore;
 - “Legal Service Commission” means the Legal Service Commission constituted under this Constitution;
 - “Legislature” means the Legislature of Singapore;
 - “Minister” means a Minister appointed under this Constitution;
 - “office of profit” means, subject to clause (5), any whole time office in the public service;
 - “Parliament” means the Parliament of Singapore;
 - “President” means the President of Singapore elected under this Constitution and includes any person for the time being exercising the

functions of the office of President;

“Presidential Elections Committee” means the Presidential Elections Committee constituted under Article 18;

“Prime Minister” means the Prime Minister of Singapore appointed under this Constitution;

“public office” means, subject to clause (5), an office of emolument in the public service;

“public officer” means the holder of any public office;

“public seal” means the public seal of Singapore;

“public service” means service under the Government;

“Public Service Commission” means the Public Service Commission constituted under this Constitution;

“register of electors” means any register of electors prepared under the provisions of any written law for the time being in force relating to Parliamentary elections;

“remuneration” , in respect of any public officer, means only the emoluments of that officer, the whole or any part of which count for pension in accordance with the provisions of any law relating to the grant of pensions in respect of the public service;

“reserves”, in relation to the Government, a statutory board or Government company, means the excess of assets over liabilities of the Government, statutory board or Government company, as the case may be;

“session” means the sittings of Parliament commencing when it first meets after being constituted, or after its prorogation or dissolution at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;

“Singapore” means the Republic of Singapore;

“sitting” means a period during which Parliament is sitting continuously without adjournment, including any period during which Parliament is in committee;

“Speaker” and “Deputy Speaker” mean, respectively, the Speaker and a Deputy Speaker of Parliament;

“term of office” , in relation to the Government, means the period

(a) commencing on the date the Prime Minister and Ministers first take and subscribe the

- Oath of Allegiance in accordance with Article 27 after a general election; and
- (b) ending after the next general election on the date immediately before the Prime Minister and Ministers first take and subscribe the Oath of Allegiance in accordance with Article 27;
- “terms of service”, in respect of any officer, includes the remuneration to which that officer is entitled by virtue of his office, and any pension, gratuity or other like allowance payable to or in respect of that officer;
- “written law” means this Constitution and all Acts and Ordinances and subsidiary legislation for the time being in force in Singapore.
- (2) Except where this Constitution otherwise provides or where the context otherwise requires
- (a) the person or authority having power to make substantive appointments to any public office may appoint a person to perform the functions of that office during any period when it is vacant or when the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions;
- (b) every appointment to perform the functions of an office made under paragraph (a) shall be made in the same manner as and subject to the same conditions as apply to a substantive appointment to that office;
- (c) any reference in this Constitution to the holder of any office by the term designating his office shall be construed as including a reference to any person for the time being lawfully performing the functions of that office; and
- (d) any reference in this Constitution to an appointment to any office shall be construed as including a reference to an appointment to perform the functions of that office.
- (3) Where in this Constitution power is conferred on any person or authority to appoint a person to perform the functions of any office if the holder thereof is unable himself to perform its functions, any such appointment shall not be called in question on the ground that the holder of that office was not unable to perform those functions.
- (4) For the purposes of this Constitution, the resignation of a member of any body or the holder of any office constituted by this Constitution that is required to be addressed to any person shall be deemed to have effect from the time that it is received by that person: Provided that, in the case of a resignation that is required to be addressed to the Speaker, the resignation shall, if the office of Speaker is vacant or the Speaker is absent from Singapore, be deemed to have effect from the time that it is received by a Deputy Speaker on behalf of the Speaker.
- (5) For the purposes of this Constitution, a person shall not be considered as holding a public office or an office of profit by reason of the fact that he is in receipt of any remuneration or allowances (including a pension or other like allowance) in respect of his tenure of the office of President, Prime Minister, Chief Justice, Speaker, Deputy Speaker, Minister, Parliamentary Secretary, Political Secretary, Member of Parliament, Ambassador, High Commissioner or such other office as the President may, from time to time, by order, prescribe*.
- *Offices of Consul-General and Consul have been prescribed by the President - See G.N. No. S 212/72
- (6)(a) Without prejudice to clause (2) when the holder of any public office is on leave of absence pending relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto.
- (b) Where 2 or more persons are holding the same office by reason of an appointment made pursuant to paragraph (a), the person last appointed shall, in respect of any function conferred on the holder of that office, be deemed to be the sole holder of that office.
- (7) Where a person is required by this Constitution to take an oath, he shall be permitted, if he so desires, to comply with that requirement by making an affirmation.
- (8) References in this Constitution to any period shall, so far as the context admits, be construed as including references to a period beginning before the commencement of this Constitution.
- (9) Subject to this Article, the Interpretation Act (Cap. 1) shall apply for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to any written law within the meaning of that Act.
- (10) Unless the context otherwise requires, any reference in this Constitution to a specified Part, Article or Schedule is a reference to that Part or Article of, or that Schedule to, this Constitution; any reference to a specified chapter, clause, section or paragraph is a reference to that chapter of the Part, that clause of the Article, that section of the Schedule, or that paragraph of the clause or section, in which the reference occurs; and any reference to a group of Articles, sections or divisions of Articles or sections shall be construed as including both the first and the last member of the group referred to.

REPUBLIC OF SINGAPORE

*3. Singapore shall be a sovereign republic to be known as the Republic of Singapore.

*Section 2 (1) (d), Constitution (Amendment) Act 1965 (No. 8 of 1965) and the Republic of Singapore Independence Act 1965 (No. 9 of 1965).

AMENDMENT OF CONSTITUTION

5. (1) Subject to this Article and Article 8, the provisions of this Constitution may be amended by a law enacted by the Legislature.

(2) A Bill seeking to amend any provision in this Constitution shall not be passed by Parliament unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of the elected Members of Parliament referred to in Article 39 (1) (a).

*(2A) Unless the President, acting in his discretion, otherwise directs the Speaker in writing, a Bill seeking to amend

*Article 5 (2A) was not in operation at the date of this Reprint. This Article repeals former Article 5 (2A) (enacted by Act 5/91) which Article was also not in operation at the date of its repeal by Act 41/96.

(a) this clause or Article 5A;

(b) any provision in Part IV;

(c) any provision in Chapter 1 of Part V or Article 93A;

(d) Article 65 or 66; or

(e) any other provision in this Constitution which authorises the President to act in his discretion, shall not be passed by Parliament unless it has also been supported at a national referendum by not less than two-thirds of the total number of votes cast by the electors registered under the Parliamentary Elections Act (Cap. 218).

(3) In this Article, "amendment" includes addition and repeal.

PRESIDENT MAY WITHHOLD ASSENT TO CERTAIN CONSTITUTIONAL AMENDMENTS

*5A.(1) Subject to Part III, the President may, acting in his discretion, in writing withhold his assent to any Bill seeking to amend this Constitution (other than a Bill referred to in Article 5 (2A)), if the Bill or any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution.

*Article 5A was not in operation at the date of this Reprint.

(2) The President, acting in accordance with the advice of the Cabinet, may pursuant

to Article 100 (whether before or after his assent has been withheld to a Bill under clause (1)), refer to a tribunal for its opinion the question whether the Bill or any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution; and where such a reference is made to the tribunal, Article 100 shall apply, with the necessary modifications, to that reference.

(3) Where a reference is made to the tribunal and the tribunal is of the opinion that neither the Bill nor any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution, the President shall be deemed to have assented to the Bill on the day immediately after the day of the pronouncement of the opinion of the tribunal in open court.

(4) Where the tribunal is of the opinion that the Bill or any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution, and the President either has withheld or withholds his assent to the Bill under clause (1), the Prime Minister may at any time direct that the Bill be submitted to the electors for a national referendum.

(5) If the Bill referred to in clause (4) is supported at the national referendum by not less than two-thirds of the total number of votes cast by electors registered under the Parliamentary Elections Act (Cap. 218), the President shall be deemed to have assented to the Bill on the day immediately after the publication in the Gazette of the results of the national referendum.

(6) For the purposes of this Article, where, on the expiration of 30 days after a Bill has been presented to the President for his assent, the President has neither signified the withholding of his assent to the Bill nor referred the Bill to a tribunal pursuant to Article 100, the President shall be deemed to have assented to the Bill on the day immediately following the expiration of the said 30 days.

No surrender of sovereignty or relinquishment of control over the Police Force or the Armed Forces except by referendum

6. (1) There shall be

(a) no surrender or transfer, either wholly or in part, of the sovereignty of the Republic of Singapore as an independent nation, whether by way of merger or incorporation with any other

- sovereign state or with any Federation, Confederation, country or territory or in any other manner whatsoever; and
- (b) no relinquishment of control over the Singapore Police Force or the Singapore Armed Forces, unless such surrender, transfer or relinquishment has been supported, at a national referendum, by not less than two-thirds of the total number of votes cast by the electors registered under the Parliamentary Elections Act (Cap. 218).

(2) For the purposes of this Article

“Singapore Armed Forces” means the Singapore Armed Forces raised and maintained under the Singapore Armed Forces Act (Cap. 295), and includes any civil defence force formed under the Civil Defence Act (Cap. 42) and such other force as the President may, by notification in the Gazette, declare to be an armed force for the purposes of this Article;

“Singapore Police Force” means the Singapore Police Force and the Special Constabulary established under the Police Force Act (Cap. 235) and any Auxiliary Police Force created in accordance with Part IX of that Act, and includes the Vigilante Corps established under the Vigilante Corps Act (Cap. 343) and such other force as the President may, by notification in the Gazette, declare to be a police force for the purposes of this Article.

PARTICIPATION IN CO-OPERATIVE INTERNATIONAL SCHEMES WHICH ARE BENEFICIAL TO SINGAPORE

7. Without in any way derogating from the force and effect of Article 6, nothing in that Article shall be construed as precluding Singapore or any association, body or organisation therein from
- (a) participating or co-operating in, or contributing towards, any scheme, venture, project, enterprise or undertaking of whatsoever nature, in conjunction or in concert with any other sovereign state or with any Federation, Confederation, country or countries or any association, body or organisation therein, where such scheme, venture, project, enterprise or undertaking confers, has the effect of conferring or is intended to confer, on Singapore or any association, body or organisation therein, any economic, financial, industrial, social, cultural, educational or other benefit of any kind or is, or appears to be, advantageous in any way to Singapore or any association, body or organisation therein; or

- (b) entering into any treaty, agreement, contract, pact or other arrangement with any other sovereign state or with any Federation, Confederation, country or countries or any association, body or organisation therein, where such treaty, agreement, contract, pact or arrangement provides for mutual or collective security or any other object or purpose whatsoever which is, or appears to be, beneficial or advantageous to Singapore in any way.

NO AMENDMENT TO THIS PART EXCEPT BY REFERENDUM

8. (1) A Bill for making an amendment to this Part shall not be passed by Parliament unless it has been supported, at a national referendum, by not less than two-thirds of the total number of votes cast by the electors registered under the Parliamentary Elections Act (Cap. 218).
- (2) In this Article, “amendment” includes addition and repeal.

LIBERTY OF THE PERSON

9. (1) No person shall be deprived of his life or personal liberty save in accordance with law.
- (2) Where a complaint is made to the High Court or any Judge thereof that a person is being unlawfully detained, the Court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order him to be produced before the Court and release him.
- (3) Where a person is arrested, he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.
- (4) Where a person is arrested and not released, he shall, without unreasonable delay, and in any case within 48 hours (excluding the time of any necessary journey), be produced before a Magistrate and shall not be further detained in custody without the Magistrate’s authority.
- (5) Clauses (3) and (4) shall not apply to an enemy alien or to any person arrested for contempt of Parliament pursuant to a warrant issued under the hand of the Speaker.
- (6) Nothing in this Article shall invalidate any law
- (a) in force before the commencement of this Constitution which authorises the arrest and detention of any person in the interests of public safety, peace and good order; or

- (b) relating to the misuse of drugs or intoxicating substances which authorises the arrest and detention of any person for the purpose of treatment and rehabilitation, by reason of such law being inconsistent with clauses (3) and (4), and, in particular, nothing in this Article shall affect the validity or operation of any such law before 10th March 1978.

SLAVERY AND FORCED LABOUR PROHIBITED

10. (1) No person shall be held in slavery.
 (2) All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes.
 (3) Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labour within the meaning of this Article.

PROTECTION AGAINST RETROSPECTIVE CRIMINAL LAWS AND REPEATED TRIALS

11. (1) No person shall be punished for an act or omission which was not punishable by law when it was done or made, and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.
 (2) A person who has been convicted or acquitted of an offence shall not be tried again for the same offence except where the conviction or acquittal has been quashed and a retrial ordered by a court superior to that by which he was convicted or acquitted.

EQUAL PROTECTION

12. (1) All persons are equal before the law and entitled to the equal protection of the law.
 (2) Except as expressly authorised by this Constitution, there shall be no discrimination against citizens of Singapore on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.
 (3) This Article does not invalidate or prohibit
 (a) any provision regulating personal law; or
 (b) any provision or practice restricting office or employment connected with the affairs of any religion, or of an institution managed by a group

professing any religion, to persons professing that religion.

Prohibition of banishment and freedom of movement

13. (1) No citizen of Singapore shall be banished or excluded from Singapore.
 (2) Subject to any law relating to the security of Singapore or any part thereof, public order, public health or the punishment of offenders, every citizen of Singapore has the right to move freely throughout Singapore and to reside in any part thereof.

FREEDOM OF SPEECH, ASSEMBLY AND ASSOCIATION

14. (1) Subject to clauses (2) and (3)
 (a) every citizen of Singapore has the right to freedom of speech and expression;
 (b) all citizens of Singapore have the right to assemble peaceably and without arms; and
 (c) all citizens of Singapore have the right to form associations.
 (2) Parliament may by law impose
 (a) on the rights conferred by clause (1) (a), such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or to provide against contempt of court, defamation or incitement to any offence;
 (b) on the right conferred by clause (1) (b), such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof or public order; and
 (c) on the right conferred by clause (1) (c), such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, public order or morality.
 (3) Restrictions on the right to form associations conferred by clause (1) (c) may also be imposed by any law relating to labour or education.

FREEDOM OF RELIGION

15. (1) Every person has the right to profess and practise his religion and to propagate it.
 (2) No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.
 (3) Every religious group has the right
 (a) to manage its own religious affairs;

- (b) to establish and maintain institutions for religious or charitable purposes; and
 - (c) to acquire and own property and hold and administer it in accordance with law.
- (4) This Article does not authorise any act contrary to any general law relating to public order, public health or morality.

RIGHTS IN RESPECT OF EDUCATION

16. (1) Without prejudice to the generality of Article 12, there shall be no discrimination against any citizen of Singapore on the grounds only of religion, race, descent or place of birth
- (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees; or
 - (b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether within or outside Singapore).
- (2) Every religious group has the right to establish and maintain institutions for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law.
- (3) No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.
- (4) For the purposes of clause (3), the religion of a person under the age of 18 years shall be decided by his parent or guardian.

THE PRESIDENT

17. (1) There shall be a President of Singapore who shall be the Head of State and shall exercise and perform such powers and functions as are conferred on the President by this Constitution and any other written law.
- (2) The President shall be elected by the citizens of Singapore in accordance with any law made by the Legislature.
- (3) Any poll for the election of President shall be held as follows:
- (a) in the case where the office of President becomes vacant prior to the expiration of the term of office of the incumbent and a writ for the election has not

- been issued before such vacation of office or, if so issued, has already been countermanded - within 6 months after the date the office of President becomes vacant; or
- (b) in any other case - not more than 3 months before the date of expiration of the term of office of the incumbent.

PRESIDENTIAL ELECTIONS COMMITTEE

18. (1) There shall be a Presidential Elections Committee whose function is to ensure that candidates for the office of President have the qualifications referred to in paragraph (e) or (g) (iv) or both such paragraphs of Article 19 (2), as the case may be.
- (2) The Presidential Elections Committee shall consist of
- (a) the Chairman of the Public Service Commission;
 - (b) the Chairman of the Accounting and Corporate Regulatory Authority established under the Accounting and Corporate Regulatory Authority Act 2004 (Act 3 of 2004); and
 - (c) a member of the Presidential Council for Minority Rights nominated by the Chairman of the Council.
- (3) The Chairman of the Public Service Commission shall be the chairman of the Presidential Elections Committee and if he is absent from Singapore or for any other reason unable to discharge his functions, he shall nominate a Deputy Chairman of the Public Service Commission to act on his behalf.
- (4) The office of the member of the Presidential Elections Committee nominated under clause (2) (c) shall become vacant if the member
- (a) dies;
 - (b) resigns from office by a letter in writing addressed to the chairman of the Committee; or
 - (c) has his nomination revoked by the Chairman of the Presidential Council for Minority Rights, and the vacancy shall be filled by a new member nominated by the Chairman of the Presidential Council for Minority Rights.
- (5) If the member of the Presidential Elections Committee referred to in clause (2) (b) or (c) is absent from Singapore or is for any other reason unable to discharge his functions, the Chairman of the Accounting and Corporate Regulatory Authority or the Chairman of the Presidential Council for Minority Rights shall appoint a member of the Accounting and Corporate Regulatory

- Authority or a member of the Presidential Council for Minority Rights, as the case may be, to act on his behalf.
- (6) The Presidential Elections Committee may regulate its own procedure and fix the quorum for its meetings.
 - (7) The Presidential Elections Committee may act notwithstanding any vacancy in its membership.
 - (8) Parliament may by law provide for the remuneration of members of the Presidential Elections Committee and the remuneration so provided shall be charged on the Consolidated Fund.
 - (9) A decision of the Presidential Elections Committee as to whether a candidate for election to the office of President has fulfilled the requirement of paragraph (e) or (g) (iv) of Article 19 (2) shall be final and shall not be subject to appeal or review in any court.

QUALIFICATIONS AND DISABILITIES OF PRESIDENT

19. (1) No person shall be elected as President unless he is qualified for election in accordance with the provisions of this Constitution.
- (2) A person shall be qualified to be elected as President if he
 - (a) is a citizen of Singapore;
 - (b) is not less than 45 years of age;
 - (c) possesses the qualifications specified in Article 44 (2) (c) and (d);
 - (d) is not subject to any of the disqualifications specified in Article 45;
 - (e) satisfies the Presidential Elections Committee that he is a person of integrity, good character and reputation;
 - (f) is not a member of any political party on the date of his nomination for election; and
 - (g) has for a period of not less than 3 years held office
 - (i) as Minister, Chief Justice, Speaker, Attorney General, Chairman of the Public Service Commission, Auditor General, Accountant-General or Permanent Secretary;
 - (ii) as chairman or chief executive officer of a statutory board to which Article 22A applies;
 - (iii) as chairman of the board of directors or chief executive officer of a company incorporated or registered under the Companies Act (Cap. 50) with a paid-up capital of at least \$100 million or its equivalent in foreign currency; or

- (iv) in any other similar or comparable position of seniority and responsibility in any other organisation or department of equivalent size or complexity in the public or private sector which, in the opinion of the Presidential Elections Committee, has given him such experience and ability in administering and managing financial affairs as to enable him to carry out effectively the functions and duties of the office of President.
- (3) The President shall
 - (a) not hold any other office created or recognised by this Constitution;
 - (b) not actively engage in any commercial enterprise;
 - (c) not be a member of any political party; and
 - (d) if he is a Member of Parliament, vacate his seat in Parliament.
- (4) Nothing in clause (3) shall be construed as requiring any person exercising the functions of the office of President under Article 22N or 22O to
 - (a) if he is a member of any political party, resign as a member of that party; or
 - (b) vacate his seat in Parliament or any other office created or recognised by this Constitution.

TERM OF OFFICE

20. (1) The President shall hold office for a term of 6 years from the date on which he assumes office.
- (2) The person elected to the office of President shall assume office on the day his predecessor ceases to hold office or, if the office is vacant, on the day following his election.
- (3) Upon his assumption of office, the President shall take and subscribe in the presence of the Chief Justice or of another Judge of the Supreme Court the Oath of Office in the form set out in the First Schedule.

DISCHARGE AND PERFORMANCE OF FUNCTIONS OF PRESIDENT

21. (1) Except as provided by this Constitution, the President shall, in the exercise of his functions under this Constitution or any other written law, act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet.
- (2) The President may act in his discretion in the performance of the following functions:
 - (a) the appointment of the Prime Minister in accordance with Article 25;

- (b) the withholding of consent to a request for a dissolution of Parliament;
 - (c) the withholding of assent to any Bill under Article *5A, 22E, 22H, 144 (2) or 148A;
*Article 5A was not in operation at the date of this Reprint.
 - (d) the withholding of concurrence under Article 144 to any guarantee or loan to be given or raised by the Government;
 - (e) the withholding of concurrence and approval to the appointments and budgets of the statutory boards and Government companies to which Articles 22A and 22C, respectively, apply;
 - (f) the disapproval of transactions referred to in Article 22B (7), 22D (6) or 148G;
 - (g) the withholding of concurrence under Article 151 (4) in relation to the detention or further detention of any person under any law or ordinance made or promulgated in pursuance of Part XII;
 - (h) the exercise of his functions under section 12 of the Maintenance of Religious Harmony Act (Cap. 167A); and
 - (i) any other function the performance of which the President is authorised by this Constitution to act in his discretion.
- (3) The President shall consult the Council of Presidential Advisers before performing any of his functions under Articles 22, 22A (1), 22B (2) and (7), 22C (1), 22D (2) and (6), 142(1A), 144, 148A, 148B and 148G.
- (4) Except as otherwise provided in clause (3), the President may, in his discretion, consult the Council of Presidential Advisers before performing any of his functions referred to in clause (2) (c) to (i).
- (5) The Legislature may by law make provision to require the President to act after consultation with, or on the recommendation of, any person or body of persons other than the Cabinet in the exercise of his functions other than
- (a) functions exercisable in his discretion; and
 - (b) functions with respect to the exercise of which provision is made in any other provision of this Constitution.
- if he does not concur with the advice or recommendation of the authority on whose advice or recommendation he is, by virtue of that other provision of this Constitution or any other written law, to act:
- (a) the Chief Justice, Judges and Judicial Commissioners of the Supreme Court;
 - (b) the Attorney General;
 - (c) the Chairman and members of the Presidential Council for Minority Rights;
 - (d) the chairman and members of the Presidential Council for Religious Harmony constituted under the Maintenance of Religious Harmony Act (Cap. 167A);
 - (e) the chairman and members of an advisory board constituted for the purposes of Article 151;
 - (f) the Chairman and members of the Public Service Commission;
 - (fa) a member of the Legal Service Commission, other than an ex-officio member referred to in Article 111 (2) (a), (b) or (c);
 - (g) the Chief Valuer;
 - (h) the Auditor General;
 - (i) the Accountant-General;
 - (j) the Chief of Defence Force;
 - (k) the Chiefs of the Air Force, Army and Navy;
 - (l) a member (other than an ex-officio member) of the Armed Forces Council established under the Singapore Armed Forces Act (Cap. 295);
 - (m) the Commissioner of Police; and
 - (n) the Director of the Corrupt Practices Investigation Bureau.
- (2) Where the President, contrary to the recommendation of the Council of Presidential Advisers, refuses to make an appointment or refuses to revoke an appointment under clause (1), Parliament may, by resolution passed by not less than two-thirds of the total number of the elected Members of Parliament referred to in Article 39 (1) (a), overrule the decision of the President.
- (3) Upon the passing of a resolution under clause (2), the President shall be deemed to have made the appointment or revoked the appointment, as the case may be, on the date of the passing of such resolution.

APPOINTMENT OF PUBLIC OFFICERS, ETC.

22. (1) Notwithstanding any other provision of this Constitution, the President, acting in his discretion, may refuse to make an appointment to any of the following offices or to revoke any such appointment

APPOINTMENT OF MEMBERS OF STATUTORY BOARDS

- 22A. (1) Notwithstanding any other provision of this Constitution
- (a) where the President is authorised

by any written law to appoint the chairman, member or chief executive officer of any statutory board to which this Article applies, the President, acting in his discretion, may refuse to make any such appointment or to revoke such appointment if he does not concur with the advice or recommendation of the authority on whose advice or recommendation he is required to act; or

- (b) in any other case, no appointment to the office of chairman, member or chief executive officer of any statutory board to which this Article applies and no revocation of such appointment shall be made by any appointing authority unless the President, acting in his discretion, concurs therewith.

(1A) Where the President, contrary to the recommendation of the Council of Presidential Advisers, refuses to make or to concur with an appointment, or refuses to revoke an appointment or to concur with a revocation of an appointment, as the case may be, under clause (1), Parliament may, by resolution passed by not less than two-thirds of the total number of the elected Members of Parliament referred to in Article 39 (1) (a), overrule the decision of the President.

(1B) Upon the passing of a resolution under clause (1A), the President shall be deemed to have made or revoked the appointment, or to have concurred with the appointment or revocation of appointment, as the case may be, on the date of the passing of such resolution.

(2) (a) The chairman or member of a statutory board to which this Article applies shall be appointed for a term not exceeding 3 years and shall be eligible for reappointment.

(b) Any appointment to the office of chairman, member or chief executive officer of a statutory board under clause (1) (b) or any revocation thereof shall be void if made without the concurrence of the President.

(3) This Article shall apply to the statutory boards specified in Part I of the Fifth Schedule.

(4) Subject to clause (5), the President acting in accordance with the advice of the Cabinet may, by order published in the Gazette, add any other statutory board to Part I of the Fifth Schedule; and no statutory board shall be removed from that Part by any such order.

(5) No statutory board shall by order under clause (4) be added to Part I of the Fifth Schedule if the total value of the reserves of the statutory board on the date of making of such order is less than \$100 million.

BUDGETS OF STATUTORY BOARDS

22B. (1) Every statutory board to which Article 22A applies shall

(a) before the commencement of its financial year, present to the President for his approval its budget for that financial year, together with a declaration by the chairman and the chief executive officer of the statutory board whether the budget when implemented is likely to draw on the reserves which were not accumulated by the statutory board during the current term of office of the Government;

(b) present to the President for his approval every supplementary budget for its financial year together with a declaration referred to in paragraph (a) relating to such supplementary budget; and

(c) within 6 months after the close of that financial year, present to the President

(i) a full and particular audited statement showing the revenue received and expenditure incurred by the statutory board during that financial year;

(ii) as far as practicable, an audited statement of the assets and liabilities of the statutory board at the end of that financial year; and

(iii) a declaration by the chairman and the chief executive officer of the statutory board whether the statements referred to in subparagraphs (i) and (ii) show any drawing on the reserves which were not accumulated by the statutory board during the current term of office of the Government.

(2) The President, acting in his discretion, may refuse to approve any budget or supplementary budget of any such statutory board if, in his opinion, the budget is likely to draw on reserves which were not accumulated by the statutory board during the current term of office of the Government, except that if he approves any such budget notwithstanding his opinion that the budget is likely to so draw on those reserves, the President shall cause his opinion to be published in the Gazette.

(3) Where by the first day of the financial year of such statutory board the President has not approved its budget for that financial year, the statutory board

(a) shall, within 3 months of the first day of that financial year, present to the President a revised budget for that financial year together with the declaration referred to in clause (1); and

(b) may, pending the decision of the President,

- incur expenditure not exceeding one-quarter of the amount provided in the approved budget of the statutory board for the preceding financial year, and if the President does not approve the revised budget, the statutory board may during that financial year incur total expenditure not exceeding the amount provided in the approved budget of the statutory board for the preceding financial year; and the budget for the preceding financial year shall have effect as the approved budget for that financial year.
- (4) Any amount expended during a financial year under clause (3) (b) shall be included in any revised budget subsequently presented to the President under that clause for that financial year.
- (5) Nothing in this Article shall prevent the taking of any action by the Monetary Authority of Singapore in the management of the Singapore dollar; and a certificate under the hand of the chairman of the board of directors of the Monetary Authority of Singapore shall be conclusive evidence that any action was or was not taken for such purpose.
- (6) It shall be the duty of every statutory board and its chief executive officer to which this Article applies to inform the President of any proposed transaction of the statutory board which is likely to draw on the reserves accumulated by the statutory board prior to the current term of office of the Government.
- (7) Where the President has been so informed under clause (6) of any such proposed transaction, the President, acting in his discretion, may disapprove the proposed transaction, except that if he does not disapprove any such proposed transaction even though he is of the opinion that the proposed transaction is likely to draw on the reserves accumulated by the statutory board prior to the current term of office of the Government, the President shall cause his decision and opinion to be published in the Gazette.
- (8) Where after 30th November 1991 a statutory board is specified in Part I of the Fifth Schedule pursuant to an order made under Article 22A (4), any reference in this Article to the approved budget of a statutory board for the preceding financial year shall, in relation to the first mentioned statutory board, be read as a reference to the budget for the financial year of the first-mentioned statutory board during which that order was made.
- (9) For the purposes of this Article, a proposed transfer or transfer (whether by or under any written law or otherwise) by any statutory board to which this Article applies (referred to in this clause and clause (10) as the transferor board) of any of its reserves to
- (a) the Government;
 - (b) any Government company specified in Part II of the Fifth Schedule (referred to in this clause and clause (10) as the transferee company); or
 - (c) another such statutory board (referred to in this clause and clause (10) as the transferee board), shall not be taken into account in determining whether the reserves accumulated by the transferor board before the current term of office of the Government are likely to be or have been drawn on if
 - (i) in the case of a proposed transfer or transfer of reserves by a transferor board to the Government - the Minister responsible for finance undertakes in writing to add those reserves of the transferor board to the reserves accumulated by the Government before its current term of office;
 - (ii) in the case of a proposed transfer or transfer of reserves by a transferor board to a transferee company - the board of directors of the transferee company by resolution resolves that those reserves of the transferor board shall be added to the reserves accumulated by the transferee company before the current term of office of the Government; or
 - (iii) in the case of a proposed transfer or transfer of reserves by a transferor board to a transferee board - the transferee board by resolution resolves, or any written law provides, that those reserves of the transferor board shall be added to the reserves accumulated by the transferee board before the current term of office of the Government.
- (10) Any reserves transferred by a transferor board together with or under any undertaking, resolution or written law referred to in clause (9) shall be deemed to form part of the reserves accumulated by the Government, transferee company or (as the case may be) transferee board before the current term of office of the Government as follows:
- (a) where the budget of the transferor board for any financial year provides for the proposed transfer of reserves and the budget is approved by the President - at the beginning of that financial year;
 - (b) where a supplementary budget of the transferor board provides for the proposed transfer and the supplementary budget is approved by the President - on the date of such approval by the President; or
 - (c) in any other case - on the date those reserves are so transferred.

APPOINTMENT OF DIRECTORS OF GOVERNMENT COMPANIES

22C. (1) Notwithstanding the provisions of the memorandum and articles of association of the company, the appointment or removal of any person as a director or chief executive officer of any Government company to which this Article applies shall not be made unless the President, acting in his discretion, concurs with such appointment or removal.

(1A) Where the President, contrary to the recommendation of the Council of Presidential Advisers, refuses to concur with an appointment or removal of any person as a director or chief executive officer under clause (1), Parliament may, by resolution passed by not less than two-thirds of the total number of the elected Members of Parliament referred to in Article 39 (1) (a), overrule the decision of the President.

(1B) Upon the passing of a resolution under clause (1A), the President shall be deemed to have concurred with the appointment or removal of any person as a director or chief executive officer on the date of the passing of such resolution.

(2) (a) A director of a Government company to which this Article applies shall be appointed for a term not exceeding 3 years and shall be eligible for reappointment.

(b) Any appointment or removal of any director or chief executive officer of a Government company to which this Article applies without the concurrence of the President shall be void and of no effect.

(3) This Article shall apply to the Government companies specified in Part II of the Fifth Schedule.

(4) Subject to clause (5), the President acting in accordance with the advice of the Cabinet may, by order published in the Gazette, add any other Government company to Part II of the Fifth Schedule; and no Government company shall be removed from that Part by any such order.

(5) No Government company shall by order under clause (4) be added to Part II of the Fifth Schedule unless on the date of making of such order

(a) the value of the share holders' funds of the company attributable to the Government's interest in the company is worth \$100 million or more; and

(b) it is not a subsidiary of any of the Government companies specified in Part II of the Fifth Schedule; and for the purposes of this paragraph, "subsidiary"

shall have the same meaning as in the Companies Act (Cap. 50).

BUDGETS OF GOVERNMENT COMPANIES

22D. (1) The board of directors of every Government company to which Article 22C applies shall

(a) before the commencement of its financial year, present to the President for his approval its budget for that financial year, together with a declaration by the chairman of the board of directors and the chief executive officer of the Government company whether the budget when implemented is likely to draw on the reserves which were not accumulated by the Government company during the current term of office of the Government;

(b) present to the President for his approval every supplementary budget for its financial year together with a declaration referred to in paragraph (a) relating to such supplementary budget; and

(c) within 6 months after the close of that financial year, present to the President

(i) a full and particular audited profit and loss account showing the revenue collected and expenditure incurred by the Government company during that financial year, and an audited balance-sheet showing the assets and liabilities of the Government company at the end of that financial year; and

(ii) a declaration by the chairman of the board of directors and the chief executive officer of the Government company whether the audited profit and loss account and balance-sheet of the Government company show any drawing on the reserves which were not accumulated by the Government company during the current term of office of the Government.

(2) The President, acting in his discretion, may disapprove the budget or supplementary budget of any such Government company if, in his opinion, the budget is likely to draw on reserves which were not accumulated by that company during the current term of office of the Government, except that if he approves any such budget notwithstanding his opinion that the budget is likely to so draw on those reserves, the President shall cause his opinion to be published in the Gazette.

(3) Where by the first day of the financial year

of such Government company the President has not approved its budget for that financial year, the Government company

- (a) shall, within 3 months of the first day of that financial year, present to the President a revised budget for that financial year together with the declaration referred to in clause (1); and
- (b) may, pending the decision of the President, incur expenditure not exceeding one-quarter of the amount provided in the approved budget of the Government company for the preceding financial year, and if the President does not approve the revised budget, the Government company may during that financial year incur a total expenditure not exceeding the amount provided in the approved budget of the Government company for the preceding financial year; and the budget for the preceding financial year shall have effect as the approved budget for that financial year.
- (4) Any amount expended during a financial year under clause (3) (b) shall be included in any revised budget subsequently presented to the President under that clause for that financial year.
- (5) It shall be the duty of the board of directors and the chief executive officer of every Government company referred to in this Article to inform the President of any proposed transaction of the company which is likely to draw on the reserves accumulated by the company prior to the current term of office of the Government.
- (6) Where the President has been so informed under clause (5) of any such proposed transaction, the President, acting in his discretion, may disapprove the proposed transaction, except that if he does not disapprove any such proposed transaction even though he is of the opinion that the proposed transaction is likely to draw on the reserves accumulated by the Government company prior to the current term of office of the Government, the President shall cause his decision and opinion to be published in the Gazette.
- (7) Where after 30th November 1991 a Government company is specified in Part II of the Fifth Schedule pursuant to an order made under Article 22C (4), any reference in this Article to the approved budget of a Government company for the preceding financial year shall, in relation to the first-mentioned Government company, be read as a reference to the budget for the financial year of the first mentioned Government company immediately preceding the making of that order.
- (8) For the purposes of this Article, a proposed transfer or transfer by any Government company to which this Article applies (referred to in this clause and clause (9) as the transferor company) of any of its reserves to
- (a) the Government;
 - (b) any statutory board specified in Part I of the Fifth Schedule (referred to in this clause and clause (9) as the transferee board); or
 - (c) another such Government company (referred to in this clause and clause (9) as the transferee company), shall not be taken into account in determining whether the reserves accumulated by the transferor company before the current term of office of the Government are likely to be or have been drawn on if
 - (i) in the case of a proposed transfer or transfer of reserves by a transferor company to the Government - the Minister responsible for finance undertakes in writing to add those reserves of the transferor company to the reserves accumulated by the Government before its current term of office;
 - (ii) in the case of a proposed transfer or transfer of reserves by a transferor company to a transferee board - the transferee board by resolution resolves that those reserves of the transferor company shall be added to the reserves accumulated by the transferee board before the current term of office of the Government; or
 - (iii) in the case of a proposed transfer or transfer of reserves by a transferor company to a transferee company - the board of directors of the transferee company by resolution resolves that those reserves of the transferor company shall be added to the reserves accumulated by the transferee company before the current term of office of the Government.
- (9) Any reserves transferred by a transferor company together with or under any undertaking or resolution referred to in clause (8) shall be deemed to form part of the reserves accumulated by the Government, transferee board or (as the case may be) transferee company before the current term of office of the Government as follows:

- (a) where the budget of the transferor company for any financial year provides for the proposed transfer of reserves and the budget is approved by the President - at the beginning of that financial year;
- (b) where a supplementary budget of the transferor company provides for the proposed transfer of reserves and the supplementary budget is approved by the President - on the date of such approval by the President; or
- (c) in any other case - on the date those reserves are so transferred.

MONEYS OF THE CENTRAL PROVIDENT FUND

22E. The President, acting in his discretion, may withhold his assent to any Bill passed by Parliament which provides, directly or indirectly, for varying, changing or increasing the powers of the Central Provident Fund Board to invest the moneys belonging to the Central Provident Fund.

PRESIDENT'S ACCESS TO INFORMATION

- 22F. (1) In the exercise of his functions under this Constitution, the President shall be entitled, at his request, to any information concerning
- (a) the Government which is available to the Cabinet; and
 - (b) any statutory board or Government company to which Article 22A or 22C, as the case may be, applies which is available to the members of the statutory board or the directors of the Government company.
- (2) The President may request
- (a) any Minister, or any senior officer of a Ministry or of a department of the Government; or
 - (b) the chief executive officer and any member of the governing board of any statutory board or the directors of any Government company to which Article 22A or 22C, as the case may be, applies, to furnish any information referred to in clause (1) concerning the reserves of the Government, the statutory board or Government company, as the case may be, and the Minister, member, officer or director concerned shall be under a duty to provide the information.

CONCURRENCE OF PRESIDENT FOR CERTAIN INVESTIGATIONS

22G. Notwithstanding that the Prime Minister has refused to give his consent to the Director of the Corrupt Practices Investigation Bureau

to make any inquiries or to carry out any investigations into any information received by the Director touching upon the conduct of any person or any allegation or complaint made against any person, the Director may make such inquiries or carry out investigations into such information, allegation or complaint if the President, acting in his discretion, concurs therewith.

PRESIDENT MAY WITHHOLD ASSENT TO CERTAIN BILLS

- 22H. (1) The President may, acting in his discretion, in writing withhold his assent to any Bill (other than a Bill seeking to amend this Constitution), if the Bill or any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution.
- (2) The President, acting in accordance with the advice of the Cabinet, may pursuant to Article 100 (and whether before or after his assent has been withheld to a Bill under clause (1)), refer to a tribunal for its opinion the question whether the Bill or any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution; and where such a reference is made to the tribunal, Article 100 shall apply, with the necessary modifications, to that reference.
- (3) Where a reference is made to the tribunal and the tribunal is of the opinion that neither the Bill nor any provision therein provides, directly or indirectly, for the circumvention or curtailment of the discretionary powers conferred upon the President by this Constitution, the President shall be deemed to have assented to the Bill on the day immediately after the day of the pronouncement of the opinion of the tribunal in open court.
- (4) For the purposes of this Article, where, on the expiration of 30 days after a Bill has been presented to the President for his assent, the President has neither signified the withholding of his assent to the Bill nor referred the Bill to a tribunal pursuant to Article 100, the President shall be deemed to have assented to the Bill on the day immediately following the expiration of the said 30 days.

RESTRAINING ORDER UNDER MAINTENANCE OF RELIGIOUS HARMONY ACT

22I. The President, acting in his discretion, may cancel, vary, confirm or refuse to confirm a

restraining order made under the Maintenance of Religious Harmony Act (Cap. 167A) where the advice of the Cabinet is contrary to the recommendation of the Presidential Council for Religious Harmony.

CIVIL LIST AND PERSONAL STAFF OF PRESIDENT

- 22J. (1) The Legislature shall by law provide a Civil List for the maintenance of the President.
- (2) Any person exercising the functions of the office of President under Article 22N or 22O shall, during any period in which he exercises those functions, be entitled to such remuneration as the Legislature may by law provide.
- (3) The Civil List for the maintenance of the President or any person exercising the functions of the office of President shall be charged on and paid out of the Consolidated Fund and shall not be diminished during the continuance in office of the President or that person.
- (4) Subject to clause (5), the appointment, terms of service, disciplinary control, termination of appointment and dismissal of the personal staff of the President shall be matters for the President acting in his discretion.
- (5) The President may, if he so desires, appoint to his personal staff such public officers as he may select, after consultation with the Prime Minister, from a list of names submitted by the Public Service Commission; and the provisions of clause (4) (except in so far as they relate to appointment) shall apply in relation to a person so appointed as respects his service on the personal staff of the President but not as respects his service as a public officer.
- (6) The remuneration of the personal staff of the President, other than a person appointed under clause (5), shall be defrayed out of the Civil List for the maintenance of the President.

IMMUNITY OF PRESIDENT FROM SUIT

- 22K. (1) Except as provided in clause (4), the President shall not be liable to any proceedings whatsoever in any court in respect of anything done or omitted to be done by him in his official capacity.
- (2) No proceedings in any court in respect of anything done or omitted to be done by the President in his private capacity shall be instituted against him during his term of office.
- (3) Where provision is made by law limiting the time within which proceedings of any

description may be brought against any person, the period of time during which such person holds office as President shall not be taken into account in calculating any period of time prescribed by that law.

- (4) The immunity conferred by clause (1) shall not apply to
- (a) any inquiry held by a tribunal pursuant to a resolution passed by Parliament under Article 22L; or
- (b) any proceedings before the Election Judge under Article 93A to determine the validity of any Presidential election.

VACATION OF AND REMOVAL FROM OFFICE OF PRESIDENT

- 22L. (1) The office of President shall become vacant
- (a) upon the death of the President;
- (b) if the President resigns his office by writing under his hand addressed to the Prime Minister;
- (c) if the President is removed from office in accordance with clauses (3) to (7);
- (d) if the Election Judge in the exercise of his powers under Article 93A determines that the election of the President was void and does not determine that any other person was duly elected as President; or
- (e) if upon the expiration of the term of office of the incumbent the person declared elected as President fails to assume the office of President.
- (2) (Deleted by Act 17/94).
- (3) The Prime Minister or not less than one-quarter of the total number of the elected Members of Parliament referred to in Article 39 (1) (a) may give notice of a motion alleging that the President is permanently incapable of discharging the functions of his office by reason of mental or physical infirmity or that the President has been guilty of
- (a) intentional violation of the Constitution;
- (b) treason;
- (c) misconduct or corruption involving the abuse of the powers of his office; or
- (d) any offence involving fraud, dishonesty or moral turpitude, and setting out full particulars of the allegations made and seeking an inquiry and report thereon.
- (4) Where the motion referred to in clause (3) has been adopted by not less than half of the total number of the elected Members of Parliament referred to in Article 39 (1) (a), the Chief Justice shall appoint

a tribunal to inquire into the allegations made against the President.

- (5) A tribunal appointed by the Chief Justice shall consist of not less than 5 Judges of the Supreme Court of whom the Chief Justice shall be one, unless he otherwise decides and such tribunal may regulate its own procedure and make rules for that purpose.
- (6) A tribunal shall, after due inquiry at which the President shall have the right to appear and to be heard in person or by counsel, make a report of its determination to the Speaker together with the reasons therefor.
- (7) Where the tribunal reports to the Speaker that in its opinion the President is permanently incapable of discharging the functions of his office by reason of mental or physical infirmity or that the President has been guilty of any of the other allegations contained in such resolution, Parliament may by a resolution passed by not less than three-quarters of the total number of the elected Members of Parliament referred to in Article 39 (1) (a) remove the President from office.

DETERMINATION BY ELECTION JUDGE THAT PRESIDENT WAS NOT DULY ELECTED OR ELECTION OF PRESIDENT WAS VOID

- 22M.(1) Where the Election Judge in the exercise of his jurisdiction under Article 93A determines
- (a) that the election of the President was void and does not determine that any other person was duly elected, then, a poll for the election of the President shall be taken not later than 6 months from the date of the determination; or
 - (b) that any other person was duly elected as President, then, such other person shall assume the office of President forthwith after the determination.
- (2) Upon the Election Judge making any determination that the election of the President was void and no other person was duly elected as President, the person who immediately before such determination was exercising the functions of the office of President shall forthwith cease to exercise such functions.
 - (3) The exercise, performance and discharge by any person of the powers, duties and functions of the office of President shall not be invalid by reason only of the fact that the Election Judge subsequently determines that the election of such person as President was void or undue.

PERSONS TO EXERCISE FUNCTIONS OF PRESIDENT WHEN OFFICE IS VACANT

- 22N. (1) If the office of President becomes vacant, the Chairman of the Council of Presidential Advisers or, if he is unavailable, the Speaker shall exercise the functions of the office of President during the period between the date the office of President becomes vacant and the assumption of office by the person declared elected as President.
- (2) If neither the Chairman of the Council of Presidential Advisers nor the Speaker is available, Parliament may appoint a person in accordance with clause (3) to exercise the functions of the office of President during the period referred to in clause (1).
 - (3) Parliament shall not appoint any person to exercise the functions of the office of President under clause (2) unless the person is qualified to be elected as President.
 - (4) The provisions of this Chapter relating to immunity from suits shall apply in relation to any person exercising the functions of the office of President pursuant to this Article as if references to the President in those provisions were references to that person.
 - (5) Any person required or appointed to exercise the functions of the office of President pursuant to this Article or Article 22O shall, before exercising those functions, take and subscribe in the presence of the Chief Justice or another Judge of the Supreme Court the Oath of Office in the form set out in the First Schedule, except that neither the Chairman of the Council of Presidential Advisers nor the Speaker shall, during his term of office as such Chairman or as Speaker, be required to take such oath more than once in respect of occasions when he is required to exercise the functions of the office of President.

TEMPORARY DISABILITY OF PRESIDENT

- 22O. (1) Subject to clause (2), if the President becomes temporarily unable, whether by reason of ill-health, absence from Singapore or otherwise, to perform his functions under this Constitution or any other written law, one of the persons referred to in Article 22N shall exercise the functions of the office of President during the period of temporary disability, and the provisions of Article 22N shall apply, with the necessary modifications, to that person.

- (2) Parliament shall not appoint any person to exercise the functions of the office of President under this Article unless the President agrees to that person being so appointed.
- (3) Clause (2) shall not apply if the President is unable for any reason to signify his agreement to a person being appointed under this Article to exercise the functions of the office of President.

GRANT OF PARDON, ETC.

- 22P. (1) The President, as occasion shall arise, may, on the advice of the Cabinet
- (a) grant a pardon to any accomplice in any offence who gives information which leads to the conviction of the principal offender or any one of the principal offenders, if more than one;
 - (b) grant to any offender convicted of any offence in any court in Singapore, a pardon, free or subject to lawful conditions, or any reprieve or respite, either indefinite or for such period as the President may think fit, of the execution of any sentence pronounced on such offender; or
 - (c) remit the whole or any part of such sentence or of any penalty or forfeiture imposed by law.
- (2) Where any offender has been condemned to death by the sentence of any court and in the event of an appeal such sentence has been confirmed by the appellate court, the President shall cause the reports which are made to him by the Judge who tried the case and the Chief Justice or other presiding Judge of the appellate court to be forwarded to the Attorney General with instructions that, after the Attorney General has given his opinion thereon, the reports shall be sent, together with the Attorney General's opinion, to the Cabinet so that the Cabinet may advise the President on the exercise of the power conferred on him by clause (1).

EXECUTIVE AUTHORITY OF SINGAPORE

23. (1) The executive authority of Singapore shall be vested in the President and exercisable subject to the provisions of this Constitution by him or by the Cabinet or any Minister authorised by the Cabinet.
- (2) The Legislature may by law confer executive functions on other persons.

CABINET

24. (1) There shall be in and for Singapore a Cabinet which shall consist of the Prime Minister and such other Ministers as may be appointed in accordance with Article 25.

- (2) Subject to the provisions of this Constitution, the Cabinet shall have the general direction and control of the Government and shall be collectively responsible to Parliament.

APPOINTMENT OF PRIME MINISTER AND MINISTERS

25. (1) The President shall appoint as Prime Minister a Member of Parliament who in his judgment is likely to command the confidence of the majority of the Members of Parliament, and shall, acting in accordance with the advice of the Prime Minister, appoint other Ministers from among the Members of Parliament: Provided that, if an appointment is made while Parliament is dissolved, a person who was a Member of the last Parliament may be appointed but shall not continue to hold office after the first sitting of the next Parliament unless he is a Member thereof.
- (2) Appointments under this Article shall be made by the President by instrument under the public seal.

TENURE OF OFFICE OF PRIME MINISTER AND MINISTERS

26. (1) The President shall, by writing under the public seal, declare the office of Prime Minister vacant
- (a) if the Prime Minister resigns his office by writing under his hand addressed to the President; or
 - (b) if the President, acting in his discretion, is satisfied that the Prime Minister has ceased to command the confidence of a majority of the Members of Parliament: Provided that, before declaring the office of Prime Minister vacant under this paragraph, the President shall inform the Prime Minister that he is satisfied as aforesaid, and, if the Prime Minister so requests, the President may dissolve Parliament instead of making such a declaration.
- (2) A Minister, other than the Prime Minister, shall vacate his office
- (a) if his appointment to that office is revoked by the President, acting in accordance with the advice of the Prime Minister, by instrument under the public seal; or
 - (b) if he resigns his office by writing under his hand addressed to the President.
- (3) A person who has vacated his office as Minister may, if qualified, be again appointed as Minister from time to time.

- (4) (a) Whenever the Prime Minister is ill or absent from Singapore or has been granted leave of absence from his duties under Article 32, the functions conferred on him by this Constitution shall be exercisable by any other Minister authorised by the President, by instrument under the public seal, in that behalf.
- (b) The President may, by instrument under the public seal, revoke any authority given under this clause.
- (c) The powers conferred upon the President by this clause shall be exercised by him acting in his discretion, if in his opinion it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, and in any other case shall be exercised by the President in accordance with the advice of the Prime Minister.

OATH

27. The Prime Minister and every other Minister shall, before entering on the duties of his office, take and subscribe before the President the Oath of Allegiance and the appropriate Oath for the due execution of his office in the forms set out in the First Schedule.

SUMMONING OF AND PRESIDING IN CABINET

28. (1) The Cabinet shall not be summoned except by the authority of the Prime Minister.
- (2) The Prime Minister shall, so far as is practicable, attend and preside at meetings of the Cabinet and, in his absence, such other Minister shall preside as the Prime Minister shall appoint.

VALIDITY OF PROCEEDINGS IN CABINET

29. Any proceedings in the Cabinet shall be valid notwithstanding that some person who was not entitled to do so sat or voted therein or otherwise took part in the proceedings.

ASSIGNMENT OF RESPONSIBILITY TO MINISTERS

30. (1) The Prime Minister may, by directions in writing
- (a) charge any Minister with responsibility for any department or subject; and
- (b) revoke or vary any directions given under this clause.
- (2) The Prime Minister may retain in his charge any department or subject.

PARLIAMENTARY SECRETARIES

31. (1) The President, acting in accordance with the advice of the Prime Minister, may

by instrument under the public seal, appoint Parliamentary Secretaries from among the Members of Parliament to assist Ministers in the discharge of their duties and functions:

Provided that, if an appointment is made while Parliament is dissolved, a person who was a Member of the last Parliament may be appointed a Parliamentary Secretary but shall not continue to hold office after the first sitting of the next Parliament unless he is a Member thereof.

- (2) Article 26 (2) and (3) and Article 27 shall apply to Parliamentary Secretaries as they apply to Ministers.

LEAVE OF ABSENCE FOR MINISTERS AND PARLIAMENTARY SECRETARIES

32. The President, acting in accordance with the advice of the Prime Minister, may grant leave of absence from his duties to the Prime Minister, to any other Minister and to any Parliamentary Secretary.

DISABILITIES OF MINISTERS AND PARLIAMENTARY SECRETARIES

33. A member of the Cabinet or Parliamentary Secretary shall not hold any office of profit and shall not actively engage in any commercial enterprise.

PERMANENT SECRETARIES

34. (1) There shall be for each Ministry one or more Permanent Secretaries who shall be persons who are public officers.
- (2) (a) Appointments to the office of Permanent Secretary shall be made by the President, acting in accordance with the advice of the Prime Minister, from a list of names submitted by the Public Service Commission.
- (b) The responsibility for the allocation of each Permanent Secretary to a Ministry shall be vested in the Prime Minister.
- (3) Every Permanent Secretary shall, subject to the general direction and control of the Minister, exercise supervision over the department or departments to which he is allocated.

ATTORNEY GENERAL

35. (1) The office of Attorney General is hereby constituted and appointments thereto shall be made by the President, if he, acting in his discretion, concurs with the advice of the Prime Minister, from among persons who are qualified for appointment as a Judge of the Supreme Court.
- (2) When it is necessary to make an appointment to the office of Attorney

General otherwise than by reason of the death of the holder of that office or his removal from office under clause (6), the Prime Minister shall, before tendering advice to the President under clause (1), consult the person holding the office of Attorney General or, if that office is then vacant, the person who has last vacated it, and the Prime Minister shall, in every case, before tendering such advice, consult the Chief Justice and the Chairman of the Public Service Commission.

- (3) The Prime Minister shall not be obliged to consult any person under clause (2) if he is satisfied that by reason of the infirmity of body or mind of that person or for any other reason it is impracticable to do so.
- (4) The Attorney General may be appointed for a specific period and, if he was so appointed, shall, subject to clause (6), vacate his office (without prejudice to his eligibility for reappointment) at the expiration of that period, but, subject as aforesaid, shall otherwise hold office until he attains the age of 60 years:
Provided that
- (a) he may at any time resign his office by writing under his hand addressed to the President; and
- (b) the President, if he, acting in his discretion, concurs with the advice of the Prime Minister, may permit an Attorney General who has attained the age of 60 years to remain in office for such fixed period as may have been agreed between the Attorney General and the Government.
- (5) Nothing done by the Attorney General shall be invalid by reason only that he has attained the age at which he is required by this Article to vacate his office.
- (6) (a) The Attorney General may be removed from office by the President, if he, acting in his discretion, concurs with the advice of the Prime Minister, but the Prime Minister shall not tender such advice except for inability of the Attorney General to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and except with the concurrence of a tribunal consisting of the Chief Justice and 2 other Judges of the Supreme Court nominated for that purpose by the Chief Justice.
- (b) The tribunal constituted under this clause shall regulate its own procedure and may make rules for that purpose.
- (7) It shall be the duty of the Attorney General to advise the Government upon

such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President or the Cabinet and to discharge the functions conferred on him by or under this Constitution or any other written law.

- (8) The Attorney General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence.
- (9) In the performance of his duties, the Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal in Singapore.
- (10) The Attorney General shall be paid such remuneration and allowances as may from time to time be determined and such remuneration and allowances shall be charged on and paid out of the Consolidated Fund.
- (11) Subject to this Article, the terms of service of the Attorney General shall either
- (a) be determined by or under any law made under this Constitution; or
- (b) (in so far as they are not determined by or under any such law) be determined by the President.
- (12) The terms of service of the Attorney General shall not be altered to his disadvantage during his continuance in office.
- (13) For the purposes of clause (12), in so far as the terms of service of the Attorney General depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

SECRETARY TO CABINET

36. (1) The President, acting in accordance with the advice of the Prime Minister, may appoint a public officer to be the Secretary to the Cabinet.
- (2) The Secretary to the Cabinet shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the Prime Minister may from time to time direct.

CAPACITY OF GOVERNMENT AS REGARDS PROPERTY, CONTRACTS AND SUITS

37. (1) The Government shall have power to acquire, hold and dispose of property of

any kind and to make contracts.

- (2) The Government may sue and be sued.

INTERPRETATION OF THIS PART

37A. In this Part, unless the context otherwise requires

“Chairman” means the Chairman of the Council;

“Council” means the Council of Presidential Advisers constituted under Article 37B;

“member” means a member of the Council and includes the Chairman and any alternate member appointed under Article 37C.

COUNCIL OF PRESIDENTIAL ADVISERS

37B. (1) There shall be a Council of Presidential Advisers which shall consist of

- (a) 2 members appointed by the President acting in his discretion;
 - (b) 2 members appointed by the President on the advice of the Prime Minister;
 - (c) one member appointed by the President on the advice of the Chief Justice; and
 - (d) one member appointed by the President on the advice of the Chairman of the Public Service Commission.
- (2) The President, acting in his discretion, shall appoint one of the members of the Council as Chairman.
- (3) A member of the Council shall be appointed for 6 years on his first appointment and shall cease to be such a member at the end of that term but without prejudice to his eligibility for re-appointment for such further terms of 4 years each.
- (4) When the Chairman exercises the functions of the office of the President under Article 22N or 22O, he
- (a) shall not act as the Chairman during the period he so exercises the functions of the office of President; and
 - (b) shall not take part in any proceedings of the Council during that period.
- (5) Where the Chairman is temporarily unable, whether by illness, absence or any other reason (including disqualification under clause (4)), to take part in any proceedings of the Council for any period
- (a) he shall appoint a member (not being an alternate member) of the Council to act as Chairman for that period; and
 - (b) the alternate member selected under Article 37C (3) to act in place of the member referred to in paragraph (a) shall perform that member’s functions during that same period.

ALTERNATE MEMBERS

37C. (1) The President may, in accordance with this Article, appoint persons to be alternate members to act in place of members (other than the Chairman) appointed under Article 37B (1) while any such member is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council, or is appointed under Article 37B (5) (a) to act as the Chairman.

- (2) For the purposes of making an appointment under clause (1), the President
- (a) shall, acting in his discretion, appoint one person as an alternate member; and
 - (b) shall request that the Prime Minister, after consulting the Chief Justice and the Chairman of the Public Service Commission, nominate one other person to be an alternate member, and upon such nomination, shall appoint the person so nominated as another alternate member.
- (3) Whenever any member appointed under Article 37B (1) (other than the Chairman)
- (a) is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council; or
 - (b) is appointed under Article 37B (5) (a) to act as the Chairman, an alternate member to act in place of that member shall be selected from among the persons appointed under clause (2)
 - (i) by the President, acting in his discretion, if the member concerned is any of the 2 members appointed under Article 37B (1) (a);
 - (ii) by the Prime Minister, if the member concerned is any of the 2 members appointed under Article 37B (1) (b); or
 - (iii) by the Chief Justice or Chairman of the Public Service Commission, as the case may be, if the member concerned is a member appointed under Article 37B (1) (c) or (d), respectively.
- (4) A person may be appointed to be an alternate member under clause (2) if, and only if, the person is qualified under Article 37D and not disqualified under Article 37E.
- (5) Every alternate member shall be appointed under clause (2) for a term of 4 years, and shall hold office as such for such a term unless the alternate member earlier
- (a) resigns in writing addressed to the Chairman;

- (b) ceases to be a citizen of Singapore; or
 - (c) becomes subject to any disqualification referred to in Article 37E.
- (6) The alternate member who is selected under clause (3) to act in place of a member shall act in place of and perform the functions of the member (but not as the Chairman) only when the member is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council, or is appointed under Article 37B (5) (a) to act as the Chairman, and the alternate member
- (a) may act in place of and perform the functions of the member in relation to any matter, even though that member is disqualified in relation to that matter; and
 - (b) while so acting, shall have and may exercise all the powers and duties of that member.
- (7) The appointment of a person as an alternate member may be terminated at any time by the President
- (a) acting in his discretion, if the alternate member is appointed under clause (2) (a); or
 - (b) acting on the advice of the Prime Minister (which shall be given only after consulting with the Chief Justice and the Chairman of the Public Service Commission), if the alternate member is appointed under clause (2) (b) on the nomination of the Prime Minister.

QUALIFICATIONS OF MEMBERS

- 37D. No person shall be qualified to be appointed as a member unless he
- (a) is a citizen of Singapore;
 - (b) is not less than 35 years of age;
 - (c) is a resident of Singapore; and
 - (d) is not liable to any of the disqualifications referred to in Article 37E.

DISQUALIFICATIONS OF MEMBERS

- 37E. A person shall be disqualified for appointment as a member if he
- (a) is or has been found or declared to be of unsound mind;
 - (b) is insolvent or an undischarged bankrupt; or
 - (c) has been convicted of an offence by a court of law in Singapore or a foreign country and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000 and has not received a free pardon:

Provided that where the conviction is by a court in a foreign country, the person shall not be so disqualified unless the offence is also one which, had it been committed in Singapore, would have been punishable by a court of law in Singapore.

TERMINATION OF MEMBERSHIP

- 37F.(1) The Chairman shall vacate the office of Chairman of the Council when a newly elected President assumes office during the term of appointment of the Chairman.
- (2) A member shall vacate his seat in the Council
- (a) if he ceases to be a citizen of Singapore;
 - (b) if, by writing under his hand addressed to the Chairman, he resigns his seat; or
 - (c) if he becomes subject to any of the disqualifications referred to in Article 37E.

DETERMINATION OF QUESTIONS AS TO MEMBERSHIP

- 37G.(1) Any question as to the validity of the appointment of a member or whether any person has vacated his seat as a member of the Council shall be referred to and determined by a tribunal consisting of a Judge of the Supreme Court appointed by the Chief Justice and 2 other persons appointed by the Council.
- (2) Any tribunal constituted under clause (1) shall
- (a) sit in private;
 - (b) afford the person concerned adequate opportunity to call witnesses and be heard; and
 - (c) report its decision to the Chairman.
- (3) The decision of the tribunal shall be final and shall not be questioned in any court.

OATHS OF ALLEGIANCE AND SECRECY

- 37H.(1) Before any person who has been appointed Chairman or a member enters upon the duties of his office, he shall take and subscribe before a Judge of the Supreme Court the Oath of Allegiance and the Oath of Secrecy in the forms set out respectively in paragraphs 2 and 8 in the First Schedule.
- (2) Clause (1) shall also apply where an alternate member appointed under Article 37C is selected under Article 37C (3) to act in place of and perform the functions of a member appointed under Article 37B (1), except that an alternate member need not be required, during his term of office as an alternate member, to take such an oath more than once in respect

of the occasions when he is so selected to act.

FUNCTION OF COUNCIL

37I. It shall be the function of the Council to advise and make recommendations to the President on any matter referred to the Council by the President under Article 21 (3) or (4).

PROCEEDINGS OF COUNCIL

37J.(1) The proceedings of the Council shall be conducted in private and the Council may require any public officer or any officer of any statutory board or Government company to appear before the Council and to give such information in relation to any matter referred to the Council by the President under Article 21 (3) or (4) and such officer shall not disclose or divulge to any person any matter which has arisen at any meeting of the Council unless he is expressly authorised to do so by the President.

(2) In advising or making recommendations to the President in relation to any Supply Bill, Supplementary Supply Bill or Final Supply Bill, the Council shall state

(a) whether its advice or recommendation is unanimous or the number of votes for and against it; and

(b) where the Council advises or recommends to the President to withhold his assent to any Supply Bill, Supplementary Supply Bill or Final Supply Bill, the grounds on which the Council reached its conclusion.

(2A) In advising or making any recommendation to the President in relation to the appointment or revocation of appointment of any person to any office referred to in Article 22, 22A or 22C, the Council shall state whether its advice or recommendation is unanimous or the number of votes for and against it.

(2B) A decision at a meeting of the Council shall be adopted by a simple majority of the members present and voting, except that in the case of an equality of votes, the Chairman or the member presiding shall have a casting vote in addition to his original vote.

(3) Subject to the provisions of this Constitution, the Council may make rules with respect to the regulation and conduct of its proceedings and the despatch of its business (including any quorum) but no such rules shall have effect until they have been approved by the President.

COUNCIL TO REPORT TO PRIME MINISTER AND PARLIAMENT

37K. The Council shall, as soon as practicable after advising or making any recommendation to the President in relation to a Supply Bill, Supplementary Supply Bill or Final Supply Bill, or in relation to the appointment or revocation of appointment of a person to any office referred to in Article 22, 22A or 22C, send a copy of the advice or recommendation to

(a) the Prime Minister; and

(b) the Speaker who shall cause the copy to be presented to Parliament as soon as possible.

FEES

37L.(1) There shall be paid to the Chairman and the other members of the Council such fees as may be determined by the President.

(2) The fees payable under clause (1) shall be charged on and paid out of the Consolidated Fund and shall not be diminished during the continuance in office of the Chairman and the members of the Council.

APPOINTMENT OF STAFF

37M. The Council shall have power to appoint a Secretary to the Council and such other officers as may be required to enable the Council to carry out its functions.

LEGISLATURE OF SINGAPORE

38. The legislative power of Singapore shall be vested in the Legislature which shall consist of the President and Parliament.

PARLIAMENT

39.(1) Parliament shall consist of

(a) such number of elected Members as is required to be returned at a general election by the constituencies prescribed by or under any law made by the Legislature;

(b) such other Members, not exceeding 6 in number, who shall be known as non-constituency Members, as the Legislature may provide in any law relating to Parliamentary elections to ensure the representation in Parliament of a minimum number of Members from a political party or parties not forming the Government; and

(c) such other Members not exceeding 9 in number, who shall be known as nominated Members, as may be appointed by the President in accordance with the provisions of the Fourth Schedule.

(2) A non-constituency Member or a

- nominated Member shall not vote in Parliament on any motion pertaining to
- (a) a Bill to amend the Constitution;
 - (b) a Supply Bill, Supplementary Supply Bill or Final Supply Bill;
 - (c) a Money Bill as defined in Article 68;
 - (d) a vote of no confidence in the Government; and
 - (e) removing the President from office under Article 22L.
- (3) In this Article and in Articles 39A and 47, a constituency shall be construed as an electoral division for the purposes of Parliamentary elections.
- (4) If any person who is not a Member of Parliament is elected as Speaker or Deputy Speaker, he shall, by virtue of holding the office of Speaker or Deputy Speaker, be a Member of Parliament in addition to the Members aforesaid, except for the purposes of Chapter 2 of Part V and of Article 46.

GROUP REPRESENTATION CONSTITUENCIES

- 39A. (1) The Legislature may, in order to ensure the representation in Parliament of Members from the Malay, Indian and other minority communities, by law make provision for
- (a) any constituency to be declared by the President, having regard to the number of electors in that constituency, as a group representation constituency to enable any election in that constituency to be held on a basis of a group of not less than 3 but not more than 6 candidates; and
 - (b) the qualifications, in addition to those in Article 44, of persons who may be eligible for any election in group representation constituencies, including the requirements referred to in clause (2).
- (2) Any law made under clause (1) shall provide for
- (a) the President to designate every group representation constituency
 - (i) as a constituency where at least one of the candidates in every group shall be a person belonging to the Malay community; or
 - (ii) as a constituency where at least one of the candidates in every group shall be a person belonging to the Indian or other minority communities;
 - (b) the establishment of
 - (i) a committee to determine whether a person desiring to be a candidate belongs to the Malay community; and

- (ii) a committee to determine whether a person desiring to be a candidate belongs to the Indian or other minority communities, for the purpose of any election in group representation constituencies;
 - (c) all the candidates in every group to be either members of the same political party standing for election for that political party or independent candidates standing as a group;
 - (d) the minimum and maximum number of Members to be returned by all group representation constituencies at a general election; and
 - (e) the number of group representation constituencies to be designated under paragraph (a) (i).
- (3) No provision of any law made pursuant to this Article shall be invalid on the ground of inconsistency with Article 12 or be considered to be a differentiating measure under Article 78.
- (4) In this Article
- “election” means an election for the purpose of electing a Member of Parliament;
- “group” means a group of not less than 3 but not more than 6 candidates nominated for any election in any group representation constituency;
- “person belonging to the Malay community” means any person, whether of the Malay race or otherwise, who considers himself to be a member of the Malay community and who is generally accepted as a member of the Malay community by that community;
- “person belonging to the Indian or other minority communities” means any person of Indian origin who considers himself to be a member of the Indian community and who is generally accepted as a member of the Indian community by that community, or any person who belongs to any minority community other than the Malay or Indian community.

SPEAKER

40. (1) When Parliament first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be Speaker, and, whenever the office of Speaker is vacant otherwise than by reason of a dissolution of Parliament, shall not transact any business other than the election of a person to fill that office.
- (2) The Speaker may be elected, in such manner as Parliament may from time

to time decide, either from among the Members of Parliament who are neither Ministers nor Parliamentary Secretaries or from among persons who are not Members of Parliament:

Provided that a person who is not a Member of Parliament shall not be elected as Speaker if, under any of the provisions of this Constitution, he is not qualified for election as a Member of Parliament.

- (3) Upon the Speaker being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with Article 61) take and subscribe before Parliament the Oath of Allegiance in the form set out in the First Schedule.
- (4) The Speaker may at any time resign his office by writing under his hand addressed to the Clerk of Parliament, and shall vacate his office
 - (a) when Parliament first meets after a general election;
 - (b) in the case of a Speaker elected from among the Members of Parliament, if he ceases to be a Member of Parliament otherwise than by reason of a dissolution thereof or if he is appointed to be a Minister or a Parliamentary Secretary; or
 - (c) in the case of a Speaker elected from among persons who are not Members of Parliament, if any circumstance arises that, if he had been elected to a seat in Parliament, would cause him to vacate his seat by virtue of Article 46 (2) (a) or (e).

REMUNERATION OF SPEAKER

41. The Speaker shall be paid such salary as Parliament may from time to time determine, and that salary, which is hereby charged on the Consolidated Fund, shall not be diminished during his continuance in office.

PERFORMANCE OF FUNCTIONS OF SPEAKER

43. The functions conferred by this Constitution upon the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from a sitting of Parliament or is otherwise unable to perform those functions, be performed by a Deputy Speaker, or if there be no Deputy Speaker or if he is likewise absent or unable to perform those functions, by some other person to be elected by Parliament for the purpose.

QUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT

44. (1) Members of Parliament shall be persons qualified for election or for appointment in accordance with the provisions of this Constitution and elected in the manner provided by or under any law for the time being in force in Singapore or appointed in accordance with the provisions of the Fourth Schedule.
- (2) A person shall be qualified to be elected or appointed as a Member of Parliament if
 - (a) he is a citizen of Singapore;
 - (b) he is of the age of 21 years or above on the day of nomination;
 - (c) his name appears in a current register of electors;
 - (d) he is resident in Singapore at the date of his nomination for election and has been so resident for periods amounting in the aggregate to not less than 10 years prior to that date;
 - (e) he is able, with a degree of proficiency sufficient to enable him to take an active part in the proceedings of Parliament, to speak and, unless incapacitated by blindness or other physical cause, to read and write at least one of the following languages, that is to say, English, Malay, Mandarin and Tamil; and
 - (f) he is not disqualified from being a Member of Parliament under Article 45.
- (3) Any question whether any person possesses the qualifications mentioned in clause (2) (e) shall be determined in such manner as may be prescribed by or under any law for the time being in force in Singapore or, in so far as not so prescribed, as may be provided by order made by the President and published in the Gazette.

DISQUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT

45. (1) Subject to this Article, a person shall not be qualified to be a Member of Parliament who
 - (a) is and has been found or declared to be of unsound mind;
 - (b) is an undischarged bankrupt;
 - (c) holds an office of profit;
 - (d) having been nominated for election to Parliament or the office of President or having acted as election agent to a person so nominated, has failed to lodge any return of election expenses required by law within the time and in the manner so required;

- (e) has been convicted of an offence by a court of law in Singapore or Malaysia and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000 and has not received a free pardon:
 Provided that where the conviction is by a court of law in Malaysia, the person shall not be so disqualified unless the offence is also one which, had it been committed in Singapore, would have been punishable by a court of law in Singapore;
- (f) has voluntarily acquired the citizenship of, or exercised rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country; or
- (g) is disqualified under any law relating to offences in connection with elections to Parliament or the office of President by reason of having been convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence.
- (2) The disqualification of a person under clause (1) (d) or (e) may be removed by the President and shall, if not so removed, cease at the end of 5 years beginning from the date on which the return mentioned in clause (1) (d) was required to be lodged or, as the case may be, the date on which the person convicted as mentioned in clause (1) (e) was released from custody or the date on which the fine mentioned in clause (1) (e) was imposed on such person; and a person shall not be disqualified under clause (1) (f) by reason only of anything done by him before he became a citizen of Singapore.
- (3) In clause (1) (f), "foreign country" does not include any part of the Commonwealth or the Republic of Ireland.
- (c) if, by writing under his hand addressed to the Speaker, he resigns his seat in Parliament;
- (d) if during 2 consecutive months in each of which sittings of Parliament (or any committee of Parliament to which he has been appointed) are held, he is absent from all such sittings without having obtained from the Speaker before the termination of any such sitting permission to be or to remain absent therefrom;
- (e) if he becomes subject to any of the disqualifications specified in Article 45;
- (f) if he is expelled from Parliament in the exercise of its power of expulsion; or
- (g) if being a nominated Member, his term of service as such a Member expires.
- (2A) A non-constituency Member of Parliament shall vacate his seat as such a Member if he is subsequently elected as a Member of Parliament for any constituency.
- (2B) A nominated Member of Parliament shall vacate his seat as such a Member
- (a) if he stands as a candidate for any political party in an election; or
- (b) if, not being a candidate referred to in paragraph (a), he is elected as a Member of Parliament for any constituency.
- (3) Any person whose seat in Parliament has become vacant may, if qualified, again be elected or appointed as a Member of Parliament from time to time.
- (4) If any Member of Parliament becomes subject to any disqualification specified in Article 45 (1) (a), (b), (e) or (g) because he is
- (a) adjudged or otherwise declared a bankrupt;
- (b) adjudged or otherwise declared to be of unsound mind;
- (c) convicted of an offence by a court of law in Singapore or Malaysia and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000; or
- (d) convicted or is proven guilty of an act constituting any offence in connection with elections to Parliament, and it is open to the Member to appeal against the decision (either with the leave of the court or other authority or without such leave), the Member shall immediately cease to be entitled to sit or vote in Parliament or any committee thereof but, subject to clauses (6) and (7), he shall not vacate his seat until the end of a

TENURE OF OFFICE OF MEMBERS

46. (1) Every Member of Parliament shall cease to be a Member at the next dissolution of Parliament after he has been elected or appointed, or previously thereto if his seat becomes vacant, under the provisions of this Constitution.
- (2) The seat of a Member of Parliament shall become vacant
- (a) if he ceases to be a citizen of Singapore;
- (b) if he ceases to be a member of, or is expelled or resigns from, the political party for which he stood in the election;

period of 180 days beginning with the date of the adjudication, declaration or conviction, as the case may be.

- (5) A Member of Parliament shall vacate his seat if, at the end of the period of 180 days referred to in clause (4), he continues to be subject to any disqualification specified in Article 45 (1) (a), (b), (e) or (g).
- (6) Notwithstanding clause (5), where on the determination of any such appeal the Member of Parliament continues to be subject to any disqualification specified in Article 45 (1) (a) or (b) and
 - (a) no further appeal is open to him; or
 - (b) by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason it ceases to be open for the Member to appeal, the Member shall then immediately vacate his seat even if the period of 180 days has not lapsed.
- (7) Where, at any time before the end of the period of 180 days referred to in clause (4), the Member of Parliament ceases to be subject to any disqualification specified in Article 45 (1) (a), (b), (e) or (g) by reason of any pardon, any final determination of an appeal or otherwise, he shall be entitled to resume sitting or voting in Parliament or any committee thereof on the day immediately after he ceases to be so disqualified.
- (8) For the avoidance of doubt, clauses (4) to (7)
 - (a) shall not apply for the purpose of any nomination, election or appointment to be a Member of Parliament, and any disqualifying event referred to in Article 45 shall take effect immediately on the occurrence of the event for the purposes of such nomination, election or appointment; and
 - (b) shall not operate to extend the term of service of a nominated Member beyond the period prescribed in the Fourth Schedule.

PROVISION AGAINST DOUBLE MEMBERSHIP

47. A person shall not be at the same time a Member of Parliament for more than one constituency.

DECISION ON QUESTIONS AS TO DISQUALIFICATION

48. Any question whether
- (a) any Member of Parliament has vacated his seat therein; or
 - (b) in the case of any person who has been elected as Speaker or Deputy Speaker from

among persons who are not Members of Parliament, any circumstance has arisen that, if he had been elected to a seat in Parliament, would cause him to vacate his seat by virtue of Article 46 (2) (a) or (e), shall be determined by Parliament whose decision shall be final:

Provided that this Article shall not be taken to prevent the practice of Parliament postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

FILLING OF VACANCIES

49. (1) Whenever the seat of a Member, not being a non-constituency Member, has become vacant for any reason other than a dissolution of Parliament, the vacancy shall be filled by election in the manner provided by or under any law relating to Parliamentary elections for the time being in force.
- (2) The Legislature may by law provide for
 - (a) the vacating of a seat of a non-constituency Member in circumstances other than those specified in Article 46;
 - (b) the filling of vacancies of the seats of non-constituency Members where such vacancies are caused otherwise than by a dissolution of Parliament.

PENALTY FOR UNQUALIFIED PERSONS SITTING OR VOTING IN PARLIAMENT

50. (1) Any person who sits or votes in Parliament, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding \$200 for each day on which he so sits or votes.
- (2) The said penalty shall be recoverable by action in the High Court at the suit of the Attorney General.

STAFF OF PARLIAMENT

51. (1) The staff of Parliament shall consist of a Clerk of Parliament and such other officers as may from time to time be appointed under Part IX to assist him.
- (2) The Clerk of Parliament shall be appointed by the President after consultation with the Speaker and the Public Service Commission.
- (3) The Clerk of Parliament may at any time resign his office by writing under his hand addressed to the Speaker and, subject to clause (4), may be removed from office by the President after consultation with the Speaker.

- (4) The Clerk of Parliament shall not be removed from office under clause (3) unless Parliament, by a resolution which has received the affirmative votes of not less than two-thirds of all the Members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.
- (5) The staff of Parliament shall not be eligible for promotion or transfer to any other office in the public service without the consent of the Speaker.
- (6) Subject to Article 159, the terms of service of the staff of Parliament may be determined by Parliament after receiving the advice of a Commission consisting of the following persons, that is to say:
 - (a) the Speaker, as Chairman;
 - (b) not more than 3 Ministers nominated by the Prime Minister, of whom one shall be the Minister responsible for finance; and
 - (c) a member of the Public Service Commission.

STANDING ORDERS

52. Subject to the provisions of this Constitution, Parliament may, from time to time, make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business.

USE OF LANGUAGES IN PARLIAMENT

53. Until the Legislature otherwise provides, all debates and discussions in Parliament shall be conducted in Malay, English, Mandarin or Tamil.

PRESIDING IN PARLIAMENT

54. The Speaker shall preside at each sitting of Parliament.

VALIDITY OF PROCEEDINGS OF PARLIAMENT

55. Parliament shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof, including any vacancy not filled when Parliament is first constituted or is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in Parliament or otherwise took part in the proceedings.

QUORUM

56. If objection is taken by any Member present that there are present (besides the Speaker or other Member presiding) fewer than one-quarter of the total number of Members and, after such interval as may be prescribed in the

Standing Orders of Parliament, the Speaker or other Member presiding ascertains that the number of Members present is still less than one-quarter of the total number of Members, he shall thereupon adjourn Parliament.

VOTING

57. (1) Subject to this Constitution, all questions proposed for decision in Parliament shall be determined by a majority of the votes of the Members present and voting; and if, upon any question before Parliament, the votes of the Members are equally divided, the motion shall be lost.
- (2) If the Speaker has been elected from among persons who are not Members of Parliament, he shall not vote, but subject to this provision, the Speaker or other person presiding shall have an original vote but no casting vote.

EXERCISE OF LEGISLATIVE POWER

58. (1) Subject to the provisions of Part VII, the power of the Legislature to make laws shall be exercised by Bills passed by Parliament and assented to by the President.
- (2) A Bill shall become law on being assented to by the President and such law shall come into operation on the date of its publication in the Gazette or, if it is enacted either in such law or in any other law for the time being in force in Singapore that it shall come into operation on some other date, on that date.

INTRODUCTION OF BILLS

59. (1) Subject to the provisions of this Constitution and of Standing Orders of Parliament, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, Parliament, and the same shall be debated and disposed of according to the Standing Orders of Parliament.
- (2) A Bill or an amendment making provision (directly or indirectly) for
 - (a) imposing or increasing any tax or abolishing, reducing or remitting any existing tax;
 - (b) the borrowing of money, or the giving of any guarantee, by the Government, or the amendment of the law relating to the financial obligations of the Government;
 - (c) the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition or alteration of any such charge;
 - (d) the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not

charged thereon, or any increase in the amount of such a payment, issue or withdrawal; or

- (e) the receipt of any moneys on account of the Consolidated Fund or the custody or issue of such moneys, being provision as respects which the Minister responsible for finance signifies that it goes beyond what is incidental only and not of a substantial nature having regard to the purposes of the Bill or amendment, shall not be introduced or moved except on the recommendation of the President signified by a Minister.

- (3) A Bill or an amendment shall not be deemed to make provision for any of the said matters by reason only that it provides for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee or a fee or charge for any service rendered.

WORDS OF ENACTMENT OF LAWS

60. In every Bill presented for assent, the words of enactment shall be as follows:

“Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:” .

OATH OF ALLEGIANCE

61. No Member of Parliament shall be permitted to take part in the proceedings thereof (other than proceedings necessary for the purpose of this Article) until he has taken and subscribed before Parliament the Oath of Allegiance in the form set out in the First Schedule:

Provided that the election of a Speaker may take place before the Members of Parliament have taken and subscribed such Oath.

ADDRESS BY PRESIDENT

62. The President may address Parliament and may send messages thereto.

PRIVILEGES OF PARLIAMENT

63. It shall be lawful for the Legislature by law to determine and regulate the privileges, IMMUNITIES OR POWERS OF PARLIAMENT.

SESSIONS OF PARLIAMENT

64. (1) There shall be a session of Parliament once at least in every year and a period of 6 months shall not intervene between the last sitting of Parliament in any one session and the first sitting thereof in the next session.

- (2) The sessions of Parliament shall be held in such places and shall commence at such times as the President may, from time to time, by Proclamation in the Gazette, appoint.

PROROGATION AND DISSOLUTION OF PARLIAMENT

65. (1) The President may, at any time, by Proclamation in the Gazette, prorogue Parliament.

- (2) If, at any time, the office of Prime Minister is vacant, the President shall, by Proclamation in the Gazette, dissolve Parliament as soon as he is satisfied, acting in his discretion, that a reasonable period has elapsed since that office was last vacated and that there is no Member of Parliament likely to command the confidence of a majority of the Members thereof.

- (3) The President may, at any time, by Proclamation in the Gazette, dissolve Parliament if he is advised by the Prime Minister to do so, but he shall not be obliged to act in this respect in accordance with the advice of the Prime Minister unless he is satisfied that, in tendering that advice, the Prime Minister commands the confidence of a majority of the Members of Parliament.

(3A) The President shall not dissolve Parliament after a notice of motion proposing an inquiry into the conduct of the President has been given under Article 22L (3) unless

- (a) a resolution is not passed pursuant to the notice of such motion under Article 22L (4);
- (b) where a resolution has been passed pursuant to the notice of such motion under Article 22L (4), the tribunal appointed under Article 22L (5) determines and reports that the President has not become permanently incapable of discharging the functions of his office or that the President has not been guilty of any of the other allegations contained in such motion;
- (c) the consequent resolution for the removal of the President is not passed under Article 22L (7); or
- (d) Parliament by resolution requests the President to dissolve Parliament.

- (4) Parliament, unless sooner dissolved, shall continue for 5 years from the date of its first sitting and shall then stand dissolved.

GENERAL ELECTIONS

66. There shall be a general election at such time, within 3 months after every dissolution of Parliament, as the President shall, by Proclamation in the Gazette, appoint.

REMUNERATION OF MEMBERS

67. The Legislature may by law make provision for the remuneration of Members of Parliament.

INTERPRETATION OF THIS PART

68. In this Part, unless the context otherwise requires-

“adverse report” means a report of the Council stating that, in the opinion of the Council, some specified provision of a Bill or of a subsidiary legislation would be a differentiating measure;

“Chairman” means the Chairman of the Council;

“Council” means the Presidential Council for Minority Rights established under Article 69;

“differentiating measure” means any measure which is, or is likely in its practical application to be, disadvantageous to persons of any racial or religious community and not equally disadvantageous to persons of other such communities, either directly by prejudicing persons of that community or indirectly by giving advantage to persons of another community;

“member” means a member of the Council and includes the Chairman;

“Money Bill” means a Bill which contains only provisions dealing with all or any of the following matters:

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
 - (b) the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Fund or any other public funds, or the variation or repeal of any such charges;
 - (c) the grant of money to the Government or to any authority or person, or the variation or revocation of any such grant;
 - (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
 - (e) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan;
 - (f) subordinate matters which are ancillary or incidental to any of the foregoing matters;
- “sitting day” means any date on which Parliament meets.

ESTABLISHMENT OF PRESIDENTIAL COUNCIL FOR MINORITY RIGHTS

69. (1) There shall be a Presidential Council for Minority Rights which shall consist of

- (a) a Chairman appointed for a period of 3 years;
- (b) not more than 10 permanent members appointed for life; and

(c) not more than 10 other members appointed for a period of 3 years.

(2) The Chairman and the members shall be appointed by the President if he, acting in his discretion, concurs with the advice of the Cabinet.

(3) The Chairman and the members appointed under clause (1) (c) shall be eligible for reappointment.

TEMPORARY APPOINTMENT DURING INCAPACITY OF MEMBER

70. Whenever a member informs the Chairman that he is or will be incapable, for a period of 3 months or more, of taking part in the proceedings of the Council by reason of illness, absence or other cause, the Chairman shall convey the information to the President who may, if he, acting in his discretion, concurs with the advice of the Cabinet, appoint a person to serve as a member for that period.

QUALIFICATIONS OF MEMBERS

71. No person shall be qualified to be appointed as a member unless he-

- (a) is a citizen of Singapore;
- (b) is not less than 35 years of age;
- (c) is resident in Singapore; and
- (d) is not liable to any of the disqualifications provided in Article 72.

DISQUALIFICATIONS OF MEMBERS

72. A person shall be disqualified for appointment as a member who

- (a) is or has been found or declared to be of unsound mind;
- (b) is insolvent or an undischarged bankrupt;
- (c) has been convicted of an offence by a court of law in Singapore or Malaysia and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000 and has not received a free pardon;

Provided that where the conviction is by a court of law in Malaysia, the person shall not be so disqualified unless the offence is also one which, had it been committed in Singapore, would have been punishable by a court of law in Singapore; or

- (d) has voluntarily acquired the citizenship of, or exercised the rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.

TERMINATION OF MEMBERSHIP

73. A member shall vacate his seat in the Council

- (a) if he ceases to be a citizen of Singapore;
- (b) if by writing under his hand addressed to the Chairman he resigns his seat; or
- (c) if he becomes subject to any of the disqualifications provided in Article 72.

DETERMINATION OF QUESTIONS AS TO MEMBERSHIP

74. (1) Any question whether any person has become a member or has vacated his seat as such member shall be referred to and determined by a tribunal consisting of a Judge of the Supreme Court appointed by the Chief Justice and 2 members appointed by the Council.
- (2) Any tribunal constituted under clause (1) shall
- (a) sit in private;
 - (b) afford the person concerned adequate opportunity to call witnesses and be heard; and
 - (c) report its decision to the Chairman.
- (3) The decision of the tribunal shall be final and shall not be open to question in any court.

OATHS OF ALLEGIANCE AND SECRECY

75. Before any person who has been appointed Chairman or a member enters upon the duties of his office, he shall take and subscribe before a Judge of the Supreme Court the Oath of Allegiance and the Oath of Secrecy in the forms set out respectively in paragraphs 2 and 7 in the First Schedule.

GENERAL FUNCTION OF COUNCIL

76. (1) It shall be the general function of the Council to consider and report on such matters affecting persons of any racial or religious community in Singapore as may be referred to the Council by Parliament or the Government.
- (2) A reference to the Council by Parliament may be made by the Speaker, and a reference to the Council by the Government may be made by a Minister.

FUNCTIONS OF COUNCIL IN RESPECT OF BILLS AND SUBSIDIARY LEGISLATION

77. It shall be the particular function of the Council to draw attention to any Bill or to any subsidiary legislation if that Bill or subsidiary legislation is, in the opinion of the Council, a differentiating measure.

COPIES OF BILLS AND AMENDMENTS THERETO TO BE SENT TO COUNCIL

78. (1) Immediately after any Bill to which this Article applies has been given a final reading and passed by Parliament and before it is presented to the President for assent, the Speaker shall cause an authenticated copy of the Bill to be sent to the Council.
- (2) The Council shall consider the Bill and shall, within 30 days of the date on which

the Bill was sent to the Council, make a report to the Speaker stating whether or not in the opinion of the Council any and, if so, which provision of the Bill would, if enacted, be a differentiating measure.

- (3) Whenever after the receipt of an adverse report from the Council, the Bill to which it relates is amended by Parliament, the Speaker shall cause the Bill in its amended form to be sent again to the Council.
- (4) On the application of the Chairman, the Speaker may extend, as he thinks fit, the period of 30 days prescribed by clause (2), where he considers it proper to do so on account of the length or complexity of any Bill or the number of matters for the time being under consideration by the Council or for any sufficient reason.
- (5) The Speaker shall cause every report received by him from the Council in pursuance of clause (2) to be presented to Parliament without undue delay. Where the Speaker receives no such report on the Bill within the time provided in clause (2), or any extension thereof granted under clause (4), it shall be conclusively presumed that the Council is of the opinion that no provision of the Bill would, if enacted, be a differentiating measure.
- (6) No Bill to which this Article applies shall be presented to the President for assent unless it is accompanied by a certificate under the hand of the Speaker stating that
- (a) in the opinion of the Council no provision of the Bill would, if enacted, be a differentiating measure;
 - (b) no report having been received from the Council within the time prescribed or any extension thereof, the Council is presumed to be of the opinion that no provision of the Bill would, if enacted, be a differentiating measure; or
 - (c) notwithstanding the opinion of the Council that some specified provision of the Bill would, if enacted, be a differentiating measure, a motion for the presentation of the Bill to the President for assent has been passed by the affirmative vote of not less than two-thirds of the total membership of Parliament.
- (7) This Article shall not apply to
- (a) a Money Bill;
 - (b) a Bill certified by the Prime Minister as being one which affects the defence or the security of Singapore or which relates to public safety, peace or good order in Singapore; or
 - (c) a Bill certified by the Prime Minister to

be so urgent that it is not in the public interest to delay its enactment.

- (8) A Bill shall be deemed to be a Money Bill if the Speaker certifies in writing that, in his opinion, it is a Bill to which the definition of "Money Bill" contained in Article 68 applies. No Money Bill shall be presented to the President for assent, unless it is accompanied by the Speaker's certificate which shall be conclusive for all purposes and shall not be open to question in any court.

FUNCTIONS OF COUNCIL IN REGARD TO BILLS ENACTED ON A CERTIFICATE OF URGENCY

79. (1) Where the President assents to a Bill which has been certified as urgent by the Prime Minister under Article 78 (7), it shall nevertheless be the duty of the Speaker to cause an authenticated copy of the Act to be sent as soon as may be to the Council.
- (2) The Council shall thereupon consider the Act and shall, within 30 days of the date on which the Act was sent to the Council, make a report to the Speaker stating whether or not in the opinion of the Council any and, if so, which provision of the Act is a differentiating measure.
- (3) The Speaker shall cause any such report to be presented to Parliament as soon as possible.

FUNCTIONS OF COUNCIL IN REGARD TO SUBSIDIARY LEGISLATION

80. (1) An authenticated copy of every piece of subsidiary legislation shall be sent to the Council by the appropriate Minister within 14 days of the publication of such subsidiary legislation.
- (2) The Council shall thereupon consider such subsidiary legislation and shall, within 30 days of the date on which the subsidiary legislation was sent to the Council, make a report to the Speaker and to the appropriate Minister, stating whether or not in the opinion of the Council any and, if so, which provision of the subsidiary legislation is a differentiating measure.
- (3) The Speaker shall cause every report of the Council on every piece of subsidiary legislation to be presented to Parliament on the next sitting day after receiving the Council's report.
- (4) Where an adverse report in respect of any provision of any subsidiary legislation is presented to Parliament in pursuance of clause (3), then, within 6 months after the presentation of that report, unless either

(a) the provision has been revoked or amended by the appropriate Minister; or

(b) Parliament has passed a resolution confirming that provision, the appropriate Minister shall revoke such provision and cause a notice of revocation to be published in the Gazette.

- (5) If no report on any subsidiary legislation is received from the Council within the time provided in clause (2), it shall be conclusively presumed that the Council is of the opinion that no provision in such subsidiary legislation is a differentiating measure.

FUNCTIONS OF COUNCIL IN REGARD TO CERTAIN WRITTEN LAW

81. (1) The Council may examine any written law in force on 9th January 1970 and may make a report in regard to any provision in such written law which, in the opinion of the Council, is a differentiating measure.
- (2) The Council shall send such report to the Speaker and the Speaker shall cause such report to be presented to Parliament as soon as possible.
- (3) In the case of a report on any subsidiary legislation, the Council shall also cause a copy of the report to be sent to the appropriate Minister.

DUTIES OF CHAIRMAN

82. (1) The Council shall meet on the summons of the Chairman.
- (2) The Chairman, if present, shall preside at all meetings of the Council.
- (3) Whenever the office of Chairman is vacant or the Chairman for any reason is unable to attend, some other member shall be elected by the Council to act as Chairman.

QUORUM AND VOTING

83. (1) The Council shall not transact any business unless a quorum of 8 members, including the Chairman or member presiding, is present.
- (2) Any decision of the Council shall be made by a majority of the votes of the members present and voting.
- (3) The Chairman or member presiding shall have an original vote but not a casting vote.
- (4) If upon any question before the Council the votes of the members are equally divided, the motion shall be deemed to be lost.

PROCEEDINGS OF COUNCIL TO BE IN PRIVATE

84. The proceedings of the Council shall be conducted in private and the Council shall not be entitled to hear objectors or examine witnesses in regard to any Bill or law which is being considered by the Council in pursuance of the provisions of this Part.

COUNCIL'S REPORT

85. In reporting the opinion of the Council under the provisions of this Part, the Council shall state

- (a) either that the report is unanimous or the number of votes for and against it; and
- (b) in the case of an adverse report, the grounds on which the Council has reached its conclusion.

VALIDITY OF PROCEEDINGS NOTWITHSTANDING VACANCY IN MEMBERSHIP

86. Subject to Article 83 (1), the Council shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof; and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

ATTENDANCE OF MINISTER, ETC.

87. Any Minister, Minister of State or Parliamentary Secretary specially authorised by the Prime Minister for this purpose shall be entitled to attend and take part in the proceedings of the Council as if he were a member but shall not have the right to vote in the Council.

POWER OF COUNCIL TO MAKE RULES REGULATING PROCEDURE

88. Subject to the provisions of this Constitution, the Council may make rules with respect to the regulation and conduct of its proceedings and the despatch of its business but no such rules shall have effect until they have been approved by the President.

ANNUAL REPORT

89. (1) Once in every year it shall be the duty of the Council to compile and present to the President a report on the work of the Council during the preceding 12 months.
- (2) The President shall cause such report to be presented to Parliament as soon as possible.

SALARIES AND FEES

90. (1) There shall be paid to the Chairman and the other members such salaries and fees as may be determined by the President.

- (2) The salaries and fees payable under clause (1) shall be defrayed out of moneys provided by Parliament.

APPOINTMENT OF STAFF

91. The Council shall have power to appoint a Secretary to the Council and such other officers as may be required to enable the Council to carry out its functions under this Part.

POWER TO MAKE RULES GENERALLY

92. The President may make rules for the conduct of business between the Council and Parliament and between the Council and any authority empowered to make subsidiary legislation, and generally for carrying out the purposes of this Part.

JUDICIAL POWER OF SINGAPORE

93. The judicial power of Singapore shall be vested in a Supreme Court and in such subordinate courts as may be provided by any written law for the time being in force.

JURISDICTION TO DETERMINE QUESTIONS AS TO VALIDITY OF PRESIDENTIAL ELECTION

- 93A. (1) All proceedings relating to the election of the President shall be heard and determined by the Chief Justice or by a Judge of the Supreme Court nominated by the Chief Justice for the purpose (referred to in this Constitution as the Election Judge).
- (2) The Election Judge shall have the power to hear and determine and make such orders as provided by law on proceedings relating to the election of the President, and the decision of the Election Judge in any such proceedings shall be final.
- (3) The procedure and practice in proceedings relating to the election of the President shall be regulated by rules which may be made by the Rules Committee constituted and appointed under section 80 of the Supreme Court of Judicature Act (Cap. 322).

CONSTITUTION OF SUPREME COURT

94. (1) The Supreme Court shall consist of the Court of Appeal and the High Court with such jurisdiction and powers as are conferred on those Courts by this Constitution or any written law.
- (2) The office of a Judge of the Supreme Court shall not be abolished during his continuance in office.
- (3) A person qualified for appointment as a Judge of the Supreme Court or a person who has ceased to hold the office of a Judge

of the Supreme Court may be appointed as the Chief Justice in accordance with Article 95, or may sit as a Judge of the High Court or as a Judge of Appeal, if designated for the purpose (as occasion requires) in accordance with Article 95, and such person shall hold office for such period or periods as the President, if the President, acting in his discretion, concurs with the advice of the Prime Minister, shall direct.

- (4) In order to facilitate the disposal of business in the Supreme Court, the President, if he, acting in his discretion, concurs with the advice of the Prime Minister, may appoint a person qualified for appointment as a Judge of the Supreme Court to be a Judicial Commissioner of the Supreme Court in accordance with Article 95 for such period or periods as the President thinks fit; and a Judicial Commissioner so appointed may, in respect of such class or classes of cases as the Chief Justice may specify, exercise the powers and perform the functions of a Judge of the High Court. Anything done by a Judicial Commissioner when acting in accordance with the terms of his appointment shall have the same validity and effect as if done by a Judge of that Court and, in respect thereof, he shall have the same powers and enjoy the same immunities as if he had been a Judge of that Court.
- (5) For the purposes of clause (4), the President may appoint a person qualified for appointment as a Judge of the Supreme Court to be a Judicial Commissioner to hear and determine a specified case only.

APPOINTMENT OF JUDGES OF SUPREME COURT

95. (1) The Chief Justice, the Judges of Appeal and the Judges of the High Court shall be appointed by the President if he, acting in his discretion, concurs with the advice of the Prime Minister.
- (2) Before tendering his advice as to the appointment under clause (1) of a Judge, other than the Chief Justice, the Prime Minister shall consult the Chief Justice.
- (3) This Article shall apply to the designation of a person to sit as a Judge of the High Court or as a Judge of Appeal under Article 94 (3) and to the appointment of a Judicial Commissioner of the Supreme Court under Article 94 (4) as it applies to the appointment of a Judge of the High Court other than the Chief Justice.

QUALIFICATIONS OF JUDGES OF SUPREME COURT

96. A person is qualified for appointment as a Judge of the Supreme Court if he has for an aggregate period of not less than 10 years been a qualified person within the meaning of section 2 of the Legal Profession Act (Cap. 161) or a member of the Singapore Legal Service, or both.

OATH OF OFFICE OF JUDGES AND JUDICIAL COMMISSIONERS OF SUPREME COURT

97. (1) The Chief Justice and every person appointed or designated to sit as a Judge of the High Court or a Judge of Appeal or appointed as a Judicial Commissioner of the Supreme Court shall, before he enters on the execution of his office, take, in the presence of the President, the Oath of Office in the form set out in the First Schedule.
- (2) Notwithstanding clause (1), a Judicial Commissioner who is appointed under Article 94 (5) to hear and determine a specified case need not be required to take the Oath of Office again if a period of less than 12 months intervenes between the date of his judgment in any specified case he is so appointed to hear and determine and the start of hearing for the next specified case.

TENURE OF OFFICE AND REMUNERATION OF JUDGES OF SUPREME COURT

98. (1) Subject to this Article, a Judge of the Supreme Court shall hold office until he attains the age of 65 years or such later time not being later than 6 months after he attains that age, as the President may approve.
- (2) A Judge of the Supreme Court may at any time resign his office by writing under his hand addressed to the President, but shall not be removed from office except in accordance with clauses (3), (4) and (5).
- (3) If the Prime Minister, or the Chief Justice after consulting the Prime Minister, represents to the President that a Judge of the Supreme Court ought to be removed on the ground of misbehaviour or of inability, from infirmity of body or mind or any other cause, to properly discharge the functions of his office, the President shall appoint a tribunal in accordance with clause (4) and shall refer that representation to it; and may on the recommendation of the tribunal remove the Judge from office.
- (4) The tribunal shall consist of not less than 5 persons who hold or have held office

as a Judge of the Supreme Court, or, if it appears to the President expedient to make such an appointment, persons who hold or have held equivalent office in any part of the Commonwealth, and the tribunal shall be presided over by the member first in the following order, namely, the Chief Justice according to their precedence among themselves and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the younger of 2 members with appointments of the same date).

- (5) Pending any reference and report under clause (3), the President may, if he, acting in his discretion, concurs with the recommendation of the Prime Minister and, in the case of any other Judge, after consulting the Chief Justice, suspend a Judge of the Supreme Court from the exercise of his functions.
- (6) Parliament shall by law provide for the remuneration of the Judges of the Supreme Court and the remuneration so provided shall be charged on the Consolidated Fund.
- (7) Subject to this Article, Parliament may by law provide for the terms of office of the Judges of the Supreme Court, other than their remuneration.
- (8) The remuneration and other terms of office (including pension rights) of a Judge of the Supreme Court shall not be altered to his disadvantage after his appointment.
- (9) Notwithstanding clause (1), the validity of anything done by a Judge of the Supreme Court shall not be questioned on the ground that he had attained the age on which he was required to retire.
- (10) The President may, in his discretion, grant leave of absence from his duties to the Chief Justice and, acting on the advice of the Chief Justice, to any other Judge of the Supreme Court.

RESTRICTION ON PARLIAMENTARY DISCUSSION OF CONDUCT OF A JUDGE OF SUPREME COURT

99. The conduct of a Judge of the Supreme Court or a person designated to sit as such a Judge or a Judicial Commissioner shall not be discussed in Parliament except on a substantive motion of which notice has been given by not less than one-quarter of the total number of the Members of Parliament.

ADVISORY OPINION

100. (1) The President may refer to a tribunal consisting of not less than 3 Judges of the

Supreme Court for its opinion any question as to the effect of any provision of this Constitution which has arisen or appears to him likely to arise.

- (2) Where a reference is made to a tribunal under clause (1), it shall be the duty of the tribunal to consider and answer the question so referred as soon as may be and in any case not more than 60 days after the date of such reference, and the tribunal shall certify to the President, for his information, its opinion on the question referred to it under clause (1) with reasons for its answer, and any Judge in the tribunal who differs from the opinion of the majority shall in like manner certify his opinion and his reasons.
- (3) The opinion of the majority of the Judges in the tribunal shall, for the purposes of this Article, be the opinion of the tribunal, and every such opinion of the tribunal shall be pronounced in open court.
- (4) No court shall have jurisdiction to question the opinion of any tribunal or the validity of any law, or any provision therein, the Bill for which has been the subject of a reference to a tribunal by the President under this Article. Definition of "office" 101. In this Part, "office", in relation to a Judge of the Supreme Court, means the office as Chief Justice, Judge of Appeal or Judge of the High Court, as the case may be.

PUBLIC SERVICES

102. (1) For the purposes of this Constitution and except as hereinafter in this Part provided, the public services shall be
- (a) the Singapore Armed Forces;
 - (b) the Singapore Civil Service;
 - (c) the Singapore Legal Service; and
 - (d) the Singapore Police Force.
- (2) Except as otherwise expressly provided by this Constitution, the qualifications for appointments and conditions of service of persons in the public services may be regulated by law and, subject to the provisions of any such law, by the President.

INTERPRETATION OF THIS PART

103. Except for the purposes of Articles 112, 114 and 115, and except where the context otherwise requires, in the interpretation of this Part
- (a) "public service" does not include service otherwise than in a civil capacity;
 - (b) "public office" does not include the following offices:
 - (i) the office of the Chief Justice;
 - (ii) the office of the Attorney General;

- (iii) the office of Judge of the Supreme Court;
- (iv) the office of member of the Public Service Commission or the Legal Service Commission;
- (v) the office of any police officer below the rank of Inspector; or
- (vi) any office the remuneration of the holder of which is calculated on a daily rate, and "public officer" shall be construed accordingly.

TENURE OF PUBLIC OFFICE

104. Except as expressly provided by this Constitution, every person who is a member of the public service shall hold office during the pleasure of the President.

PUBLIC SERVICE COMMISSION

105. (1) There shall be a Public Service Commission which shall consist of a Chairman and not less than 5 and not more than 14 other members, each of whom shall be appointed in writing under the hand of the President, if the President, acting in his discretion, concurs with the advice of the Prime Minister.
- (2) The Chairman shall be a citizen of Singapore.
 - (3) The President may, from time to time, if he, acting in his discretion, concurs with the advice of the Prime Minister, appoint one or more Deputy Chairmen from among the members of the Public Service Commission.
 - (4) Before tendering his advice as to the appointment under clause (3) of a Deputy Chairman, the Prime Minister shall consult the Chairman of the Public Service Commission.
 - (5) Every Deputy Chairman appointed under clause (3) shall hold office for such period as may be specified in the terms of his appointment and shall cease to be Deputy Chairman if he ceases to be a member of the Public Service Commission.
 - (6) A person appointed to be a member of the Public Service Commission shall thereafter be ineligible for appointment to any public office.
 - (7) At any meeting of the Public Service Commission, 3 members who shall include either the Chairman or one of the Deputy Chairmen, and may include both of them, shall form a quorum. If the quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid notwithstanding that some person not entitled to do so took part therein.

- (8) Before assuming the duties of his office, the Chairman and every other member of the Public Service Commission shall take and subscribe before the Chief Justice or some other Judge of the Supreme Court the appropriate Oath for the due execution of his office in the form set out in the First Schedule.

DISQUALIFICATION FOR APPOINTMENT TO COMMISSION

106. (1) A person shall not be appointed to be a member of the Public Service Commission if he is, and shall cease to be a member if he becomes
- (a) a public officer;
 - (b) an employee of any corporation incorporated by or under the provisions of any law for the time being in force in Singapore other than the Companies Act (Cap. 50) or any corresponding previous written law;
 - (c) a Member of Parliament or a duly nominated candidate for election as such Member;
 - (d) a member of any trade union or of any body or association affiliated to a trade union; or
 - (e) the holder of any office in any political association.
- (2) Clause (1) (b) shall not apply to any person who is a member of the teaching staff of any university established by or under any written law.

TENURE OF OFFICE

107. (1) Subject to Article 106, every member of the Public Service Commission shall, unless he earlier resigns his office by writing under his hand addressed to the President or is removed therefrom under this Article, hold office for a period of 5 years from the date of his appointment, but shall be eligible for reappointment: Provided that a member, other than the Chairman, may be appointed to hold office for any shorter period of not less than 3 years.
- (2) If the Prime Minister, or the Chairman of the Public Service Commission after consulting with the Prime Minister, represents to the President that a member of the Public Service Commission ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the President shall, if he, acting in his discretion, concurs with that representation, refer that representation

to a tribunal consisting of the Chief Justice and 2 other Judges of the Supreme Court nominated for that purpose by the Chief Justice and shall, if that tribunal so recommends, remove that member from office by writing under his hand.

- (3) The tribunal constituted under clause (2) shall regulate its own procedure and may make rules for that purpose.

TERMS OF SERVICE OF CHAIRMAN AND MEMBERS OF COMMISSION

108. (1) The Chairman and other members of the Public Service Commission shall be paid such salary and allowances as may, from time to time, be determined, and such salary and allowances shall be charged on and paid out of the Consolidated Fund.
- (2) Subject to the provisions of this Constitution, the terms of service of the members of the Public Service Commission may either
- (a) be prescribed by or under any law made under this Constitution; or
 - (b) (in so far as they are not prescribed by or under any such law) be prescribed by the President.
- (3) The terms of service of any member of the Public Service Commission shall not be altered to his disadvantage during his continuance in office.
- (4) For the purposes of clause (3), in so far as the terms of service of a member of the Public Service Commission depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

SECRETARY TO COMMISSION

109. (1) There shall be a Secretary to the Public Service Commission who shall be a person who is a public officer and who shall be appointed by the President in accordance with the advice of the Commission.
- (2) The Secretary to the Public Service Commission shall be responsible, in accordance with such instructions as may be given to him by the Chairman of the Commission, for arranging the business for, and keeping the minutes of, the meetings of the Commission and for conveying the decisions of the Commission to the appropriate person or authority and shall have such other functions as the Chairman may, from time to time, direct.

APPOINTMENT, ETC., OF PUBLIC OFFICERS

110. (1) Subject to the provisions of this Constitution, it shall be the duty of the

Public Service Commission to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer, dismiss and exercise disciplinary control over public officers.

- (2) The promotion of public officers shall be on the basis of official qualifications, experience and merit.
- (3) No public officer shall be dismissed or reduced in rank under this Article without being given a reasonable opportunity of being heard.
- (4) Subject to the provisions of Article 110D, no member of any of the services mentioned in Article 102 (1) (b) to (d) shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member of that service of equal rank.
- (5) In clause (1) "appoint" does not include an appointment to act in an office for 2 months or less; "transfer" does not include transfer without a change of rank within a department of the Government.

EDUCATION SERVICE COMMISSION

110A. Repealed by Act 11/98.

POLICE AND CIVIL DEFENCE SERVICES COMMISSION

110B. Repealed by Act 11/98.

PROVISIONS APPLICABLE TO EDUCATION SERVICE COMMISSION AND POLICE AND CIVIL DEFENCE SERVICES COMMISSION

110C. Repealed by Act 11/98.

PERSONNEL BOARDS

- 110D. (1) Subject to the provisions of this Article, the President may, on the advice of the Prime Minister and by order published in the Gazette, establish one or more personnel boards to exercise all or any of the powers and functions of the Public Service Commission under Article 110.
- (2) The order under clause (1) shall specify the powers and functions to be exercised by a personnel board and the class or classes of public officers in respect of which those powers and functions may be exercised except the following:
- (a) the power to dismiss and exercise disciplinary control over all public officers of any grade in Division I; and
 - (b) all powers of the Public Service Commission in relation to public officers in the Administrative

Service and Administrative Service (Foreign Service Branch) who hold appointments of and above the significant grade (as defined in Article 111A (1)) in those Services, including the power to nominate officers for appointment or promotion to that grade, and any power of appointment specified in the order as to be exercised by a personnel board shall not include a power to dismiss any person so appointed.

- (3) Where the President has by order established a personnel board under clause (1) for the purpose of exercising any of the powers or functions of the Public Service Commission, such power or function
- (a) may be exercised by such personnel board notwithstanding anything in Article 110 (1) and (4); and
- (b) shall, so long as it remains a power or function to be exercised by the board pursuant to such order, cease to be exercisable by that Commission except to the extent permitted under clause (4).
- (3A) Any personnel board may, in writing and subject to such conditions as it thinks fit, delegate all or any of the powers or functions exercisable by the board under this Article (except this power of delegation) to any member of the personnel board, and that member shall exercise those powers or functions in accordance with the terms of the delegation; but no such delegation shall prevent the exercise of any such power or function by the personnel board.
- (3B) Any act or thing done by a delegate of a personnel board while acting in the exercise of a delegation under clause (3A) shall have the same force and effect as if the act or thing had been done by the personnel board and shall be deemed to have been done by the personnel board.
- (4) Subject to regulations made under clause (7), any person aggrieved by any decision of any personnel board or its delegate may, within such time and in such manner as may be prescribed, appeal to the Public Service Commission, and the decision of the Commission shall be final.
- (5) Subject to clause (6), a personnel board which is established to exercise any power over officers in Division I shall consist of such persons as the President may, on the advice of the Prime Minister, appoint except that the President may, acting in his discretion, refuse to make any such

appointment if he does not concur with the advice of the Prime Minister.

- (6) A person shall not be appointed to be a member of a personnel board if he is, and shall cease to be a member if he becomes-
- (a) a Member of Parliament or a duly nominated candidate for election as such Member;
- (b) a member of any trade union or of any body or association affiliated to a trade union; or
- (c) the holder of any office in any political association.
- (7) The President may by regulations-
- (a) provide for matters relating to the appointment of members of personnel boards;
- (b) prescribe the procedure to be followed by the personnel boards in the exercise of their powers and functions;
- (c) prescribe the manner of appeals under clause (4); and
- (d) modify the application of clause (4) by providing that appeals under that clause shall be made first to such person or persons as may be appointed by the President but without prejudice to the right to appeal thereafter to the Public Service Commission.
- (8) Nothing in this Article shall affect any direction or delegation issued before 1st October 1994 by the Public Service Commission under Article 116 (3), and this Article shall not apply to any power or function of these Commissions so long it forms the subject of any such direction or delegation.

LEGAL SERVICE COMMISSION

111. (1) There shall be a Legal Service Commission, whose jurisdiction shall extend to all officers in the Singapore Legal Service.
- (2) The Legal Service Commission shall consist of
- (a) the Chief Justice, as President;
- (b) the Attorney General;
- (c) the Chairman of the Public Service Commission; and
- (d) at least 3 but not more than 6 other members, each of whom shall be appointed by the President if he, acting in his discretion, concurs with the advice of the person nominating the member under clause (2A).
- (2A) The members referred to in clause (2)
- (d) shall comprise
- (a) at least one but not more than 2 persons nominated by the Chief Justice;

- (b) at least one but not more than 2 persons nominated by the Chairman of the Public Service Commission; and
 - (c) at least one but not more than 2 persons nominated by the Prime Minister, except that where the Chief Justice, the Chairman of the Public Service Commission or the Prime Minister, as the case may be, nominates 2 persons, one of whom must be a person who has for an aggregate period of not less than 10 years been a qualified person within the meaning of section 2 (1) of the Legal Profession Act (Cap. 161).
- (2B) A person shall not be appointed under clause (2) (d) to be a member of the Legal Service Commission if he is, and shall cease to be such a member if he becomes-
- (a) a public officer;
 - (b) an employee of any corporation incorporated by or under the provisions of any law for the time being in force in Singapore other than the Companies Act (Cap. 50) or any corresponding previous written law;
 - (c) a Member of Parliament or a duly nominated candidate for election as such Member;
 - (d) a member of any trade union or of any body or association affiliated to a trade union; or
 - (e) the holder of any office in any political association.
- (2C) Subject to clause (2B), every member of the Legal Service Commission appointed under clause (2) (d) shall, unless he earlier resigns his office by writing under his hand addressed to the President or is removed therefrom under clause (2D), hold office from the date of his appointment for such period (being not shorter than 3 years and not longer than 5 years) as the President may specify, and shall be eligible for reappointment.
- (2D) If the Prime Minister, or the President of the Legal Service Commission after consulting with the Prime Minister, represents to the President that a member of the Legal Service Commission who is appointed under clause (2) (d) ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the President shall
- (a) refer that representation to a tribunal consisting of 2 Judges of the Supreme Court nominated for that purpose by the Chief Justice, if the President, acting in his discretion, concurs with that representation; and
 - (b) remove that member from office by writing under his hand if the tribunal in paragraph (a) so recommends.
- (2E) The members of the Legal Service Commission appointed under clause (2) (d) shall
- (a) before assuming the duties of their respective offices, take and subscribe before the Chief Justice or some other Judge of the Supreme Court the appropriate Oath for the due execution of their offices in the form set out in the First Schedule; and
 - (b) be paid such allowances as may, from time to time, be determined, and such allowances shall be charged on and paid out of the Consolidated Fund.
- (2F) Subject to the provisions of this Constitution, the terms of service of the members of the Legal Service Commission appointed under clause (2) (d) may either be prescribed by or under any law made under this Constitution, or (in so far as they are not prescribed by or under any such law) be prescribed by the President.
- (2G) The terms of service of any member of the Legal Service Commission appointed under clause (2) (d) shall not be altered to his disadvantage during his continuance in office, except that in so far as the terms of service of such a member of the Legal Service Commission depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.
- (2H) One of the members of the Legal Service Commission referred to in clause (2) (b), (c) or (d) may be appointed by the President as the Vice-President of the Legal Service Commission where the President, acting in his discretion, concurs with the advice of the Prime Minister who shall consult the President of the Legal Service Commission before tendering any such advice to the President.
- (3) Subject to the provisions of any existing law and to the provisions of this Constitution, it shall be the duty of the Legal Service Commission to appoint, confirm, emplace on the permanent establishment, promote, transfer, dismiss and exercise disciplinary control over officers in the Singapore Legal Service.
 - (4) The Legal Service Commission may delegate to any officer in the Singapore Legal Service or to any board of such

officers appointed by it any of its functions under clause (3) in respect of any grade of officers in the Singapore Legal Service, not being functions which are exercisable by a personnel board under Article 111AA, and that officer or board shall exercise those functions under the direction and control of the Legal Service Commission.

- (5) The Legal Service Commission may, subject to the provisions of this Constitution, regulate its own procedure and make rules for that purpose.
- (6) There shall be a Secretary to the Legal Service Commission who shall
 - (a) be a person who is a public officer; and
 - (b) be appointed by the President in accordance with the advice of the Legal Service Commission.
- (7) The Secretary to the Legal Service Commission shall be responsible, in accordance with such instructions as may be given to him by the President of the Legal Service Commission, for arranging the business for, and keeping the minutes of, the meetings of the Legal Service Commission and for conveying the decisions of the Legal Service Commission to the appropriate person or authority and shall have such other functions as the President of the Legal Service Commission may, from time to time, direct.

PERSONNEL BOARDS OF SINGAPORE LEGAL SERVICE

- 111AA.(1) Subject to the provisions of this Article, the President may, on the advice of the Prime Minister and by order published in the Gazette, establish one or more personnel boards to exercise all or any of the powers and functions of the Legal Service Commission under Article 111.
- (2) An order under clause (1) shall specify the powers and functions to be exercised by a personnel board and the class or classes of officers in the Singapore Legal Service in respect of which those powers and functions may be exercised except the following:
 - (a) the power to dismiss and exercise disciplinary control over officers in the Singapore Legal Service; and
 - (b) all powers of the Legal Service Commission in relation to officers in the Singapore Legal Service who hold appointments of and above a grade prescribed in the order, including the power to nominate officers for appointment or

promotion to that grade, and any power of appointment specified in the order as to be exercised by a personnel board shall not include a power to dismiss any person so appointed.

- (3) Before tendering his advice as to the grade in the Singapore Legal Service referred to in clause (2) (b), the Prime Minister shall consult the President of the Legal Service Commission.
- (4) Where the President has by order established a personnel board under clause (1) for the purpose of exercising any of the powers or functions of the Legal Service Commission, such power or function
 - (a) may be exercised by such personnel board notwithstanding anything in Article 111; and
 - (b) shall, so long as it remains a power or function to be exercised by the personnel board pursuant to such order, cease to be exercisable by the Legal Service Commission except to the extent permitted under clause (5).
- (5) Subject to any order made under clause (1), any person who is aggrieved by any decision of any personnel board established under this Article may, within such time and in such manner as may be prescribed, appeal to the Legal Service Commission, and the decision of that Commission shall be final.
- (6) Subject to clause (7), a personnel board which is established under this Article shall consist of such persons (who may or may not be members of the Legal Service Commission) as the President may, on the advice of the Legal Service Commission, appoint except that the President may, acting in his discretion, refuse to make any such appointment if he does not concur with the advice of the Legal Service Commission.
- (7) A person shall not be appointed to be a member of a personnel board established under this Article if he is, and shall cease to be a member if he becomes-
 - (a) a Member of Parliament or a duly nominated candidate for election as such Member;
 - (b) a member of any trade union or of any body or association affiliated to a trade union; or
 - (c) the holder of any office in any political association.
- (8) An order under clause (1) may also

- (a) provide for matters relating to the appointment of members of personnel boards established under this Article;
- (b) prescribe the procedure to be followed by these personnel boards in the exercise of their powers and functions; and
- (c) prescribe the manner of appeals under clause (5).

PROMOTION TO SIGNIFICANT GRADE

- 111A. (1) The President may, by notification in the Gazette, designate as significant a grade each in the Administrative Service Scheme of Service and the Administrative (Foreign Service) Scheme of Service (referred to in this Article as the significant grade), and such notification may be subsequently amended to designate as significant any other grade in those Schemes of Service not lower than the grade first so designated.
- (2) Notwithstanding any other provision in this Constitution, any appointment or promotion of a public officer to the significant grade shall be made by the President, acting in accordance with the advice of the Prime Minister, from public officers nominated by the Public Service Commission.

PROTECTION OF PENSION RIGHTS

112. (1) The law applicable to any pension, gratuity or other like allowance (referred to in this Article as an award) granted to any public officer or to his widow, children, dependants or personal representatives shall be that in force on the relevant day or any later law not less favourable to the person concerned.
- (2) For the purposes of this Article, the relevant day is
- (a) in relation to an award made before 16th September 1963, the date on which the award was made;
 - (b) in relation to an award made after 16th September 1963, to or in respect of any person who was a public officer before that date, the date immediately before that date; and
 - (c) in relation to an award made to or in respect of any person who first became a public officer on or after 16th September 1963, the date on which he first became a public officer.
- (3) For the purposes of this Article, where the law applicable to an award depends on the option of the person to whom it is made,

the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

POWER OF PUBLIC SERVICE COMMISSION AND LEGAL SERVICE COMMISSION IN RELATION TO PENSIONS, ETC.

113. (1) Where under any written law any person or authority has a discretion
- (a) to decide whether or not any award shall be made; or
 - (b) to withhold, reduce in amount or suspend any such award that has been made, that award shall be made and may not be withheld, reduced in amount or suspended unless the Public Service Commission or the Legal Service Commission, as the case may be, concurs in the refusal to grant the award or, as the case may be, in the decision to withhold, reduce in amount or suspend it.
- (2) Where the amount of any award that may be made to any person is not fixed by law, the amount of the award to be made to him shall be the greatest amount for which he is eligible unless the Public Service Commission or the Legal Service Commission, as the case may be, concurs in the making of an award of a smaller amount.
- (3) In this Article, "award" has the same meaning as in Article 112.

PENSIONS, ETC., TO BE CHARGED ON PENSION FUND OR CONSOLIDATED FUND

114. (1) Pensions, gratuities and other like allowances granted in respect of the public service shall be charged on and paid out of, in the first instance, the Pension Fund established by the Pension Fund Act (Cap. 224A) and, if that Fund is deficient, the Consolidated Fund.
- (2) Notwithstanding clause (1), the Legislature may by law provide that any pension, gratuity or other like allowance granted in respect of public service may be paid out of another Government Fund in lieu of the Pension Fund and the Consolidated Fund.

PENSION RIGHTS ON TRANSFER

115. (1) Notwithstanding any provision of this Constitution relating to the circumstances in which a public officer may vacate his office, any public officer may, with the consent of the Government (which consent shall not be unreasonably withheld), relinquish his office for the purpose of transfer to some other public office or to an office in any other public

service, and if he so relinquishes his office, his claim to any pension, gratuity or other like allowance shall not thereby be prejudiced.

- (2) For the purposes of this Article, "other public service" has the meaning given to it by the Pensions Act (Cap. 225) as in force immediately before 15th September 1963.

REGULATIONS REGARDING PUBLIC SERVICE

116. (1) Subject to the provisions of any written law for the time being in force in Singapore, the President may make regulations for all or any of the following matters:
- (a) the division of public offices into Divisions and Services;
 - (b) the prescribing of Schemes regulating the recruitment, service and promotion of members of such Services; and
 - (c) the conduct and discipline of the public service.
- (2) The Public Service Commission may, subject to the provisions of this Constitution, regulate its own procedure and make rules for that purpose, and may, in connection with the discharge of its functions, confer powers and impose duties on any person or any authority of the Government.
- (3) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions under Article 110 (1) to any member of the Commission, to any public officer or other person, or to any board consisting of public officers and other persons appointed by it or to any person who is a member of a panel appointed by the Commission for the purposes of representing the public in any disciplinary proceedings in respect of any grade of the public service and that member, officer, board or person shall exercise those functions under the direction and control of the Public Service Commission.

VALIDATION OF ACTS DONE AND RULES MADE BY PUBLIC SERVICE COMMISSION

117. Omitted (as the Article has had its effect).

PERFORMANCE BY PUBLIC SERVICE COMMISSION OF OTHER FUNCTIONS

118. Parliament may by law provide for the exercise of other functions by the Public Service Commission.

REPORTS OF COMMISSIONS

119. The Public Service Commission and the Legal Service Commission shall each make an

annual report on its activities to the President and a copy of every such report shall be presented to Parliament.

STATUS OF CITIZEN OF SINGAPORE

120. (1) There shall be a status known as citizen of Singapore.
- (2) The status of a citizen of Singapore may be acquired
- (a) by birth;
 - (b) by descent;
 - (c) by registration or, before the commencement of this Constitution, by enrolment; or
 - (d) by naturalisation.

CITIZENSHIP BY BIRTH

121. (1) Subject to this Article, every person born in Singapore after 16th September 1963 shall be a citizen of Singapore by birth.
- (2) A person shall not be a citizen of Singapore by virtue of clause (1) if at the time of his birth
- (a) his father, not being a citizen of Singapore, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the President;
 - (b) his father was an enemy alien and the birth occurred in a place then under the occupation of the enemy; or
 - (c) neither of his parents was a citizen of Singapore.
- (3) Notwithstanding clause (2) (c), the Government may, where it considers it just and fair and having regard to all the circumstances prevailing at the time of the application, confer citizenship upon a person born in Singapore.

CITIZENSHIP BY DESCENT

122. (1) Subject to clauses (2) and (3), a person born outside Singapore after 16th September 1963 shall be a citizen of Singapore by descent if, at the time of his birth
- (a) where the person is born before the date of commencement of section 7 of the Constitution of the Republic of Singapore (Amendment) Act 2004, his father is a citizen of Singapore, by birth or registration; and
 - (b) where the person is born on or after the date of commencement of section 7 of the Constitution of the Republic of Singapore (Amendment) Act 2004, either his father or mother is a citizen of Singapore, by birth, registration or descent.

- (2) A person born outside Singapore shall not be a citizen of Singapore by descent by virtue of clause (1) unless
- (a) his birth is registered in the prescribed manner at the Registry of Citizens or at a diplomatic or consular mission of Singapore within one year, or such longer period as the Government permits, after its occurrence; and
 - (b) he would not acquire the citizenship of the country in which he was born by reason of his birth in that country where
 - (i) in the case of a person born before the date of commencement of section 7 of the Constitution of the Republic of Singapore (Amendment) Act 2004, his father is a citizen of Singapore by registration at the time of his birth; or
 - (ii) in the case of a person born on or after the date of commencement of section 7 of the Constitution of the Republic of Singapore (Amendment) Act 2004, either his father or mother is a citizen of Singapore by registration at the time of his birth.
- (3) Without prejudice to clause (2), a person born outside Singapore of a father or mother who is a citizen by descent at the time of his birth shall not be a citizen of Singapore by descent by virtue of clause (1) unless the parent who is the citizen by descent has lawfully resided in Singapore
- (a) for a period of, or for periods amounting in the aggregate to, not less than 5 years before that person's birth; or
 - (b) for a period of, or for periods amounting in the aggregate to, not less than 2 years during the period of 5 years immediately preceding that person's birth.
- (4) A person who, being a minor, becomes a citizen of Singapore by descent shall cease to be a citizen of Singapore on attaining the age of 22 years unless within 12 months after he attains the age of 21 years he takes the Oath of Renunciation, Allegiance and Loyalty in the form set out in the Second Schedule and where the Government so requires divests himself of any foreign citizenship or nationality.

CITIZENSHIP BY REGISTRATION

123. (1) Subject to the provisions of this Constitution, any person resident in Singapore of or over the age of 21 years may, on application being made therefor in

the prescribed form, be registered as a citizen of Singapore if he satisfies the Government that he

- (a) is of good character;
 - (b) has resided in Singapore throughout the 12 months immediately preceding the date of his application;
 - (c) has during the 12 years immediately preceding the date of his application resided in Singapore for periods amounting in the aggregate to not less than 10 years:

Provided that the Government may exempt any applicant from compliance with this paragraph

 - (i) where such applicant has during the 6 years immediately preceding the date of his application resided in Singapore for periods amounting in the aggregate to not less than 5 years; or
 - (ii) where in any special case the Government considers fit to confer citizenship upon such applicant;
 - (d) intends to reside permanently in Singapore; and
 - (e) has an elementary knowledge of one of the following languages, namely, Malay, English, Mandarin and Tamil:

Provided that the Government may exempt an applicant who has attained the age of 45 years or who is deaf or dumb from compliance with this paragraph.
- (2) Subject to the provisions of this Constitution, any woman who is married to a citizen of Singapore may, on making application therefor in the prescribed manner, be registered as a citizen of Singapore if she satisfies the Government
- (a) that she has resided continuously in Singapore for a period of not less than 2 years immediately preceding the date of the application;
 - (b) that she intends to reside permanently in Singapore; and
 - (c) that she is of good character.

REGISTRATION OF MINORS

124. (1) The Government may if satisfied that a child under the age of 21 years
- (a) is the child of a citizen of Singapore; and
 - (b) is residing in Singapore, cause such child to be registered as a citizen of Singapore on application being made therefor in the prescribed manner by the parent or guardian of such child.
- (2) The Government may, in such special

circumstances as it thinks fit, cause any child under the age of 21 years to be registered as a citizen of Singapore.

EFFECT OF REGISTRATION

125. Subject to Article 126, a person registered as a citizen of Singapore under Article 123 or 124 shall be a citizen of Singapore from the date on which he is so registered.

GENERAL PROVISIONS AS TO REGISTRATION

126. (1) No person shall be registered as a citizen of Singapore under Article 123 until he has taken the Oath of Renunciation, Allegiance and Loyalty in the form set out in the Second Schedule.

(2) Except with the approval of the Government, no person who has renounced or has been deprived of citizenship of Singapore under this Constitution or the Singapore Citizenship Ordinance 1957 (Ord. 35 of 1957) shall be registered as a citizen of Singapore under the provisions of this Constitution.

(3) Any person who becomes a citizen of Singapore by registration under section 13 of the Singapore Citizenship Ordinance 1957 or Article 124 shall cease to be a citizen of Singapore on attaining the age of 22 years unless within 12 months after he attains the age of 21 years he takes the Oath of Renunciation, Allegiance and Loyalty in the form set out in the Second Schedule.

CITIZENSHIP BY NATURALISATION

127. (1) Subject to clause (4), the Government may, upon application made by any person of or over the age of 21 years who is not a citizen of Singapore, grant a certificate of naturalisation to that person if the Government is satisfied

(a) that he has resided in Singapore for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the national language.

(2) The periods of residence in Singapore or the relevant part of it which are required for the grant of a certificate of naturalisation are periods which amount in the aggregate to not less than 10 years in the 12 years immediately preceding the date of the application for the certificate and which include the 12 months immediately preceding that date.

(3) A person to whom a certificate of naturalisation is granted shall be a citizen

of Singapore by naturalisation from the date on which the certificate is granted.

(4) No certificate of naturalisation shall be granted to any person until he has taken the Oath of Renunciation, Allegiance and Loyalty in the form set out in the Second Schedule.

RENUNCIATION OF CITIZENSHIP

128. (1) Any citizen of Singapore of or over the age of 21 years and of sound mind who is also or is about to become a citizen of another country may renounce his citizenship of Singapore by declaration registered by the Government, and shall upon such registration cease to be a citizen of Singapore.

(2) The Government may withhold the registration of a declaration under this Article

(a) if the declaration is made during any war in which Singapore is engaged; or

(b) if the declaration is made by a person subject to the Enlistment Act (Cap. 93) unless he has

(i) discharged his liability for full-time service under section 12 of that Act;

(ii) rendered at least 3 years of operationally ready national service under section 13 of that Act in lieu of such full-time service; or

(iii) complied with such conditions as may be determined by the Government.

(3) This Article applies to a woman under the age of 21 years who has been married as it applies to a person of or over that age.

DEPRIVATION OF CITIZENSHIP

129. (1) A citizen of Singapore who is a citizen by registration or by naturalisation shall cease to be such a citizen if he is deprived of his citizenship by an order of the Government made in accordance with this Article.

(2) The Government may, by order, deprive any such citizen of his citizenship if the Government is satisfied that the registration or the certificate of naturalisation

(a) was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) was effected or granted by mistake.

(3) The Government may, by order, deprive of his citizenship

(a) any person who is a citizen of Singapore by naturalisation if the Government is satisfied

(i) that he has shown himself by act or

- speech to be disloyal or disaffected towards Singapore; or
- (ii) that he has, during any war in which Singapore is or was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in that war; or
- (b) any citizen of Singapore by registration or by naturalisation if the Government is satisfied
- (i) that he has, within the period of 5 years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than one year or to a fine of not less than \$5,000 or the equivalent in the currency of that country, and has not received a free pardon in respect of the offence for which he was so sentenced; or
- (ii) that he has, at any time after registration or naturalisation, been engaged in any activities which are prejudicial to the security of Singapore, or the maintenance of public order therein, or the maintenance therein of essential services, or in any criminal activities which are prejudicial to the interests of public safety, peace or good order.
- (4) The Government may, by order, deprive of his citizenship any person who is a citizen of Singapore by naturalisation if the Government is satisfied that, without the Government's approval, he has accepted, served in or performed the duties of any office, post or employment under the government of any foreign country or any political subdivision thereof, or under any agency of such a government, in any case where an oath, affirmation or declaration of allegiance is required in respect of the office, post or employment:
Provided that a person shall not be deprived of his citizenship under this clause by reason of anything done before the commencement of this Constitution notwithstanding that he was at the time a citizen of Singapore.
- (5) The Government may, by order, deprive of his citizenship any person who is a citizen of Singapore by naturalisation if the Government is satisfied that he has been ordinarily resident in foreign countries for a continuous period of 5 years and during

that period has neither

- (a) been at any time in the service of Singapore or of an international organisation of which the Government was a member; nor
- (b) registered annually at a consulate of Singapore his intention to retain his citizenship.
- (6) The Government may, by order, deprive of her citizenship any woman who is a citizen of Singapore by registration under Article 123 (2) if the Government is satisfied that the marriage by virtue of which she was registered has been dissolved, otherwise than by death, within the period of 2 years beginning with the date of the marriage.
- (7) No person shall be deprived of his citizenship under this Article or under Article 130 unless the Government is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Singapore; and no person shall be deprived of his citizenship under clause (2) (b) or clause (3) (a) or (b) (i) or under clause (4) or (5) or under Article 130 if the Government is satisfied that as a result of the deprivation he would not be a citizen of any country.

DEPRIVATION OF CITIZENSHIP OF CHILD OF PERSON LOSING CITIZENSHIP

130. Where a person has

- (a) renounced his citizenship; or
- (b) been deprived of his citizenship under Article 129 (2) (a) or 134 (1) (a), the Government may, by order, deprive of his citizenship any child of that person under the age of 21 years who has been registered as a citizen of Singapore pursuant to this Constitution and was so registered as being the child of that person or of that person's wife or husband.

GENERAL PROVISIONS AS TO LOSS OF CITIZENSHIP

131. Renunciation or deprivation of citizenship of Singapore shall not discharge a person from liability in respect of anything done or omitted to be done before he ceased to be a citizen of Singapore.

CANCELLATION OF ENROLMENT AS CITIZEN

132. (1) Where a person has been enrolled as a citizen of Singapore before the commencement of this Constitution and the Government is satisfied that the enrolment
- (a) was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) was effected by mistake, the Government may, by order, cancel the enrolment.

- (2) Where under this Article a person's enrolment as a citizen of Singapore is cancelled, that shall not discharge him from liability in respect of anything done or omitted to be done before the cancellation.

PROCEDURE FOR DEPRIVATION

133. (1) Before making an order under Article 129, 132, 134 or 135, the Government shall give the person, against whom the order is proposed to be made, notice in writing informing him of the ground on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this Article.
- (2) If any person to whom such notice is given applies within such time as may be prescribed to have the case referred to a committee of inquiry, the Government shall, and in any other case may, refer the case to a committee of inquiry consisting of a Chairman, who shall be a person qualified to be appointed as a Judge of the Supreme Court, and 2 other members chosen from a panel to be appointed by the Government in that behalf.
- (3) The committee of inquiry shall, on such reference, hold an inquiry in such manner as may be prescribed and submit a report to the Government and the Government shall have regard to such report in making the order.

DEPRIVATION OF CITIZENSHIP ON ACQUISITION OF FOREIGN CITIZENSHIP

134. (1) The Government may, by order, deprive a citizen of Singapore of his citizenship if the Government is satisfied that
- (a) he has, while of or over the age of 18 years, at any time after 6th April 1960 acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country outside Singapore or having so acquired such citizenship before the age of 18 years continues to retain it after that age; or
- (b) the citizen, being a woman who is a citizen of Singapore by registration under Article 123 (2), has acquired the citizenship of any country outside Singapore by virtue of her marriage to a person who is not a citizen of Singapore.
- (2) Where the Government has made an order under this Article depriving a citizen

of Singapore of his citizenship, he shall cease to be a citizen with effect from the date of the order.

DEPRIVATION OF CITIZENSHIP ON EXERCISE OF RIGHTS OF FOREIGN NATIONALS, ETC.

135. (1) The Government may, by order, deprive a citizen of Singapore of his citizenship if the Government is satisfied that
- (a) he has, while of or over the age of 18 years, at any time after 6th April 1960 voluntarily claimed and exercised any rights (other than any rights in connection with the use of a passport) available to him under the law of any country outside Singapore being rights accorded exclusively to the citizens or nationals of that country;
- (b) he has, while of or over the age of 18 years, at any time after 6th April 1960 applied to the authorities of a place outside Singapore for the issue or renewal of a passport or used a passport issued by such authorities as a travel document; or
- (c) he is of or over the age of 18 years and has, whether before or after attaining the age of 18 years, been ordinarily resident outside Singapore for a continuous period of 10 years (including any period of residence outside Singapore before 2nd January 1986) and has not at any time
- (i) during that period or thereafter entered Singapore by virtue of a certificate of status or travel document issued by the competent authorities of Singapore; or
- (ii) during that period been in the service of the Government or of an international organisation of which Singapore is a member or of such other body or organisation as the President may, by notification in the Gazette, designate.
- (2) For the purposes of clause (1) (a), the exercise of a vote in any political election in a place outside Singapore shall be deemed to be the voluntary claim and exercise of a right available under the law of that place.
- (3) Where the Government has made an order under this Article depriving a citizen of Singapore of his citizenship, he shall cease to be a citizen with effect from the date of the order.

TERMINATION OF CITIZENSHIP OF MALAYSIA

136. Where a person who was a citizen of Singapore

had renounced his citizenship of Malaysia or been deprived of his citizenship of Malaysia by the government of Malaysia before the commencement of this Constitution, such person shall be deemed to have renounced or been deprived of his citizenship of Singapore under this Constitution and to have ceased to be a citizen of Singapore.

DEPRIVATION OF CITIZENSHIP OR CANCELLATION OF ENROLMENT OF CHILD OF PERSON LOSING CITIZENSHIP

137. (1) Where a person has been deprived of his citizenship or his enrolment as a citizen has been cancelled under the provisions of this Part, the Government may, by order, deprive of his citizenship or, as the case may be, cancel the enrolment of any child of that person under the age of 21 years who has been registered or enrolled as a citizen under the provisions of this Constitution or the Singapore Citizenship Ordinance 1957 (Ord. 35 of 1957) and was so registered or enrolled as being the child of that person or of that person's wife or husband.
- (2) No person shall be deprived of his citizenship under clause (1) unless the Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of his citizenship under clause (1) if the Government is satisfied that as a result of such deprivation he would not be a citizen of any country.

GRANT OF CERTIFICATE OF CITIZENSHIP IN CASES OF DOUBT

138. Upon application made in that behalf in the prescribed manner, the Government may grant in the form prescribed a certificate of citizenship to a person with respect to whose citizenship a doubt exists, whether of fact or of law:
- Provided that where the Government is satisfied that such a certificate was obtained in circumstances set out in Article 132 (1) (a) or (b), the Government may, by order, cancel such certificate.

COMMONWEALTH CITIZENSHIP

139. (1) In accordance with the position of Singapore within the Commonwealth, every person who is a citizen of Singapore enjoys by virtue of that citizenship the status of a Commonwealth citizen in common with the citizens of other Commonwealth countries.
- (2) Any existing law shall, except so far as Parliament otherwise provides, apply in

relation to a citizen of the Republic of Ireland who is not also a Commonwealth citizen as it applies in relation to a Commonwealth citizen.

APPLICATION OF THIRD SCHEDULE

140. Until the Legislature otherwise provides by law, the supplementary provisions contained in the Third Schedule shall have effect for the purposes of this Part.

REPEAL

141. (1) The Singapore Citizenship Ordinance 1957 (Ord. 35 of 1957) is hereby repealed.
- (2) Any person who immediately before 16th September 1963 was, by virtue of the Singapore Citizenship Ordinance 1957, a citizen of Singapore by birth, descent, registration or naturalisation, shall as from that date continue, subject to the provisions of this Constitution, to possess that status.
- (3) Where a person would have been a citizen of Singapore by descent immediately before 16th September 1963 if his birth had been registered under the provisions of the Singapore Citizenship Ordinance 1957 (Ord. 35 of 1957), he shall become a citizen of Singapore by descent if his birth is registered at a consulate of Singapore or with the Government in the prescribed manner within one year of its occurrence or, with the permission of the Government, later.
- (4) Notwithstanding the repeal of the Singapore Citizenship Ordinance 1957, where a person who has become a citizen of Singapore was liable in respect of things done before 16th September 1963 to be deprived of that status under the Ordinance, then the Government may, by order, deprive him of his citizenship, if proceedings for that purpose are begun during the period of 2 years after that date.
- (5) Where a person is liable to be deprived of citizenship under clause (4) and proceedings had before 16th September 1963 been begun to deprive him of citizenship of Singapore under the provisions of the Singapore Citizenship Ordinance 1957, those proceedings shall be treated as proceedings to deprive him of citizenship under that clause and shall be continued as such in accordance with the provisions of the Singapore Citizenship Ordinance 1957 in force immediately before that date.

INTERPRETATION OF THIS PART

142. (1) In this Part, unless the context otherwise requires

“Development Fund” means the Development Fund established by the Development Fund Act (Cap. 80);

“financial year” means a period of 12 months ending on 31st March in any year.

(1A) Notwithstanding clauses (1C) and (2), where

(a) before the start of any financial year, the President, acting in his discretion, concurs with the advice of the Minister responsible for finance on the long-term real rates of return which are expected to be earned on the respective components of the relevant assets (referred to in this Article as the expected long-term real rates of return); and

(b) the Minister responsible for finance thereafter certifies under his hand to the President the spending limit for that financial year, specifying an amount which shall not be more than 50% of the total of all amounts ascertained by applying the expected long-term real rates of return so agreed under paragraph (a) for that financial year on the respective components of the relevant assets, any reference in this Part to the reserves not accumulated by the Government during its current term of office shall exclude those reserves equal to the amount so certified.

(1B) Any provisional certificate on the spending limit for a financial year issued by the Minister responsible for finance under clause (1A)(b) at any time during the financial year shall have the same effect as if it is a final certificate on the spending limit for the financial year until it is superseded by the issue of the final certificate on the spending limit for that same financial year.

(1C) In addition to clause (2), the net investment income and realised capital gains that are

(a) directly attributable to the relevant assets; and

(b) received by the Government during a financial year in any current term of office of the Government, shall for the purposes of this Part accrete and be deemed to form part of the past reserves of the Government with effect from the date of the receipt thereof.

(2) For the purposes of this Part, where any net investment income is received during

a financial year in any current term of office of the Government

(a) such amount of the net investment income of the financial year that is derived from the past reserves of the Government as is certified under clause (3); or

(b) if no certificate under clause (3) is made, 50% of the net investment income of the financial year that is derived from the past reserves of the Government not comprised in the relevant assets, shall accrete and be deemed to form part of the past reserves of the Government with effect from the date of the certificate relating to that financial year made under clause (3) or, if no such certificate is made or earlier made, from the date the accounts and statements referred to in Article 147 (5) for that financial year are presented to the President.

(3) The Minister responsible for finance shall, as soon as practicable after the end of FY 2000 and every subsequent financial year, certify to the President in a certificate relating to that financial year, the amount (not being less than 50%) of the net investment income of that financial year derived from the past reserves of the Government which is to accrete and be deemed to form part of the past reserves of the Government not comprised in the relevant assets; and such certificate shall be final and conclusive evidence of the amount.

(4) In this Article

“FY 2000” means the financial year beginning on 1st April 2000 and ending on 31st March 2001;

“net investment income”, in relation to a financial year, means the balance of

(a) the dividends, interest and other income received by the Government during the financial year from investing the reserves of the Government; and

(b) the interest received by the Government during the financial year from loans (whenever given) by the Government, after deducting all expenses arising from or incidental to investing and managing those reserves (other than costs of purchasing or disposing of or converting investments) and any interest, sinking fund charges and borrowing charges, but excludes any such income or interest on loans received before the beginning of FY 2000;

“net investment income of a financial

year that is derived from the past reserves” means the share of the net investment income of the financial year that is attributable to the past reserves;

“past reserves of the Government” means the reserves not accumulated by the Government during its current term of office, including accretions thereto deemed under clauses (1C) and (2) to be part thereof, but less such amount that is certified under clause (1A)(b) or such amount adjusted pro-rata based on the period a financial year falls partially within any current term of office of the Government;

“real rate of return” means an annual percentage of return on investment of relevant assets of the Government adjusted for changes in prices due to inflation or deflation and after deducting all expenses arising from or incidental to investing and managing the relevant assets;

“realised capital gains” , in relation to any relevant assets, means all proceeds realised from the disposition of the relevant assets less all costs and expenses arising from or incidental to the disposition, purchase or conversion of the relevant assets, and includes any realised capital losses;

“relevant assets” means all of the following:

- (a) the total net assets managed by the Government of Singapore Investment Corporation Pte. Ltd. and all its wholly-owned subsidiaries (including those with registered offices outside Singapore) as fund managers for the Government, for any company wholly-owned by the Government and for all the wholly-owned subsidiaries of such a Government company;
- (b) such moneys of the Government as the Monetary Authority of Singapore receives from the Government as banker to the Government; and
- (c) the excess of the assets of the Monetary Authority of Singapore over its liabilities, being assets and liabilities not directly attributable to the Government, and being not already comprised in paragraph (b), less the following liabilities:
 - (i) the total liabilities of the Government that is attributable to its borrowings under the Government Securities Act

(Cap. 121A) and the Local Treasury Bills Act (Cap. 167); and

- (ii) the total liabilities of the Government that is represented by any Government Fund (other than a Government Fund required by written law to be held, managed and administered separately from other Government funds) established by a public Act for special purposes and not already comprised in paragraph (i).

NO TAXATION UNLESS AUTHORISED BY LAW

143. No tax or rate shall be levied by, or for the purposes of, Singapore except by or under the authority of law.

RESTRICTION ON LOANS, GUARANTEES, ETC.

144. (1) No guarantee or loan shall be given or raised by the Government
- (a) except under the authority of any resolution of Parliament with which the President concurs;
 - (b) under the authority of any law to which this paragraph applies unless the President concurs with the giving or raising of such guarantee or loan; or
 - (c) except under the authority of any other written law.
- (2) The President, acting in his discretion, may withhold his assent to any Bill passed by Parliament providing, directly or indirectly, for the borrowing of money, the giving of any guarantee or the raising of any loan by the Government if, in the opinion of the President, the Bill is likely to draw on the reserves of the Government which were not accumulated by the Government during its current term of office.
- (3) Clause (1) (b) shall apply to the following laws:
- (a) the Asian Development Bank Act (Cap. 15);
 - (b) the Bretton Woods Agreements Act (Cap. 27);
 - (d) the External Loans Act (Cap. 102);
 - (e) the Financial Procedure Act (Cap. 109);
 - (f) the International Development Association Act (Cap. 144A);
 - (g) the International Finance Corporation Act (Cap. 144);
 - (h) the Jurong Town Corporation Act (Cap. 150); and

- (i) the Loans (International Banks) Act (Cap. 164).

CONSOLIDATED FUND

145. There shall be in and for Singapore a Consolidated Fund into which, subject to the provisions of any law for the time being in force in Singapore, shall be paid all revenues of Singapore not allocated to specific purposes by any written law.

WITHDRAWAL FROM CONSOLIDATED FUND, ETC.

146. (1) No moneys shall be withdrawn from the Consolidated Fund unless they are
- (a) charged on the Consolidated Fund;
 - (b) authorised to be issued by a Supply law, Supplementary Supply law or Final Supply law;
 - (c) authorised to be issued by a resolution passed by Parliament under Article 148B with which the President concurs; or
 - (d) authorised to be issued by the Minister responsible for finance under Article 148B (4).
- (2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by law.
- (3) Clause (1) shall not apply to any such sums as are mentioned in Article 147 (2) (b) (i), (ii) or (iii).
- (4) No moneys in the Development Fund shall be withdrawn
- (a) except for any one or more purposes specified in any written law, being purposes necessary or related to the development of Singapore; and
 - (b) unless authorised to be issued by a Supply law, Supplementary Supply law or Final Supply law or by the Minister responsible for finance under Article 148B (4).

ANNUAL ESTIMATES AND FINANCIAL STATEMENTS

147. (1) The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure of Singapore during the succeeding financial year which, when approved by the Cabinet, shall be presented to Parliament.
- (2) The estimates of expenditure shall show separately
- (a) the total sums required to meet expenditure charged on the Consolidated Fund;
 - (b) the sums respectively required to meet the heads of other expenditure

for the public services proposed to be met from the Consolidated Fund, except the following sums:

- (i) sums representing the proceeds of any loan raised by the Government for specific purposes and appropriated for those purposes by the law authorising the raising of the loan;
 - (ii) sums representing any money or interest on money received by the Government subject to a trust and to be applied in accordance with the terms of the trust; and
 - (iii) sums representing any money held by the Government which has been received or appropriated for the purpose of any trust fund established by or in accordance with any written law; and
- (c) the sums respectively required to meet the heads of expenditure proposed to be met from the Development Fund.
- (3) The estimates of revenue to be shown in the estimates shall not include any sums received by way of zakat, fitrah and baitulmal or similar Muslim revenue.
- (4) The Minister responsible for finance shall also present to Parliament together with the estimates of revenue and expenditure
- (a) a statement whether the annual estimates of revenue and expenditure is likely to draw on the reserves which were not accumulated by the Government during its current term of office; and
 - (b) an audited statement showing as far as practicable the assets and liabilities of Singapore at the end of the last completed financial year.
- (5) The Minister responsible for finance shall, as soon as practicable after the end of every financial year, prepare in respect of that year
- (a) in relation to accounts maintained in respect of the Consolidated Fund, a full and particular account showing the amounts actually received and spent in that year, and a full and particular statement showing receipts and expenditure of any loan moneys;
 - (b) a statement of receipts and expenditure of moneys accounted in the Development Fund Account;
 - (c) a statement of receipts and expenditure of moneys accounted in any Government fund created by any law;
 - (d) so far as is practicable, a statement of

- the assets and liabilities of Singapore at the end of the financial year;
- (e) so far as is practicable, a statement of outstanding guarantees and other financial liabilities of Singapore at the end of the financial year; and
 - (f) such other statements as the Minister may think fit, and, after the accounts and statements referred to in this clause have been audited, present to the President those audited accounts and statements together with another statement stating whether the audited accounts and statements referred to in this clause show any drawing on or likelihood of drawing on the reserves of the Government which were not accumulated by the Government during its current term of office.

AUTHORISATION OF EXPENDITURE FROM CONSOLIDATED FUND AND DEVELOPMENT FUND

148. (1) The heads of expenditure to be met from the Consolidated Fund and Development Fund (other than statutory expenditure and expenditure to be met by such sums as are mentioned in Article 147 (2) (b) (i), (ii) or (iii)) shall be included in a Bill to be known as a Supply Bill, providing for the issue from the Consolidated Fund and Development Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.
- (2) Wherever
- (a) any moneys are expended or are likely to be expended in any financial year upon any service or purpose which are in excess of the sum provided for that service or purpose by the Supply law relating to that year; or
 - (b) any moneys are expended or are likely to be expended (otherwise than by way of statutory expenditure) in any financial year upon any new service or purpose not provided for by the Supply law relating to that year, supplementary estimates (or, as the case may be, statements of excess) shall be prepared by the Minister responsible for finance and, when approved by the Cabinet, shall be presented to and voted on by Parliament; in respect of all supplementary expenditure so voted, the Minister responsible for finance may, at any time before the end of the financial year, introduce into Parliament a Supplementary Supply

Bill containing, under appropriate heads, the estimated sums so voted and shall, as soon as possible after the end of each financial year, introduce into Parliament a Final Supply Bill containing any such sums which have not yet been included in any Supply Bill.

- (2A) The Minister responsible for finance shall, in presenting to Parliament any supplementary estimates or statement of excess under clause (2), also present a statement stating whether the supplementary estimates or statement of excess, as the case may be, is likely to draw on the reserves which were not accumulated by the Government during its current term of office.
- (3) The part of any estimates of expenditure presented to Parliament which shows statutory expenditure shall not be voted on by Parliament, and such expenditure shall, without further authority of Parliament, be paid out of the Consolidated Fund.
- (4) For the purposes of this Article, "statutory expenditure" means expenditure charged on the Consolidated Fund or on the general revenues and assets of Singapore by virtue of Articles 18, 22J (3), 35 (10), 41, 42 (3), 108 (1), 114, 148E and 148F (4) or by virtue of the provisions of any other law for the time being in force in Singapore.

WITHHOLDING OF ASSENT TO SUPPLY BILL, ETC.

- 148A. (1) The President may, acting in his discretion, withhold his assent to any Supply Bill, Supplementary Supply Bill or Final Supply Bill for any financial year if, in his opinion, the estimates of revenue and expenditure for that year, the supplementary estimates or the statement of excess, as the case may be, are likely to lead to a drawing on the reserves which were not accumulated by the Government during its current term of office, except that if the President assents to any such Bill notwithstanding his opinion that the estimates, supplementary estimates or statement of excess are likely to lead to a drawing on those reserves, the President shall state his opinion in writing addressed to the Speaker and shall cause his opinion to be published in the Gazette.
- (2) If the President withholds his assent to any Supply Bill, Supplementary Supply Bill or Final Supply Bill relating to any financial year and no resolution to overrule

the President is passed by Parliament under Article 148D within 30 days of such withholding of assent, Parliament may by resolution authorise expenditure or supplementary expenditure, as the case may be, (not otherwise authorised by law) from the Consolidated Fund and Development Fund during that financial year:

Provided that

- (a) where the President withholds his assent to a Supply Bill, the expenditure so authorised for any service or purpose for that financial year (which shall include any amount authorised under Article 148B (4)) shall not exceed the total amount appropriated for that service or purpose in the preceding financial year; or
 - (b) where the President withholds his assent to a Supplementary Supply Bill or Final Supply Bill, the expenditure so authorised for any service or purpose shall not exceed the amount necessary to replace an amount advanced from any Contingencies Fund under Article 148C (1) for that service or purpose.
- (3) For the purposes of paragraph (a) of the proviso to clause (2), the total amount appropriated for any service or purpose in any financial year shall be ascertained by adding the sums appropriated for such service or purpose by the Supply law, Supplementary Supply law and Final Supply law (if any) for that financial year.
- (3A) Upon the passing of a resolution under clause (2), the Minister responsible for finance shall introduce in Parliament a Supply Bill, Supplementary Supply Bill or Final Supply Bill, as the case may be, containing, under appropriate heads, the sums so voted on by Parliament.
- (4) In forming his opinion under clause (1) in relation to any Supplementary Supply Bill or Final Supply Bill, the President shall not have regard to any amount for any service or purpose included in the Supplementary Supply Bill or Final Supply Bill which is to replace any amount advanced from any Contingencies Fund under Article 148C (1).
- (5) For the purposes of this Article and Article 148D, where, on the expiration of 30 days after a Supply Bill, Supplementary Supply Bill or Final Supply Bill has been presented to the President for his assent, the President has not signified the withholding of his assent to the Bill, the President shall be deemed to have given his assent to the Bill and the date of such

assent shall be deemed to be the day immediately following the expiration of the said 30 days.

POWER TO AUTHORISE EXPENDITURE ON ACCOUNT, ETC., OR FOR UNSPECIFIED PURPOSES

- 148B.(1) Subject to clause (3), Parliament may, by resolution approving estimates containing a vote on account, authorise expenditure for part of any year before the passing of the Supply law for that year, but the aggregate sums so voted shall be included under the appropriate heads, in the Supply law for that year.
- (2) Subject to clause (3), Parliament may, by resolution approving a vote of credit, authorise expenditure for the whole or part of the year, otherwise than in accordance with Articles 147 and 148, if, owing to the magnitude or indefinite character of any service or to circumstances of unusual urgency, it appears to Parliament desirable to do so.
- (3) No resolution of Parliament made under clause (1) or (2) shall have effect unless the President, acting in his discretion, concurs therewith.
- (4) If no Supply Bill has become law by the first day of the financial year to which it relates (whether by reason of the President withholding his assent thereto or otherwise), the Minister responsible for finance may, with the prior approval of the Cabinet, authorise such expenditure (not otherwise authorised by law) from the Consolidated Fund, Development Fund or other Government fund as he may consider essential for the continuance of the public services or any purpose of development shown in the estimates until there is a supply law for that financial year:
- Provided that the expenditure so authorised for any service or purpose shall not exceed one-quarter of the amount voted for that service or purpose in the Supply law for the preceding financial year.

CONTINGENCIES FUNDS

- 148C.(1) The Legislature may by law create a Contingencies Fund each for the Consolidated Fund and for the Development Fund and authorise the Minister responsible for finance to make advances from the appropriate Contingencies Fund if
- (a) he is satisfied that there is an urgent and unforeseen need for expenditure

for which no provision or no sufficient provision has been made by a Supply law; and

- (b) the President, acting in his discretion, concurs with the making of such advances.
- (2) Where any advance is made by virtue of the authority conferred under clause (1), a supplementary estimate of the sum required to replace the amount so advanced shall, as soon as practicable, be presented to and voted on by Parliament and the sum shall be included in a Supplementary Supply Bill or Final Supply Bill.
- (3) If the Minister responsible for finance intends to make any advance from a Contingencies Fund, he shall present to the President a statement stating whether the proposed advance, if replaced, is likely to draw on the reserves which were not accumulated by the Government during its current term of office.
- (4) The President may, acting in his discretion, refuse to concur with the making of an advance from a Contingencies Fund which in his opinion, if replaced, is likely to draw on the reserves which were not accumulated by the Government during its current term of office.

PARLIAMENT MAY OVERRULE PRESIDENT'S WITHHOLDING OF ASSENT TO SUPPLY BILL, ETC.

- 148D.(1) Where the President withholds his assent under Article 148A to any Supply Bill, Supplementary Supply Bill or Final Supply Bill relating to any financial year contrary to the recommendation of the Council of Presidential Advisers, Parliament may by resolution passed by not less than two-thirds of the total number of the elected Members of Parliament referred to in Article 39 (1) (a) overrule the decision of the President.
- (2) Upon the passing of a resolution under clause (1), the assent of the President shall be deemed to have been given on the date of the passing of such resolution.

DEBT CHARGES AND MONEYS REQUIRED TO SATISFY JUDGMENTS

- 148E.(1) The following are hereby charged on the Consolidated Fund:
- (a) all debt charges for which the Government is liable; and
- (b) any moneys required to satisfy any judgment, decision or award against the Government by any court or tribunal.

- (2) For the purposes of this Article, "debt charges" includes interest, sinking fund charges, repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

APPOINTMENT OF AUDITOR GENERAL

- 148F.(1) There shall be an Auditor General who shall be appointed or re-appointed, as the case may be, by the President in accordance with the advice of the Prime Minister unless the President, acting in his discretion, does not concur with that advice.
- (2) The Prime Minister shall, before tendering any advice under clause (1), consult the Chairman of the Public Service Commission.
- (3) It shall be the duty of the Auditor General to audit and report on the accounts of all departments and offices of the Government, the Public Service Commission, the Legal Service Commission, the Supreme Court, all subordinate courts and Parliament.
- (4) The Auditor General shall perform such other duties and exercise such other powers in relation to the accounts of the Government and accounts of other public authorities and other bodies administering public funds as may be prescribed by or under any written law.
- (5) Subject to clauses (7) and (8), the Auditor General shall hold office for a term of 6 years and shall cease to hold that office at the end of that term, but without prejudice to his eligibility for re-appointment for further terms of 6 years each.
- (7) The Auditor General may at any time resign his office by writing under his hand addressed to the President.
- (8) The Auditor General may be removed from office by the President, if the President concurs with the advice of the Prime Minister, but the Prime Minister shall not tender such advice except for inability of the Auditor General to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and except with the concurrence of a tribunal consisting of the Chief Justice and 2 other Judges of the Supreme Court nominated for that purpose by the Chief Justice.
- (9) The tribunal constituted under clause (8) shall regulate its own procedure and may make rules for that purpose.

- (10) Parliament shall by resolution provide for the remuneration of the Auditor General and the remuneration so provided shall be charged on the Consolidated Fund.
- (11) The remuneration and other terms of service of the Auditor General shall not be altered to his disadvantage during his continuance in office.

DUTY TO INFORM PRESIDENT OF CERTAIN TRANSACTIONS

- 148G.(1) It shall be the duty of the Auditor General and the Accountant-General to inform the President of any proposed transaction by the Government which to their knowledge is likely to draw on the reserves of the Government which were not accumulated by the Government during its current term of office.
- (2) Where the President has been so informed under clause (1) of any such proposed transaction, the President, acting in his discretion, may disapprove the proposed transaction.
- (3) Where the President does not disapprove of any proposed transaction under clause (2) even though he is of the opinion that the proposed transaction is likely to draw on the reserves of the Government which were not accumulated by the Government during its current term of office, the President shall cause his decision and opinion to be published in the Gazette.

PUBLICATION OF PRESIDENT'S OPINION REGARDING CERTAIN LIABILITIES OF THE GOVERNMENT

148H. Where the President considers that certain liabilities of the Government, though not requiring his approval, are likely to draw on the reserves of the Government which were not accumulated by the Government during its current term of office, he shall state his opinion in writing to the Prime Minister and shall cause the opinion to be published in the Gazette.

TRANSFER OF GOVERNMENT'S PAST RESERVES

- 148I. (1) Notwithstanding any provision in this Part, a proposed transfer or transfer (whether by or under any written law or otherwise) by the Government of any of its reserves to
- (a) a Government company specified in Part II of the Fifth Schedule (referred to in this clause and clause (2) as the transferee company); or
- (b) a statutory board specified in Part I of the Fifth Schedule (referred to

in this clause and clause (2) as the transferee board), shall not be taken into account in determining whether the reserves accumulated by the Government before its current term of office are likely to be or have been drawn on if

- (i) in the case of a proposed transfer or transfer of reserves by the Government to a transferee company - the board of directors of the transferee company by resolution resolves that those reserves of the Government shall be added to the reserves accumulated by the transferee company before the current term of office of the Government; or
- (ii) in the case of a proposed transfer or transfer of reserves by the Government to a transferee board - the transferee board by resolution resolves, or any written law provides, that those reserves of the Government shall be added to the reserves accumulated by the transferee board before the current term of office of the Government.
- (2) Any reserves transferred by the Government together with or under any undertaking, resolution or written law referred to in clause (1) shall be deemed to form part of the reserves accumulated by the transferee company or (as the case may be) transferee board before the current term of office of the Government as follows:
- (a) where the Supply Bill for any financial year provides for the proposed transfer of reserves and the Supply Bill is assented to by the President - at the beginning of that financial year;
- (b) where a Supplementary Supply Bill provides for the proposed transfer and the Bill is assented to by the President - on the date of such assent by the President; or
- (c) in any other case - on the date those reserves are so transferred.

LEGISLATION AGAINST SUBVERSION

149. (1) If an Act recites that action has been taken or threatened by any substantial body of persons, whether inside or outside Singapore
- (a) to cause, or to cause a substantial number of citizens to fear, organised violence against persons or property;
- (b) to excite disaffection against the President or the Government;

- (c) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence;
 - (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or
 - (e) which is prejudicial to the security of Singapore, any provision of that law designed to stop or prevent that action or any amendment to that law or any provision in any law enacted under clause (3) is valid notwithstanding that it is inconsistent with Article 9, 11, 12, 13 or 14, or would, apart from this Article, be outside the legislative power of Parliament.
- (2) A law containing such a recital as is mentioned in clause (1) shall, if not sooner repealed, cease to have effect if a resolution is passed by Parliament annulling such law, but without prejudice to anything previously done by virtue thereof or to the power of Parliament to make a new law under this Article.
- (3) If, in respect of any proceedings whether instituted before or after 27th January 1989, any question arises in any court as to the validity of any decision made or act done in pursuance of any power conferred upon the President or the Minister by any law referred to in this Article, such question shall be determined in accordance with the provisions of any law as may be enacted by Parliament for this purpose; and nothing in Article 93 shall invalidate any law enacted pursuant to this clause.

PROCLAMATION OF EMERGENCY

150. (1) If the President is satisfied that a grave emergency exists whereby the security or economic life of Singapore is threatened, he may issue a Proclamation of Emergency.
- (2) If a Proclamation of Emergency is issued when Parliament is not sitting, the President shall summon Parliament as soon as practicable, and may, until Parliament is sitting, promulgate ordinances having the force of law, if satisfied that immediate action is required.
- (3) A Proclamation of Emergency and any ordinance promulgated under clause (2) shall be presented to Parliament and, if not sooner revoked, shall cease to have effect if a resolution is passed by Parliament annulling such Proclamation or ordinance, but without prejudice to anything previously done by virtue thereof or to the power of the President to issue a new Proclamation under clause (1) or promulgate any ordinance under clause (2).
- (4) Subject to clause (5) (b), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and any provision of this Constitution (except Articles 22E, 22H, 144 (2) and 148A) or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a Bill to the President for his assent, shall not apply to a Bill for such a law or an amendment to such a Bill.
- (5) (a) Subject to paragraph (b), no provision of any ordinance promulgated under this Article, and no provision of any Act which is passed while a Proclamation of Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution.
- (b) Paragraph (a) shall not validate any provision inconsistent with
- (i) Article 5 (2A);
 - (ii) the provisions in this Constitution specified in Article 5 (2A) conferring discretionary powers on the President; and
- * (i) Article 5 (2A) or 5A;
- * Article 150 (b) (i) and (ii) were not in operation at the date of this Reprint.
- (ii) any provision in this Constitution which authorises the President to act in his discretion; and
 - (iii) the provisions of this Constitution relating to religion, citizenship or language.
- (6) At the expiration of a period of 6 months beginning with the date on which a Proclamation of Emergency ceases to be in force, any ordinance promulgated in pursuance of the Proclamation and, to the extent that it could not have been validly made but for this Article, any law made while the Proclamation was in force, shall cease to have effect, except as to things done or omitted to be done before the expiration of that period.

RESTRICTIONS ON PREVENTIVE DETENTION

151. (1) Where any law or ordinance made or promulgated in pursuance of this Part provides for preventive detention

- (a) the authority on whose order any person is detained under that law or ordinance shall as soon as may be, inform him of the grounds for his detention and, subject to clause (3), the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be; and
 - (b) no citizen of Singapore shall be detained under that law or ordinance for a period exceeding 3 months unless an advisory board constituted as mentioned in clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the President.
- (2) An advisory board constituted for the purposes of this Article shall consist of a chairman, who shall be appointed by the President and who shall be or have been, or be qualified to be, a Judge of the Supreme Court, and 2 other members, who shall be appointed by the President after consultation with the Chief Justice.
- (3) This Article does not require any authority to disclose facts the disclosure of which would, in its opinion, be against the national interest.
- (4) Where an advisory board constituted for the purposes of this Article recommends the release of any person under any law or ordinance made or promulgated in pursuance of this Part, the person shall not be detained or further detained without the concurrence of the President if the recommendations of the advisory board are not accepted by the authority on whose advice or order the person is detained.

DEFENCE AND SECURITY MEASURES

151A.(1) Articles 22B (7), 22D (6), 148G (2) and (3) and 148H shall not apply to any defence and security measure.

- (2) For the purposes of clause (1), a defence and security measure means any liability or proposed transaction which the Prime Minister and the Minister responsible for defence, on the recommendations of the Permanent Secretary to the Ministry of Defence and the Chief of Defence Force, certify to be necessary for the defence and security of Singapore, and any

certificate under the hands of the Prime Minister and the Minister responsible for defence shall be conclusive evidence of the matters specified therein.

MINORITIES AND SPECIAL POSITION OF MALAYS

152. (1) It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in Singapore.

- (2) The Government shall exercise its functions in such manner as to recognise the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.

MUSLIM RELIGION

153. The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion.

OFFICIAL LANGUAGES AND NATIONAL LANGUAGE

153A.(1) Malay, Mandarin, Tamil and English shall be the 4 official languages in Singapore.

- (2) The national language shall be the Malay language and shall be in the Roman script:

Provided that

- (a) no person shall be prohibited or prevented from using or from teaching or learning any other language; and
- (b) nothing in this Article shall prejudice the right of the Government to preserve and sustain the use and study of the language of any other community in Singapore.

IMPARTIAL TREATMENT OF GOVERNMENT EMPLOYEES

154. Subject to the provisions of this Constitution, all persons of whatever race in the same grade of the service of the Government shall, subject to the terms and conditions of their employment, be treated impartially.

EXEMPTION

154A. The President, acting in his discretion, may by order published in the Gazette exempt any transaction or class of transactions, from the application of Article 144.

AUTHORISED REPRINTS OF CONSTITUTION

155. (1) The Attorney General may, with the authority of the President, as soon as may be after 4th May 1979 cause to be printed and published a consolidated reprint of the Constitution of Singapore, as amended from time to time, amalgamated with such of the provisions of the Constitution of Malaysia as are applicable to Singapore, into a single, composite document*.

*See Reprint No. 1 of 1980 published on 31st March 1980.

- (2) The President may, from time to time, authorise the Attorney General to cause to be printed and published an up-to-date reprint of the Constitution of the Republic of Singapore, incorporating therein all amendments in force at the date of such authorisation.
- (3) Any reprint of the Constitution of the Republic of Singapore, printed and published under clause (1) or (2), shall be deemed to be and shall be, without any question whatsoever in all courts of justice and for all purposes whatsoever, the authentic text of the Constitution of the Republic of Singapore in force as from the date specified in that reprint until superseded by the next or subsequent reprint.
- (4) In the preparation and compilation of any reprint under clause (1) or (2), the Attorney General shall have, with the necessary modifications, the powers conferred upon the Law Revision Commissioners by section 4 of the Revised Edition of the Laws Act (Cap. 275).
- (5) In the preparation and compilation of the consolidated reprint under clause (1), the Attorney General shall have the power in his discretion
- (a) to merge the existing provisions of both Constitutions, making thereto such modifications as may be necessary or expedient in consequence of the independence of Singapore upon separation from Malaysia;
 - (b) to rearrange the Parts, Articles and provisions of the Constitution of Singapore and of the Constitution of Malaysia in such connected sequence as he thinks fit, omitting inappropriate or inapplicable provisions, in the latter Constitution;
 - (c) where provisions exist in both Constitutions on the same subject-matter, to include in the consolidated reprint the provisions of the Constitution of Singapore on such

subject-matter and to omit the duplicated provisions appearing in the Constitution of Malaysia from the consolidated reprint; and

- (d) generally, to do all other things necessitated by, or consequential upon, the exercise of the powers conferred upon the Attorney General by this Article or which may be necessary or expedient for the perfecting of the consolidated reprint of the Constitution of the Republic of Singapore.

DATE OF COMING INTO OPERATION OF CONSTITUTION

156. Omitted.

EXISTING STANDING ORDERS

157. The Standing Orders of the Legislative Assembly established by the Singapore (Constitution) Order in Council 1958 (S.I. 1958 No. 1956) which are in force immediately before the commencement of this Constitution shall, subject to amendment or revocation under Article 52, be the Standing Orders of Parliament.

PUBLIC OFFICERS TO CONTINUE IN OFFICE

158. Subject to the provisions of this Constitution, every person who immediately before the commencement of this Constitution holds a public office shall on its commencement continue to hold the like office in the public service.

TERMS OF SERVICE OF PERSONS WHO CONTINUE IN OFFICE

159. (1) Except where other provision is made by this Constitution, any person who holds any office as from the commencement of this Constitution by virtue of having been the holder of any office immediately before its commencement shall, as from its commencement, be entitled to the same terms of service as were applicable to him immediately before its commencement, and those terms, in so far as they relate to remuneration, shall not be altered to his disadvantage during his continuance in the public service thereafter.
- (2) For the purposes of this Article, in so far as the terms of service of any person depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

SUCCESSION TO PROPERTY

160. Subject to this Article, all property and assets which immediately before the commencement of this Constitution were vested in the State of Singapore shall vest in the Republic of Singapore.

RIGHTS, LIABILITIES AND OBLIGATIONS

161. Omitted.

EXISTING LAWS

162. Subject to this Article, all existing laws shall continue in force on and after the commencement of this Constitution and all laws which have not been brought into force by the date of the commencement of this Constitution may, subject as aforesaid, be brought into force on or after its commencement, but all such laws shall, subject to this Article, be construed as from the commencement of this Constitution with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

Person holding office of President immediately prior to 30th November 1991 to continue to hold such office

163. (1) The person holding the office of President immediately prior to 30th November 1991 shall continue to hold such office for the remainder of his term of office and shall exercise, perform and discharge all the functions, powers and duties conferred or imposed upon the office of President by this Constitution as amended by the Constitution of the Republic of Singapore (Amendment) Act 1991 (Act 5 of 1991) (referred to in this Article as the Act), as if he had been elected to the office of President by the citizens of Singapore, except that if that person vacates the office of President before the expiration of his term of office, a poll shall be conducted for the election of a new President within 6 months from the date the office of President became vacant.

(2) The Act shall not affect the appointment of any person made before 30th November 1991 and that person shall continue to hold his office as if he had been appointed in accordance with the provisions of this Constitution as amended by the Act.

(3) This Constitution as amended by the Act shall have effect subject to the following modifications:

(a) the initial term of office of the Government shall be the period beginning from 30th November 1991 and ending on the date immediately

before the Prime Minister and Ministers first take and subscribe the Oath of Allegiance in accordance with Article 27 after the first general election following that date;

(b) Articles 22B and 22D shall apply from the first financial year of a statutory board or Government company beginning not less than 3 months after that date;

(c) in relation to the first financial year of a statutory board or Government company beginning not less than 3 months after that date, any reference in Articles 22B and 22D to the approved budget of the preceding financial year of the statutory board or Government company shall, in the absence of such a budget, be read as a reference to the budget of that preceding financial year; and

(d) Article 148A shall apply in respect of the first financial year of the Government beginning on or after that date as if the resolution of Parliament authorising expenditure from the Development Fund for the preceding financial year forms part of the Supply law or Final Supply law for such preceding financial year.

THAILAND



CONSTITUTION OF THE KINGDOM OF THAILAND

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CONSTITUTION OF THE KINGDOM OF
THAILAND,
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**CONSTITUTION OF THE KINGDOM OF
THAILAND
SOMDET PHRA PARAMINTHARAMAHA
BHUMIBOL ADULYADEJ
SAYAMMINTHARATHIRAT
BOROMMANATTHABOPHIT**

Enacted on the 24th Day of August B.E. 2550;
Being the 62 Year of the Present Reign.

May there be virtue. Today is the eleventh day of the waxing moon in the ninth month of the year of the Pig under the lunar calendar, being Friday, the twenty-fourth day of August under the solar calendar, in the 2550th year of the Buddhist Era.

Phrabat Somdet Phra Paramintharamaha Bhumibol Adulyadej Mahitalathibet Ramathibodi Chakkri Narubodin Sayammintharathirat Borommanatthabophit is graciously pleased to proclaim that the President of the National Legislative Assembly addresses royalty that the democratic regime of government with the King as Head of State has been evolved in Thailand for more than seventy five years and, through this period of time, the Constitutions had been promulgated, repealed and amended for the compliance with the situation of the nation and the changing circumstances and that the Constituent Assembly and the Constitution Drafting Commission have been established by the provisions of the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 so as to prepare the new Constitution for the compatibility of the administration of State affairs in the forthcoming period with due regard to opinions of the public at all steps through the extensive public consultation and all invaluable opinions have been introduced

incessantly into drafting process and to the consideration of motions thereon.

This prepared draft Constitution contains the significant principles in maintaining mutual interest of the Thai people in securing of independence and security of the nation, upholding all religions, revering the King as the Head of State and mental representation of the nation, upholding the democratic regime of government with the King as Head of State for the administration of State affairs, rendering the crystallised promotion and protection of rights and liberties of the people, strengthening role and participation of the public in the administration of State affairs and in the examination of the exercise of State power, determining the mechanism for efficiently balancing of powers of political institutions both the legislative and the executive in accordance with the parliamentary regime and strengthening the Court and other independent organisations to perform their duties honestly and fairly.

At the completion of drafting process, the Constituent Assembly had published and disseminated the draft Constitution to the public extensively for acknowledgement and then organised the referendum for public approval thereto. The referendum result has shown that the majority of the people having the right to vote resolved approval to the draft Constitution. The President of the National Legislative Assembly then presents the draft Constitution to the King for His Royal signature to promulgate it as the Constitution of the Kingdom of Thailand and the King is graciously pleased in so doing for the compliance with public opinion.

Be it, therefore, commanded by the King that the Constitution of the Kingdom of Thailand be promulgated to replace, as from the date of its promulgation, the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 promulgated on 1st Day of October B.E. 2549.

May the Thai people unite in observing, protecting and upholding the Constitution of the Kingdom

of Thailand in order to maintain the democratic regime of government and the sovereign power derived from the Thai people, and to bring about happiness, prosperity and dignity to His Majesty's subjects throughout the Kingdom according to the will of His Majesty in every respect.

CHAPTER I GENERAL PROVISIONS

Section 1.

Thailand is one and indivisible Kingdom.

Section 2.

Thailand adopts a democratic regime of government with the King as Head of State.

Section 3.

The sovereign power belongs to the Thai people. The King as Head of State shall exercise such power through the National Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

The performance of duties of the National Assembly, the Council of Ministers, the Courts, the Constitutional organisations and State agencies shall be in accordance with the rule of laws.

Section 4.

The human dignity, right, liberty and equality of the people shall be protected.

Section 5.

The Thai people, irrespective of their origins, sexes or religions, shall enjoy equal protection under this Constitution.

Section 6.

The Constitution is the supreme law of State. The provisions of any law, rule or regulation, which are contrary to or inconsistent with this Constitution, shall be unenforceable.

Section 7.

Whenever no provision under this Constitution is applicable to any case, it shall be decided in accordance with the constitutional convention in the democratic regime of government with the King as Head of State.

CHAPTER II

The King

Section 8.

The King shall be enthroned in a position of revered worship and shall not be violated.

No person shall expose the King to any sort of accusation or action.

Section 9.

The King is a Buddhist and Upholder of religions.

Section 10.

The King holds the position of Head of the Thai Armed Forces.

Section 11.

The King has the prerogative to create titles and confer decorations.

Section 12.

The King selects and appoints qualified persons to be the President of the Privy Council and not more than eighteen Privy Councilors to constitute the Privy Council.

The Privy Council has the duty to render such advice to the King on all matters pertaining to His functions as He may consult, and has other duties as prescribed in this Constitution.

Section 13.

The selection, appointment or removal of Privy Councilors shall be at the King's pleasure.

The President of the National Assembly shall countersign the Royal Command appointing or removing the President of the Privy Council.

The President of the Privy Council shall countersign the Royal Command appointing or removing other Privy Councilors.

Section 14.

A Privy Councilor shall not be a member of the House of Representatives, senator, Election Commissioner, Ombudsman, a member of the National Human Rights Commission, Constitutional Court judge, Administrative Court judge, a member of the National Counter Corruption Commission, a member of the State Audit Commission, government official holding permanent position or receiving a salary, official of State enterprise, other State official or member or official of political party, and must not manifest loyalty to any political party.

Section 15.

Before taking office, a Privy Councilor 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 His Majesty the King and will faithfully perform my duties in the interests of the State and the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 16.

A Privy Councilor vacates office upon death, resignation or removal by Royal Command.

Section 17.

The appointment and removal of officials of the Royal Household and of the Royal Chief Aide-de-Camp shall be at the King's pleasure.

Section 18.

Whenever the King is absent from the Kingdom or unable to perform His functions for any reason whatsoever, the King may appoint a person as Regent. In this regard, the President of the National Assembly shall countersign the Royal Command therefor.

Section 19.

In the case where the King does not appoint the Regent under section 18, or the King is unable to appoint the Regent owing to He is not being sui juris or any other reason whatsoever, the Privy Council shall submit the name of a person suitable to hold the office of the Regent to the National Assembly for approval. Upon approval of the National Assembly, the President of the National Assembly shall make an announcement, in the name of the King, to appoint such person as Regent.

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly in giving an approval under paragraph one.

Section 20.

While there is no Regent under section 18 or section 19, the President of the Privy Council shall be Regent pro tempore.

In the case where the Regent appointed under section 18 or section 19 is unable to perform his duties, the President of the Privy Council shall act as Regent pro tempore.

While being the Regent under paragraph one or acting as the Regent under paragraph two, the President of the Privy Council shall not perform his duties as President of the Privy Council. In such case, the Privy Council shall select a Privy Councilor to act as President of the Privy Council pro tempore.

Section 21.

Before taking office, the Regent appointed under section 18 or section 19 shall make a solemn declaration before the National Assembly in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to His Majesty the King (name of the King) and will faithfully perform my duties in the interests of the State and the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly under this section.

Section 22.

Subject to section 23, the succession to the Throne shall be in accordance with the Palace Law on Succession, B.E. 2467.

The Amendment of the Palace Law on Succession, B.E. 2467 shall be the prerogative of the King. At the initiative of the King, the Privy Council shall draft the Palace Law Amendment and shall present it to the King for His consideration. When the King has already approved the draft Palace Law amendment and put His signature thereto, the President of the Privy Council shall notify the President of the National Assembly for informing the National Assembly. The President of the National Assembly shall countersign the Royal Command. The Palace Law Amendment shall come into force upon its publication in the Government Gazette.

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly in acknowledging the matter under paragraph two.

Section 23.

In the case where the Throne becomes vacant and the King has already appointed His Heir to the Throne under the Palace Law on Succession, B.E. 2467, the Council of Ministers shall notify the President of the National Assembly. The President of the National Assembly shall then convoke the National Assembly for the acknowledgement thereof and shall invite such Heir to ascend the Throne and proclaim such Heir King.

In the case where the Throne becomes vacant and the King has not appointed His Heir under paragraph one, the Privy Council shall submit the name of the Successor to the Throne under section 22 to the Council of Ministers for further submission to the National Assembly for approval. For this purpose, the name of a Princess may be submitted. Upon the approval of the National Assembly, the President of the National Assembly shall invite such Successor to ascend the Throne and proclaim such Successor King.

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly in acknowledging the matter under paragraph one or in giving an approval under paragraph two.

Section 24.

Pending the proclamation of the name of the Heir or the Successor to the Throne under section 23, the President of the Privy Council shall be Regent pro tempore. In the case where the Throne becomes vacant while the Regent has been appointed under section 18 or section 19 or while the President of the Privy Council is acting as the Regent under section 20 paragraph one, such Regent, as the case may be, shall continue to be the Regent until the proclamation of the name of the Heir or the Successor to ascend the Throne as King.

In the case where the Regent who has been appointed and continues to be the Regent under paragraph one is unable to perform his duties, the President of the Privy Council shall act as Regent pro tempore.

In the case where the President of the Privy Council is the Regent under paragraph one or acts as Regent pro tempore under paragraph two, the provisions of section 20 paragraph three shall apply.

Section 25.

In the case where the Privy Council has to perform its duties under section 19 or section 23 paragraph two, or the President of the Privy Council has to perform his duties under section 20 paragraph one or paragraph two or section 24 paragraph two, and there is, during that period, no President of the Privy Council or the President of the Privy Council is unable to perform his duties, the remaining Privy Councilors shall elect one among themselves to act as President of the Privy Council or to perform the duties under section 20 paragraph one or paragraph two or section 24 paragraph three, as the case may be.

CHAPTER III Rights and Liberties of Thai People

PART 1 GENERAL PROVISIONS

Section 26.

In exercising powers of all State authorities, regard shall be had to human dignity, rights and liberties in accordance with the provisions of this Constitution.

Section 27.

Rights and liberties recognised by this Constitution explicitly, by implication or by decisions of the Constitutional Court shall be protected and directly binding on the National Assembly, the Council of Ministers, the Courts, the Constitutional organisations and all State organs in enacting, applying and interpreting laws.

Section 28.

A person can invoke human dignity or exercise his rights and liberties in so far as it is not in violation of rights and liberties of other persons or contrary to this Constitution or good morals.

A person whose rights and liberties recognised by this Constitution are violated can invoke the provisions of this Constitution to bring a lawsuit or to defend himself in the Courts.

A person may bring a lawsuit against the State directly so as to act in compliance with the provisions in this Chapter. If there is a law enforcing the exercise of any right and liberty as recognised

by this Constitution, the exercising of that right and liberty shall be in accordance with such law.

A person shall have the right to be enhanced, supported and assisted by the State in exercising of right under this Chapter.

Section 29.

The restriction of such rights and liberties as recognised by the Constitution shall not be imposed on a person except by virtue of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances of such rights and liberties.

The law under paragraph one shall be of general application and shall not be intended to apply to any particular case or person; provided that the provision of the Constitution authorising its enactment shall also be mentioned therein.

The provisions of paragraph one and paragraph two shall apply mutatis mutandis to rules or regulations issued by virtue of the law.

PART 2 EQUALITY

Section 30.

All persons are equal before the law and shall enjoy equal protection under the law.

Men and women shall enjoy equal rights.

Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, disability, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.

Measures determined by the State in order to eliminate obstacle to or to promote persons' ability to exercise their rights and liberties as other persons shall not be deemed as unjust discrimination under paragraph three.

Section 31.

Members of the armed forces or the police force, Government officials, other officials of the State and officers or employees of State agencies shall enjoy the same rights and liberties under the Constitution as those enjoyed by other persons, unless such enjoyment is restricted by law or rule issued by virtue of the law specifically enacted in regard to politics, efficiency, disciplines or ethics.

PART 3 RIGHTS AND LIBERTIES OF AN INDIVIDUAL

Section 32.

A person shall enjoy the right and liberty in his life and person.

A torture, brutal act or punishment by a cruel or inhumane means shall not be made; provided that punishment under judgments of the Courts

or by virtue of the law shall not be deemed the punishment by a cruel or inhumane means under this paragraph.

Arrest and detention of person shall not be made except by order or warrant issued by the Courts or there is a ground as provided by the law.

Search of person or act affecting the right and liberty under paragraph one shall not be made except by virtue of the law.

In the case where there is an act affecting right and liberty under paragraph one, the injured person, public prosecutor or any person acting for the benefit of the injured person shall have the right to bring lawsuit to the Courts so as to stop or nullify such act and to impose appropriate measure to alleviate damages occurred therefrom.

Section 33.

A person shall enjoy the liberty of dwelling.

A person is protected for his peaceful habitation in and for possession of his dwelling.

The entry into a dwelling without consent of its possessor or the search of a dwelling or private place shall not be made except by order or warrant issued by the Courts or there is a ground as provided virtue of the law.

Section 34.

A person shall enjoy the liberty of travelling and the liberty of making the choice of his residence within the Kingdom.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security of the State, public order, public welfare, town and country planning or welfare of youth.

No person of Thai nationality shall be deported or prohibited from entering the Kingdom.

Section 35.

A person's family rights, dignity, reputation and the right of privacy shall be protected.

The assertion or circulation of a statement or picture in any manner whatsoever to the public, which violates or affects a person's family rights, dignity, reputation or the right of privacy, shall not be made except for the case which is beneficial to the public.

Personal data of a person shall be protected from the seeking of unlawful benefit as provided by the law.

Section 36.

A person shall enjoy the liberty of communication by lawful means.

The censorship, detention or disclosure of communication between persons including any other act of disclosing a statement in the

communication between persons shall not be made except by virtue of the law specifically enacted for security of the State or maintaining public order or good morals.

Section 37.

A person shall enjoy full liberty to profess a religion, a religious denomination or creed, and observe religious precepts or commandments or exercise a form of worship in accordance with his belief; provided that it is not contrary to his civic duties, public order or good morals.

In exercising the liberty referred to in paragraph one, a person shall be protected from any act of the State, which is derogatory to his rights or detrimental to his due benefits on the grounds of professing a religion, a religious denomination or creed or observing religious precepts or commandments or exercising a form of worship in accordance with his different belief from that of others.

Section 38.

Forced labour shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of war or armed conflict, or when a state of emergency or martial law is declared.

PART 4

RIGHTS IN JUDICIAL PROCESS

Section 39.

No person shall be inflicted with a criminal punishment unless he has committed an act which the law in force at the time of commission provides to be an offence and imposes a punishment therefor, and the punishment to be inflicted on such person shall not be heavier than that provided by the law in force at the time of the commission of the offence.

The suspect or the accused in a criminal case shall be presumed innocent.

Before the passing of a final judgement convicting a person of having committed an offence, such person shall not be treated as a convict.

Section 40.

A person shall have the rights in judicial process as follows:

- (1) right to access to judicial process easily, comfortably, quickly and indiscriminately;
- (2) fundamental rights in judicial process composing of, at least, right to public trial; right to be informed of and to examine into facts and related documents adequately; right to present facts, defences and evidences in the case; right to object the partial judges; right to be considered by the full bench of judges; and

right to be informed of justifications given in the judgement or order;

- (3) right to correct, prompt and fair trial;
- (4) an injured person, alleged offender, plaintiff, defendant or the accused, interested parties, interested person or witness to the case shall have the right to appropriate treatment in judicial process including the right to be investigated correctly, promptly and fairly and not to testify against himself;
- (5) an injured person, alleged offender, the accused and witness to a criminal case shall have the right to necessary and appropriate protection and assistance from State. The gratuity, compensation and expenses to be paid shall be provided by the law;
- (6) every child, youth, woman or aging or disabled person shall have the right to appropriate protection in judicial process and shall have the right to appropriate treatment in the case related to sexual offences;
- (7) an alleged offender and the accused in criminal case shall have the right to correct, prompt and fair investigation or trial with an adequate opportunity in defending his case, the right to examine or to be informed of evidence, right to defend himself through counsel and the right to bail;
- (8) a person shall, in civil action, have the right to appropriate legal assistance from State.

PART 5 PROPERTY RIGHT Section 41.

The property right of a person is protected. The extent and the restriction of such right shall be in accordance with the provisions of the law.

The succession is protected. The right of succession of a person shall be in accordance with the provisions of the law.

Section 42.

The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the purpose of public utilities, necessary national defence, exploitation of national resources, town and country planning, promotion and preservation of the quality of the environment, agricultural or industrial development, land reform, conservation of ancient monument and historic sites, or other public interests, and fair compensation shall be paid in due course to the owner thereof as well as to all persons having the rights thereto, who suffer loss by such expropriation, as provided by law.

The amount of compensation under paragraph one shall be fairly assessed with due regard to the normal market price, mode of acquisition, condition and location of the immovable property, loss of the person whose property or right thereto

is expropriated, and benefits that the State and the person whose property or right thereto is expropriated may receive from the use of the expropriated property.

The expropriation of immovable property law shall specify the purpose of the expropriation and shall clearly determine the period of time to fulfil that purpose. If the immovable property is not used to fulfil such purpose within such period of time, it shall be returned to the original owner or his heir.

The return of immovable property to the original owner or his heir under paragraph three and the claim of compensation paid shall be in accordance with the provisions of the law.

PART 6 RIGHTS AND LIBERTIES IN OCCUPATION Section 43.

A person shall enjoy the liberties to engage in an enterprise or an occupation and to undertake a fair and free competition.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security and safety of State or economy of the country, protecting the public in regard to public utilities, maintaining public order and good morals, regulating the engagement in an occupation, consumer protection, town and country planning, preserving natural resources or the environment, public welfare, preventing monopoly, or eliminating unfair competition.

Section 44.

A person shall enjoy the right to work safety and welfare and to living security irrespective of whether he is employed or unemployed in accordance with the provisions of the law.

PART 7 FREEDOM OF EXPRESSION OF INDIVIDUAL AND THE PRESS Section 45.

A person shall enjoy the liberty to express his opinion, make speech, write, print, publicise, and make expression by other means.

The restriction on liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the purpose of maintaining the security of State, protecting the rights, liberties, dignity, reputation, family or privacy rights of other person, maintaining public order or good morals or preventing or halting the deterioration of the mind or health of the public.

The closure of a newspaper or other mass media business in deprivation of the liberty under this section shall not be made.

The prevention of a newspaper or other mass media from printing news or expressing their

opinions, wholly or partly, or interference in any manner whatsoever in deprivation of the liberty under this section shall not be made except by the provisions of the law enacted in accordance with the provisions of paragraph two.

The censorship by a competent official of news or articles before their publication in a newspaper or other mass media shall not be made except during the time when the country is in a state of war; provided that it must be made by virtue of the law enacted under the provisions of paragraph two.

The owner of a newspaper or other mass media business shall be a Thai national.

No grant of money or other properties shall be made by State as subsidies to private newspapers or other mass media.

Section 46.

Officials or employees in a private sector undertaking newspaper, radio or television broadcasting businesses or other mass media business shall enjoy their liberties to present news and express their opinions under the constitutional restrictions without mandate of any government agency, State agency, State enterprise or the owner of such businesses; provided that it is not contrary to their professional ethics, and shall enjoy the right to form organisation with balancing mechanism among professional organisations so as to protect rights, liberties and fairness.

Government officials, officials or employees of a government agency, State agency or State enterprise engaging in the radio or television broadcasting business or other mass media business enjoy the same liberties as those enjoyed by officials or employees under paragraph one.

Any act done by a person holding political position, State official or the owner of business with a view to obstruct or interfere the presentation of news or an expression of opinions in public issue of the person under paragraph one or paragraph two, irrespective of whether such act has been done directly or indirectly, shall be deemed as wilfully misuse of power and take no effect except where such act has been done through the enforcement of law or professional ethics.

Section 47.

Transmission frequencies for radio or television broadcasting and telecommunication are national communication resources for public interest.

There shall be an independent regulatory body having the duty to distribute the frequencies under paragraph one and supervise radio or television broadcasting and telecommunication businesses as provided by the law.

In carrying out the act under paragraph two, regard shall be had to utmost public benefit at national and local levels in education, culture,

State security, other public interests and fair and free competition, including public participation in providing public mass media.

The supervision of the businesses under paragraph two shall constitute measures for the prevention of merger, acquisition or control among the mass media or by other persons which may deteriorate liberties to information of the public or may hinder the public from variety of information.

Section 48. No person holding a political position shall be the owner of, or hold shares in, newspaper, radio or television broadcasting or telecommunication business, irrespective of whether he so commits in his name, or through his proxy or nominee, or by other direct or indirect means which enable him to administer such business as if he is the owner of, or hold shares in, such business.

PART 8 RIGHTS AND LIBERTIES IN EDUCATION

Section 49.

A person shall enjoy an equal right to receive education for the duration of not less than twelve years which shall be provided by State thoroughly, up to the quality, and without charge.

The indigent, disabled or handicapped, or destitute person shall enjoy an equal right under paragraph one and shall be supported by State to receive equal education with other persons.

The education and training provided by professional or private organisation, alternative education of the public, self-directed learning and lifelong learning shall get appropriate protection and promotion from State.

Section 50.

A person shall enjoy an academic freedom.

Education and training, learning and teaching, research and disseminating of research according to academic principles shall be protected; provided that it is not contrary to his civic duties or good morals.

PART 9 RIGHTS TO PUBLIC HEALTH SERVICES AND WELFARE

Section 51.

A person shall enjoy an equal right to receive standard public health service, and the indigent shall have the right to receive free medical treatment from State's infirmary.

The public health service by the State shall be provided thoroughly and efficiently.

The State shall promptly prevent and eradicate harmful contagious diseases for the public without charge.

Section 52.

Children and youth shall enjoy the right to survive and to receive physical, mental and intellectual development potentially in suitable environment with due regard to their participation.

Children, youth, women and family members shall have the right to be protected by State against violence and unfair treatment and shall have the right to medical treatment or rehabilitation upon the occurrence thereof.

An interference and imposition of rights of children, youth and family members shall not be made except by virtue of the law specially enacted for the maintenance of family institution or utmost benefit of such person.

Children and youth with no guardian shall have the right to receive appropriate care and education from the State.

Section 53.

A person who is over sixty years of age and has insufficient income for living shall have the right to welfare, public facilities and appropriate aids from State.

Section 54.

The disabled or handicapped shall have the right to get access to, and to utilise of, welfare, public facilities and appropriate aids from State.

A person of unsound mind shall have the right to appropriate aids from State.

Section 55.

A person who is homeless and has insufficient income for living shall have the right to appropriate aids from State.

PART 10

RIGHTS TO INFORMATION AND PETITION

Section 56.

A person shall have the right to receive and to get access to public information in possession of a government agency, State agency, State enterprise or local government organisation, unless the disclosure of such information shall affect the security of State, public safety, interests of other persons which shall be protected, or personal data of other persons as provided by law.

Section 57.

A person shall have the right to receive information, explanation and justification from a government agency, State agency, State enterprise or local government organisation before permission is given for the operation of any project or activity which may affect the quality of the environment, health and sanitary conditions, the quality of life or any other material interest concerning him or a local community and shall have the right

to express his opinions on such matters to the concerned agencies for their consideration.

The State shall organise public consultation thoroughly before the making of social, economic, politic and cultural development plan, the expropriation of immovable property, the making of town and country planning, the determination of land use, and the enactment of rule which may affect material interest of the public.

Section 58.

A person shall have the right to participate in the decision making process of State official in the performance of administrative functions which affect or may affect his rights and liberties, as provided by law.

Section 59.

A person shall have the right to present a petition and to be informed of the result of its consideration within the appropriate time.

Section 60.

A person shall have the right to sue a government agency, State agency, State enterprise, local government organisation or other State authority which is a juristic person to be liable for an act or omission done by its government official, official or employee.

Section 61.

The right of a person who is a consumer to receive actual information shall be protected and a consumer shall have the right to make a complaint for remedy of damage and to amalgamate with another so as to protect consumers' rights.

There shall be an autonomous consumer protection organisation which is not a State agency consisting of representatives of consumers for giving opinions to a State agency on the enactment and issuance of laws, rules and regulations and on the determination of various measures for consumer protection, and for examining and making a report on any act or omission related to consumer protection. The State shall provide financial support for an operation of such autonomous organisation.

Section 62.

A person shall have the right to follow up, and to request for examination of, the performance of duties of a person holding political position, State agency and State officials.

A person who provides information related to the performance of duties of a person holding political position, State agency and State officials to the organisation examining the misuse of State power or State agency shall be protected.

**PART 11
LIBERTIES TO ASSEMBLY AND
ASSOCIATION**

Section 63.

A person shall enjoy the liberty to assemble peacefully and without arms.

The restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the purpose of public assembling and for securing public convenience in the use of public places or for the maintenance of public order during the time when the country is in a state of war, or when a state of emergency or martial law is declared.

Section 64.

A person shall enjoy the liberty to unite and form an association, a union, a league, a co-operative, a farmer group, a private organisation, a non-governmental organisation or any other group.

The government officials and State officials shall enjoy the liberty to association as other individual if it is not affect efficiency of State administration and the continuation in providing public services as provided by law.

The restriction on such liberty under paragraph one and paragraph two shall not be imposed except by virtue of the law specifically enacted for preventing common interests of the public, maintaining public order or good morals or preventing economic monopoly.

Section 65.

A person shall enjoy the liberty to unite and form a political party for the purpose of making political will of the people and carrying out political activities in fulfilment of such will through the democratic regime of government with the King as Head of State as provided in this Constitution.

The internal organisation, management and regulations of a political party shall be consistent with the fundamental principles of the democratic regime of government with the King as Head of State.

Members of the House of Representatives who are members of a political party, members of the Executive Committee of a political party, or members of a political party, of not less than the number prescribed by the organic law on political parties shall, if of the opinion that their political party's resolution or regulation on any matter is contrary to the status and performance of duties of a member of the House of Representatives under this Constitution or contrary to or inconsistent with the fundamental principles of the democratic regime of government with the King as Head of State, have the right to refer it to the Constitutional Court for decision thereon.

In the case where the Constitutional Court decides that such resolution or regulation is contrary to or inconsistent with the fundamental principles of the democratic regime of government with the King as Head of State, such resolution or regulation shall lapse.

**PART 12
COMMUNITY RIGHTS**

Section 66.

Persons assembling as to be a community, local community or traditional local community shall have the right to conserve or restore their customs, local wisdom, arts or good culture of their community and of the nation and participate in the management, maintenance and exploitation of natural resources, the environment and biological diversity in a balanced and sustainable fashion.

Section 67.

The right of a person to participate with State and communities in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and conservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to his health and sanitary condition, welfare or quality of life, shall be protected appropriately.

Any project or activity which may seriously affect the quality of the environment, natural resources and biological diversity shall not be permitted, unless its impacts on the quality of the environment and on health of the people in the communities have been studied and evaluated and consultation with the public and interested parties have been organised, and opinions of an independent organisation, consisting of representatives from private environmental and health organisations and from higher education institutions providing studies in the field of environment, natural resources or health, have been obtained prior to the operation of such project or activity.

The right of a community to sue a government agency, State agency, State enterprise, local government organisation or other State authority which is a juristic person to perform the duties under this section shall be protected.

**PART 13
RIGHT TO PROTECT THE CONSTITUTION**

Section 68.

No person shall exercise the rights and liberties prescribed in the Constitution to overthrow the democratic regime of government with the King as Head of State under this Constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

In the case where a person or a political party has committed the act under paragraph one, the person knowing of such act shall have the right to request the Prosecutor General to investigate its facts and submit a motion to the Constitutional Court for ordering cessation of such act without, however, prejudice to the institution of a criminal action against such person.

In the case where the Constitutional Court makes a decision compelling the political party to cease to commit the act under paragraph two, the Constitutional Court may order the dissolution of such political party.

In the case where the Constitutional Court makes the dissolution order under paragraph three, the right to vote of the President and the executive board of directors of the dissolved political party at the time the act under paragraph one has been committed shall be suspended for the period of five years as from the date the Constitutional Court makes such order.

Section 69.

A person shall have the right to resist peacefully an act committed for the acquisition of the power to rule the country by a means which is not in accordance with the modes provided in this Constitution.

CHAPTER IV

Duties of the Thai People

Section 70.

Every person shall have a duty to uphold the nation, religions, the King and the democratic regime of government with the King as Head of State under this Constitution.

Section 71.

Every person shall have a duty to defend the country, to protect benefits of the nation and to obey the law.

Section 72.

Every person shall have a duty to exercise his right to vote at an election.

The person who exercises his right to vote at an election or fails to attend an election for voting without notifying the reasonable cause of such failure shall be entitled to or lose the right as provided by law.

The notification of the cause of failure to attend an election and the provision of facilities for attendance thereat shall be in accordance with the provisions of the law.

Section 73.

Every person shall have a duty to serve in armed forces, render assistance in providing public calamity prevention and rehabilitation, pay taxes, render assistance to the official service, receive education and training, protect, preserve and

pass on the national arts and culture and local wisdom and conserve natural resources and the environment as provided by law.

Section 74.

A Government official, official or employee of a government agency, State agency, State enterprise or local government organisation and other State official shall have a duty to act in compliance with the law in order to protect public interests, and provide convenience and services to the public according to the good public governance principle.

In performing the duty and other act relating to the public, the person under paragraph one shall be politically impartial.

In the case where the person under paragraph one neglect or fail to perform the duties under paragraph one or paragraph two, the interested person shall have the right to request the person under paragraph one or his superior to explain reason and request them to act in compliance with the provisions of paragraph one or paragraph two.

CHAPTER V DIRECTIVE PRINCIPLES OF FUNDAMENTAL STATE POLICIES

PART 1

GENERAL PROVISIONS

Section 75.

The provisions of this Chapter are intended to serve as directive principles for legislating and determining policies for the administration of State affairs.

In stating its policies to the National Assembly, the Council of Ministers which will assume the administration of State affairs shall clearly state to the National Assembly the activities and their implementation period intended to be carried out for the administration of State affairs in implementation of the directive principles of fundamental State policies provided in this Chapter and shall prepare and submit to the National Assembly an annual report on the result of the implementation, including problems and obstacles encountered.

Section 76.

The Council of Ministers shall prepare a plan for the administration of State affairs stating measures and their details which shall be done for the administration of State affairs in each year and such plan shall be in compliance with the directive principles of fundamental State policies.

For the purpose of State administration, the Council of Ministers shall have the plan to enact laws necessarily to the administration of State affairs.

Part 2
National Security Policy
Section 77.

The State shall protect and uphold the institution of kingship and the independence and integrity of its jurisdictions and shall arrange for the maintenance of necessary and adequate armed forces and ordnances as well as up-to-date technology for the protection and upholding of its independence, sovereignty, security of State, institution of kingship, national interests and the democratic regime of government with the King as Head of State, and for national development.

PART 3
STATE ADMINISTRATION POLICY
Section 78.

The State shall act in compliance with the State administration policy as follows:

- (1) carrying out the administration of State affairs with a view to establish sustainable development of social, economic and security of the nation and strengthening an implementation of the sufficient economy philosophy with due regard to general benefits of the nation materially;
- (2) making powers, duties and responsibilities among the central administration, provincial administration and local administration to be clear and suitable for national development, and supporting a Changwat to set up its development plan and providing financial support for the implementation of such plan for the benefit of the public within that area;
- (3) delegating powers to local governments for the purpose of autonomy and self-determination of local affairs, enhancing local governments to participate and act in compliance with the directive principles of fundamental State policies, develop local economics, public utilities and assistances and information infrastructure in the localities thoroughly and equally throughout the country as well as developing into a large sized local government organisation a Changwat ready for such purpose with due regard to the will of the people in that Changwat;
- (4) developing working system of public sector with due regard to the development of quality, merit and ethics of State officials along the line with the improvement of working processes for the efficiency of State administration, and encouraging State agencies to apply the good public governance principle in the performance of their official duties;
- (5) organising officials work and other works of State with a view to enhance quick, efficiency, transparency and accountability in making or providing public services and with due regard to public consultation;

- (6) preparing a legal agency providing legal opinion related to the performance of the State under the laws and examining draft laws for the State to perform its duties autonomously so as to ensure that the administration of State affairs is in accordance with the rule of law;
- (7) preparing a political development plan and establishing autonomously political development council to monitor an implementation of the plan;
- (8) ensuring the government officials and State officials to have appropriate rights and benefits.

PART 4
RELIGIONS, SOCIAL, PUBLIC HEALTH,
EDUCATION
and Culture Policies
Section 79.

The State shall patronise and protect Buddhism as the religion observed by most Thais for a long period of time and other religions, promote good understanding and harmony among followers of all religions as well as encourage the application of religious principles to create virtue and develop the quality of life.

Section 80.

The State shall act in compliance with the social, public health, education and culture policies as follows:

- (1) protecting and developing child and youth, promoting childhood nourishment and education, promoting the equality between women and men, creating, reinforcing and developing family integrity and the strength of communities, as well as providing aids and welfare to the elderly, the indigent, the disabled or handicapped and the destitute person for their better quality of life and ability to become self reliance;
- (2) promoting, supporting and developing health system with due regard to the health promotion for sustainable health conditions of the public, providing and promoting standard and efficient public health service thoroughly and encouraging private sector and the communities in participating in health promotion and providing public health service, and the person having duty to provide such service whose act meets the requirements of professional and ethical standards shall be protected as provided by law;
- (3) developing quality and standard in providing education at all levels and forms to be in line with economic and social changes, preparing the national education plan and the law for national education development, providing development of quality of teachers and educational personnel to meet the current

changing in the present day world, and instilling awareness of being Thais, disciplines, common interests and a democratic regime of government with the King as Head of the State to learners;

- (4) promoting and supporting the delegation of powers to the local governments, communities, religious organisations and private sector with a view to provide and participate in educational management for the development of educational quality standard equally and to be in line with the fundamental State policy;
- (5) encouraging and supporting the making of researches in various disciplines of arts and sciences and disseminating all research results funded by the State;
- (6) encouraging and instilling the right awareness of national unity and learning, and instilling and making known of arts, tradition and culture of the nation as well as good value and local wisdom.

PART 5 LAW AND JUSTICE POLICIES Section 81.

The State shall act in compliance with the law and justice policies as follows:

- (1) ensuring the compliance with, and the enforcement of, the law to be correct, quick, fair and thorough, enhancing the provision of legal assistances and knowledge to the public, providing efficient public service system and other State affairs in relation to the administration of justice with due regard to the participation of the public and the profession organisations, and providing legal aids service to the public;
- (2) protecting rights and liberties of individual from any violation irrespective of whether such violation has been done by a State official or other persons, and providing justice to the public on an equal basis;
- (3) preparing the law establishing the autonomous law reform organisation for the purpose of reforming and developing laws of the nation and revising the existing laws for the compliance with the Constitution, with due regard to opinions given by persons affected by such laws;
- (4) preparing the law establishing the autonomous organisation for reforming the judicial process for improving and developing the performance of all agencies concerned with the judicial process;
- (5) providing support for the operation of private organisations rendering legal assistance to the public, especially the people who suffers from domestic violence.

PART 6 FOREIGN POLICY Section 82.

The State shall promote friendly relations with other countries and adopt the principle of non-discrimination and shall comply with human rights conventions in which Thailand is a party thereto as well as international obligations concluded with other countries and international organisations.

The State shall promote trade, investment and tourism with other countries and shall render protection and guardian to benefits of Thais living abroad.

PART 7 ECONOMIC POLICY Section 83.

The State shall encourage and support an implementation of the sufficient economy philosophy.

Section 84.

The State shall act in compliance with the economic policy as follows:

- (1) encouraging a free and fair economic system through market mechanism, ensuring the development of economics in sustainable fashion by repealing and refraining from the enactment of laws, rules and regulations controlling business which do not correspond with the economic necessity, and refraining from the engagement in an enterprise in competition with the private sector unless it is necessary for the purpose of maintaining the security of State, preserving common interests, or providing public utilities;
- (2) encouraging entrepreneurs to use merit, ethics and corporate governance principle in carrying out of their businesses;
- (3) preserving monetary and financial disciplines in order to strengthen balance and security of economic and social of the nation, improving tax system to be fair and compatible with the changing of economic and social conditions;
- (4) providing saving system for old age living to the public and State officials thoroughly;
- (5) regulating business activities for free and fair competition, antimonopoly whether direct or indirect monopoly, and consumer protection;
- (6) implementing fair distribution of incomes, and protecting, enhancing and extending the occasion to occupation of the public for economic development as well as promoting and supporting the development of local wisdom and Thai wisdom for the manufacturing of goods and providing of services and for use in occupation;
- (7) promoting people of working age to obtain

employment, protecting child and woman labour, providing the system of labour relations and tripartite which entitling labours to elect their representatives, providing social security and ensuring labours working at equal value to obtain wages, benefits and welfares upon fair and indiscriminate basis;

- (8) protecting and maintaining the interests of farmers in manufacturing and marketing, ensuring maximise profits of the farm products, encouraging an association of farmers in the form of farmer council having with a view to agricultural planning and the protection of their mutual interests;
- (9) promoting, encouraging and protecting the autonomous cooperative system and the occupation or profession body as well as the association of the public to carry out economic activities;
- (10) providing infrastructures necessarily for the living of people with a view to maintain economic security of State and preventing private sector from monopolising such infrastructures that may be harmful to the State;
- (11) refraining from doing any act which may give rise to the transfer of ownership of the fundamental structure or network of infrastructures necessarily for the living of people or for national security to private sector or to the decrease of shares or capital held or invested by the State lower than fifty per cent;
- (12) encouraging and supporting the merchant marine and rail transportation, and carrying out the domestic and international logistics management system;
- (13) encouraging and strengthening the private sector organisations, both national and local level;
- (14) encouraging agricultural products transformation industry with a view to increase value added thereto.

PART 8 LAND USE, NATURAL RESOURCES AND ENVIRONMENT POLICIES

Section 85.

The State shall act in compliance with the land use, natural resources and environment policies as follows:

- (1) preparing and applying the rule on the use of land through out the country with due regard to the compliance with environmental condition, nature of land and water and the way of life of local communities, the efficient measures for preservation of natural resources, the sustainable standard for land use and opinion of the people in the area who may be affected by the rule on the use of land;
- (2) distributing the right to hold land fairly,

enabling farmers to be entitled to the ownership or the right in land for agriculture thoroughly by means of land reform or by other means, and providing water resources for the distribution of water to farmers for use in agriculture adequately and appropriately;

- (3) preparing town and country planning, and developing and carrying out the plan effectively and efficiently for the purpose of sustainable preservation of natural resources;
- (4) preparing systematic management plan for water and other natural resources for the common interests of the nation, and encouraging the public to participate in the preservation, conservation and exploitation of natural resources and biological diversity appropriately;
- (5) conducting the promotion, conservation and protection of the quality of the environment under the sustainable development principle, and controlling and eliminate pollution which may affect health and sanitary, welfare and quality of life of the public by encouraging the public, the local communities and the local governments to have participation in the determination of the measures.

PART 9 SCIENCE, INTELLECTUAL PROPERTIES AND ENERGY POLICIES

Section 86.

The State shall act in compliance with the science, intellectual properties and energy policies as follows:

- (1) enhancing the development of science, technology and innovation in all aspects by enacting specific law in so doing, preparing budget for studying and making of researches, establishing institution for research and development, encouraging the use of results emerging from researches and development, the efficient transfer of technology and the appropriate development of researchers, and disseminating science and modern technology knowledge to the public and encouraging the public to apply science into their living;
- (2) supporting an invention or excogitation for new wisdom, preserving and developing local wisdom and Thai wisdom, and protecting intellectual properties;
- (3) promoting and supporting continuously and systematically of the research, the development and the use of natural alternative energy which is beneficial to the environment.

PART 10 PUBLIC PARTICIPATION POLICY

Section 87.

The State shall act in compliance with the public participation policy as follows:

- (1) encouraging public participation in the determination of public policy and the making of economic and social development plan both in the national and local level;
- (2) encouraging and supporting public participation to make decision on politics and the making of economic and social development plan and the provision of public services;
- (3) encouraging and supporting public participation in the examination of the exercise of State power at all levels in the form of profession or occupation organisation or other forms;
- (4) strengthening the politics power of the public, and preparing the laws establishing civil politics development fund for facilitating the communities to organise public activities and for supporting networks of the groups of people to express opinion and requirements of the communities in the localities;
- (5) supporting and providing education to the public related to the development of politics and public administration under the democratic regime of government with the King as Head of State, and encouraging the public to exercise their rights to vote honestly and uprightly.

In providing public participation under this section, regard shall be had to approximate proportion between women and men.

CHAPTER VI **The National Assembly**

PART 1 **General Provisions** **Section 88.**

The National Assembly consists of the House of Representatives and the Senate.

Joint or separate sittings of the National Assembly shall be in accordance with the provisions of this Constitution.

No person shall be a member of the House of Representatives and a senator simultaneously.

Section 89.

The President of the House of Representatives is President of the National Assembly. The President of the Senate is 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 duties, the President of the Senate shall act as President of the National Assembly in his place.

The President of the National Assembly shall have the powers and duties as provided in this Constitution and shall conduct the proceedings of the National Assembly at joint sittings in accordance with the rules of procedure.

The President of the National Assembly and the person who acts as President of the National Assembly in his place shall be impartial in the performance of duties.

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

Section 90.

An organic law bill and a bill may be enacted as law only by and with the advice and consent of the National Assembly and when the King's signature has been given or deemed to be given thereto; it shall come into force upon its publication in the Government Gazette.

Section 91.

Members of the House of Representatives or senators of not less than one-tenth of the total number of the existing members of each House shall have the right to lodge with the President of the House of which they are members a complaint asserting that the membership of any member of such House has terminated under section 106 (3), (4), (5), (6), (7), (8), (10), or (11) or section 119 (3), (4), (5), (7), or (8), as the case may be, and the President of the House with whom the complaint is lodged shall refer it to the Constitutional Court for decision as to whether the membership of such person has terminated.

When the Constitutional Court has made a decision, it shall notify the President of the House with which the complaint is lodged under paragraph one of such decision.

In the case where the Election Commission is of opinion that the membership of a member of the House of Representatives or a senator has terminated under paragraph one, it shall refer this matter to the President of the House which such person is a member and the President of that House shall then refer it to the Constitutional Court for decision under paragraph one and paragraph two.

Section 92.

The vacation of the office of a member of the House of Representatives or a senator after the day on which his membership terminates or the day on which the Constitutional Court decides that the membership of any member terminates does not affect any act done by such member in the capacity as member including the receipt of emolument or other benefits by such member before he vacates office or the President of the House of which such person is a member has been notified of the decision of the Constitutional Court, as the case may be, except that in the case of vacation of the office on the ground of his being elected or selected in violation of the organic law on election of members of the House

of Representatives and acquisition of senators, emolument and other benefits received from being in office shall be returned.

PART 2 THE HOUSE OF REPRESENTATIVES

Section 93.

The House of Representatives consists of four hundred and eighty members, four hundred of whom are from the election on a constituency basis and eighty of whom are from the election on a proportional basis.

The election of member of the House of Representatives shall be by direct suffrage and secret ballot, and the ballot to be used in an election shall be varied upon the election basis.

The rules and procedure for the election of members of the House of Representatives shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

In the case where the office of a member of the House of Representatives becomes vacant for any reason and an election of a member of the House of Representatives has not been held to fill the vacancy, the House of Representatives shall consist of the existing members of the House.

Subject to section 109 2., in the case where there occurs, during the term of the House of Representatives, any cause resulting in the members elected from the election on a proportional basis being less than eighty in number, such members shall consist of the existing members.

In the case where there occurs, during the general election, any cause resulting in the members of the House of Representatives elected from the election being less than four hundred and eighty in number but not less than ninety-five per cent of the total number of members of the House of Representatives, such members is deemed to constitute the House of Representatives. In this case, the acquisition for the fulfillment of the total number of members of the House of Representatives shall be completed within one hundred and eighty days and the new coming members shall hold office for the remaining term of the House of Representatives.

Section 94.

In the election of members of the House of Representatives on a constituency basis, the person having the right to vote shall cast ballot for the equal number of members of the House in each constituency.

The determination of the number of members of the House of Representatives in each constituency and the determination of constituencies shall be as follows:

- (1) the determination of the ratio of the number of inhabitants to one member shall be made by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the year of election by the number of four hundred members of the House of Representatives;
- (2) any Changwat with inhabitants below the number of inhabitants per one member under 1. shall have one member of the House of Representative. Any Changwat with more inhabitants than the number of inhabitants per one member shall have an additional member of the House of Representatives for every such number of inhabitants as representing the number of inhabitants per one member;
- (3) upon the number of members of the House of Representatives of each Changwat being obtained under (2), if the number of members of the House of Representatives is still less than four hundred, any Changwat with the largest fraction remaining from the determination under (2) shall have an additional member of the House of Representatives and the addition of the members of the House of Representatives in accordance with such procedure shall be made to other Changwat in respective order of fractions remaining from the determination under (2) until the number of four hundred is obtained;
- (4) in a Changwat where the number of members of the House of Representatives to be elected is not more than three, the area of that Changwat shall be regarded as the constituency and in a Changwat where the number of members of the House of Representatives is more than three, the area of such Changwat shall be divided into constituencies and, for this purpose, each constituency shall have three members of the House of Representatives;
- (5) in a Changwat which is divided into many constituencies, if there is unable to have three members of the House of Representatives in all constituencies, the area of such Changwat shall be firstly divided into the constituency with three members of the House of Representatives and the rest constituencies shall have not less than two members of the House of Representatives and in a Changwat where the number of members of the House of Representatives to be elected is four, the area of such Changwat shall be divided into two constituencies and each constituency shall have two members of the House of Representatives;
- (6) in a Changwat which is divided into more constituencies than one, the boundary of each constituency shall be adjoining and the number of inhabitants in each constituency must be closely apportioned.

The counting of votes shall be conducted at the polling station and the result of the vote-counting shall be reported to the constituency for calculation of total votes counting in that constituency and the result of the total vote-counting shall be announced publicly at any single place in that constituency as designated by the Election Commission, except that in the case where necessity arises in a particular locality, the Election Commission may otherwise prescribe the counting of votes, the calculation of total vote-counting and the announcement of the result of the total vote-counting in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 95.

An election of members of the House of Representatives on a proportional basis is an election for members of the House of Representatives from the lists of candidates prepared by political parties whereby the person having the right to vote in each constituency shall cast ballot for one political party preparing the list of candidates for such constituency.

A political party may submit the lists of candidates for the election on proportional basis for some or all constituencies.

In the case where there occurs to the submitted list of candidates for the election on proportional basis of a political party, whether on or before an election day, any cause resulting in the remaining candidates being less than the number of candidates as specified in the submitted list, the remaining candidates are deemed to be candidates of such political party and, in this case, it shall be deemed that the House of Representatives consists of the remaining members.

Section 96.

The determination of the constituencies for the election of the members of the House of Representatives on a proportional basis shall be as follows:

- (1) the country shall be divided into eight groups of Changwat and each group of Changwat shall be regarded as one constituency having ten members of the House of Representatives;
- (2) in grouping of Changwat, the boundary of each Changwat in each group shall be adjoining and the number of inhabitants in each group must be closely apportioned by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the year of election and the whole area of each Changwat shall be in on constituency.

Section 97.

The preparation of the lists of candidates prepared by a political party for the election of the members of the House of Representatives on a proportional basis shall be as follows:

- (1) the lists of candidates for each constituency shall consist of candidates in equal number of members of the House of Representatives to be elected on a proportional basis in each constituency and placed in numerical order and shall be submitted to the Election Commission before the date an application for candidacy in an election on the constituency basis commences;
- (2) candidates under 1. shall not be candidates in an election both on the constituency basis and on proportional basis of any political party and, in preparing the list of candidates, regard shall be had to opportunity and approximate proportion between women and men.

Section 98.

The determination of the proportion of candidates in the list of candidates of each political party as being elected in each constituency shall be conducted by accumulating the votes received by each political party in each constituency as basis for reckoning the proportion of candidates to be elected of each political party which shall be reflected to the result of the accumulation of the votes as aforesaid, the votes received by each political party and the numbers of members of the House of Representatives to be elected on named in the list of candidates of each political party shall be regarded as being elected in accordance with the result of reckoning by numerical order as specified the list of candidates of each political party under the rules and procedure as prescribed in the organic law on election of members of the House of Representatives and acquisition of senators.

The provisions of section 94 paragraph three shall apply mutatis mutandis to the counting of votes for the election of members of the House of Representatives on a proportional basis, provided that the Election Commission prescribes to conduct the preliminary calculation of total vote-counting at Changwat.

Section 99.

A person having the following qualifications has the right to vote at an election:

- (1) being of Thai nationality; provided that a person who has acquired Thai nationality by naturalisation must hold the Thai nationality for not less than five years;
- (2) being not less than eighteen years of age on 1st January of the year of the election; and
- (3) having his name appear on the house register in the constituency for not less than ninety days up to the election day.

A voter who has a residence outside the constituency within which his name appears in the house register, or who has his name appear in the house register in the constituency for the period of less than ninety days up to the date of the election, or who has a residence outside the Kingdom of Thailand shall have the right to cast ballot in an election in accordance with rules, procedure and conditions provided by the organic law on election of members of the House of Representatives and acquisition of senators.

Section 100.

A person under any of the following prohibitions on the election day is disfranchised:

- (1) being a Buddhist priest, novice, monk or clergy;
- (2) being under suspension of the right to vote;
- (3) being detained by a warrant of the Court or by a lawful order;
- (4) being of unsound mind or of mental infirmity.

Section 101.

A person having the following qualifications has the right to be a candidate in an election of members of the House of Representatives:

- (1) being of Thai nationality by birth;
- (2) being not less than twenty five years of age on the election day;
- (3) being a member of any and only one political party for a consecutive period of not less than ninety days up to the date of applying for candidacy in an election, or being a member of any and only one political party for a consecutive period of not less than thirty days up to the date of applying for candidacy in an election in the case where the general election is conducted on account of the dissolution of the House of Representatives;
- (4) a candidate in an election on a constituency basis shall also possess any of the following qualifications:
 - (a) having his name appear in the house register in Changwat where he stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;
 - (b) being born in Changwat where he stands for election;
 - (c) having studied in an education institution situated in Changwat where he stands for election for a consecutive period of not less than five academic years;
 - (d) having served in the official service or having had his name appear in the house register in Changwat where he stands for election for a consecutive period of not less than five years;
- (5) a candidate in an election on a proportional basis shall also possess any of the qualifications

under 4. but the reference to Changwat therein shall mean a group of Changwat;

- (6) other qualifications as prescribed in the organic law on election of members of the House of Representatives and acquisition of senators.

Section 102.

A person under any of the following prohibitions shall have no right to be a candidate in an election of members of the House of Representatives:

- (1) being addicted to narcotics;
- (2) being bankrupt or having been dishonestly bankrupt;
- (3) being disfranchised under section 100 (1), (2) or (4);
- (4) having been sentenced by a judgement to imprisonment and being detained by a warrant of the Court;
- (5) having been discharged for a period of less than five years on the election day after being sentenced by a judgement to imprisonment except for an offence committed through negligence;
- (6) having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the ground of dishonest performance of duties or corruption;
- (7) having been ordered by a judgement or an order of the Court that his assets shall vest in the State on the ground of unusual wealth or an unusual increase of his assets;
- (8) being a government official holding a permanent position or receiving salary except a political official;
- (9) being a member of a local assembly or a local administrator;
- (10) being a senator or having been a senator who vacates office for a period of less than two years;
- (11) being an official or employee of a government agency, State agency or State enterprise or other State official;
- (12) being a judge of the Constitutional Court, an Election Commissioner, an Ombudsman, a member of the State Audit Commission or a member of the National Human Right Commission;
- (13) being under the prohibition from holding a political position under section 263;
- (14) having been removed from office by the resolution of the Senate under section 274.

Section 103.

A political party presenting its members as candidates in the election in any constituency shall present its members as candidates in an equal amount to the number of members of the House of Representatives in such constituency.

In the case where there occurs, after presenting the complete number of candidates as required

in paragraph one, any cause resulting in the remaining candidates being less than the required number, it shall be deemed that such political party has presented the complete number of candidates.

After presenting its members as candidates in the election, neither a political party nor a candidate shall revoke such presentation or alter the candidates.

Section 104.

The term of the House of Representatives is four years from the election day.

During the term of the House of Representatives, the amalgamation of the political parties having their members as members of the House of Representatives shall not be made.

Section 105.

Membership of the House of Representatives commences on the election day.

Section 106.

Membership of the House of Representatives terminates upon:

- (1) expiration of the term or dissolution of the House of Representatives;
- (2) death;
- (3) resignation;
- (4) being disqualified under section 101;
- (5) being under any prohibition under section 102;
- (6) acting in contravention of any prohibition under section 265 or section 266;
- (7) resignation from membership of his political party or his political party passing a resolution, with the votes of not less than three-fourths of the joint meeting of the Executive Committee of that political party and members of the House of Representatives belonging to that political party, terminating his membership of the political party. In such cases, his membership shall be deemed to have terminated as from the date of the resignation or the resolution of the political party except where such member of the House of Representatives appeals to the Constitutional Court within thirty days as from the date of the resolution of the political party for raising an objection that such resolution is of such nature as specified in section 65 paragraph three. If the Constitutional Court decides that the said resolution is not of the nature as specified in section 65 paragraph three, his membership shall be deemed to have terminated as from the date of the decision of the Constitutional Court. If the Constitutional Court decides that the said resolution is of such nature as specified in section 65 paragraph three, that member of the House of Representatives may become a

member of another political party within thirty days as from the date of the decision of the Constitutional Court;

- (8) loss of membership of the political party in the case where the political party of which he is a member is dissolved by an order of the Constitutional Court and he is unable to become a member of another political party within sixty days as from the date on which the Constitutional Court issues its order. In such case, his membership shall be deemed to have terminated as from the day following the date on which such period of sixty days has elapsed;
- (9) the Senate passing a resolution under section 274 removing him from office or the Constitutional Court having a decision terminating his membership under section 91. In such cases, his membership shall be deemed to have terminated as from the date on which the Senate passes a resolution or the Constitutional Court has a decision, as the case may be;
- (10) having been absent for more than one-fourth of the number of days in a session the length of which is not less than one hundred and twenty days without permission of the President of the House of Representatives;
- (11) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

Section 107.

Upon the expiration of the term of the House of Representatives, the King will issue a Royal Decree calling for a general election of members of the House of Representatives in which the election day must be fixed within forty five days as from the date of the expiration of the term of the House of Representatives and the election day must be the same throughout the Kingdom.

Section 108.

The King has the prerogative to dissolve the House of Representatives for a new election of members of the House.

The dissolution of the House of Representatives shall be made in the form of a Royal Decree in which the day for a new general election must be fixed for not less than fortyfivedays but not more than sixty days as from the day the House of Representatives has been dissolved and such election day must be the same throughout the Kingdom.

The dissolution of the House of Representatives may be made only once under the same circumstance.

Section 109.

When the office of member of the House of Representatives becomes vacant for any reason other than the expiration of the term or the dissolution of the House of Representatives, the following actions shall be taken:

- (1) in the case where the vacancy is that of the office of a member of the House of Representatives elected from the election on a constituency basis, an election of a member of the House of Representatives to fill the vacancy shall be held within forty-five days as from the date of the vacancy unless the remainder of the term of the House of Representatives is less than one hundred and eighty days.
- (2) in the case where the vacancy is that of the office of a member of the House of Representatives elected from the election on a proportional basis, the President of the House of Representatives shall, by publication in the Government Gazette within seven days as from the date of the vacancy, elevate the person whose name in the list of that political party is placed in the next order to be a replacing member of the House of Representatives, except where there is no person to be elevated and, in such case, the House of Representatives consists of the remaining members; Membership of the replacing member of the House of Representatives under (1) shall commence as from the day on which the election to fill the vacancy is held, while membership of the replacing member of the House of Representatives under (2) shall commence as from the day following the date of the publication of the name of the replacing member in the Government Gazette. The replacing member of the House of Representatives may serve only for the remainder of the term of the House.

Section 110.

After the Council of Ministers has assumed the administration of State affairs, the King will appoint as Leader of the Opposition in the House of Representatives a member of the House who is the leader of the political party having its members holding no ministerial positions and having the largest number of members among the political parties having their members holding no ministerial positions, provided that such number must not be less than one-fifth of the total number of members of the House of Representatives at the time of the appointment.

In the case where no political party in the House of Representatives has the description as prescribed under paragraph one, the leader of the political party, who receives a majority of supporting votes from the members of the House who belong to the political parties having their members holding no ministerial positions, shall be the Leader of the

Opposition in the House. In case of an equality of supporting votes, it shall be decided by lot.

The President of the House of Representatives shall countersign the Royal Command appointing the Leader of the Opposition in the House of Representatives.

The Leader of the Opposition in the House of Representatives shall vacate office upon being disqualified as specified in paragraph one or paragraph two, and section 124 paragraph four shall apply mutatis mutandis, and in such case, the King will appoint a new Leader of the Opposition in the House of Representatives to fill the vacancy.

PART 3
THE SENATE
Section 111.

The Senate consists of one hundred and fifty members acquired upon the basis of election in each Changwat, one elected senator for each Changwat, and upon the selection basis in an amount equal to the total number of senators deducted by the number of senators from the election basis.

In the case where the number of Changwat is increased or decreased during the term of office of the senators whom acquired by the election basis, the Senate shall be regarded as consisting of the existing senators.

Upon the vacancy of a senator by whatever reasons and the election or selection for the fulfilment of the vacancy has not yet conducted, as the case may be, the Senate shall be regarded as consisting of the remaining senators.

In the case where there occurs any cause resulting in the number of senators being less than the total number of the senators under paragraph one but not less than ninetyfive per cent of the total number of senators, such senators is deemed to constitute the Senate. In this case, the election or selection for the fulfilment of the total number of senators under paragraph one shall be completed within one hundred and eighty days as from the date the aforesaid situation has occurred and the new coming senator shall hold office for the remaining term of the Senate.

Section 112.

In an election of senators, the area of Changwat shall be regarded as one constituency and the number of senator for each Changwat is one. The person having the right to vote at an election of senators may cast ballot, at the election, for one candidate and the election shall be by direct suffrage and secret ballot.

For the purpose of the election of senators, the campaign to be launched by the candidates in the election is limited to the matters related to the performance of duties of the Senate.

The rules, procedure and conditions for the election of, and the launching of election campaign of candidates for, senators shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 113.

There shall be the Senators Selective Committee consisting of the President of the Constitutional Court, the Chairperson of the Election Commission, the President of the Ombudsmen, the Chairperson of the National Counter Corruption Commission, the Chairperson of the State Audit Commission, a judge of the Supreme Court of Justice holding the position of not lower than judge of the Supreme Court of Justice as entrusted by the general meeting of the Supreme Court of Justice and a judge of the Supreme Administrative Court as entrusted by the general meeting of the Supreme Administrative Court, having a duty to select persons under section 114 within thirty days as from the date of receiving the list of candidates from the Election Commission and to notify the selection result to the Election Commission for publication of the persons selected as senators.

Members of the Committee under paragraph one shall select one among themselves to be the Chairperson of the Committee.

In the absent of any member or a member is unable to perform his duty and the remaining members are not less than one-half of the total number of members, the Senators Selective Committee shall consist of the remaining members.

Section 114.

The Senators Selection Committee shall carry out the selection process for persons who may be beneficial to the performance of powers and duties of the Senate from persons nominated by academic institutions, public sector, private sector, professional organisations and other organisations to be senators in an amount as prescribed in section 111 paragraph one.

In selection of person under paragraph one, regard shall be had to knowledge, skills or experience of the nominated persons which will be beneficial to the performance of the Senate, and the composition of the selected persons shall be regarded to interdisciplinary knowledge and experience, genders opportunity and equality, closely apportion of the persons nominated by the organisations under paragraph one and opportunity of social vulnerable groups.

The rules, procedure and conditions for the selection of senators shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 115.

A person having the qualifications and having no any of the prohibitions as mentioned below has the right to be a candidate in an election or selection of senators:

- (1) being of Thai nationality by birth;
- (2) being of not less than forty years of age on the election day or the date of nomination;
- (3) having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) a candidate in an election of senators shall also possess any of the following qualifications:
 - (a) having his name appear on the house register in Changwat where he stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;
 - (b) being born in Changwat where he stands for election;
 - (c) having studied in an education institution situated in Changwat where he stands for election for a consecutive period of not less than five academic years;
 - (d) having served in the official service or having had his name appear in the house register in Changwat where he stands for election for a consecutive period of not less than five years;
- (5) not being ascendants, spouse or child of a member of the House of Representatives or a person holding a political position;
- (6) not being a member or a person holding any position in a political party, or having been a member or having been holding a position in a political party and his membership has terminated or he vacates office in a political party for a period of not more than five years on the date of applying for candidacy or the date of nomination;
- (7) being disfranchised under section 102 (1), (2), (3), (4), (5), (6), (7), (8), (9), (11), (12), (13) or (14);
- (8) not being a Minister or a person holding a political position other than a member of a local assembly or a local administrator or vacating office for a period of not more than five years.

Section 116.

A senator shall not be a Minister or a person holding any political position or a person holding position in the independent constitutional organisation.

The person having held office of senator with membership having terminated for not more than two years shall not be a Minister or a person holding any political position.

Section 117.

Membership of the senators acquired on the election basis commences on the election day and membership of the senators acquired on the

selection basis commences on the day the Election Commission publishes the result of the selection.

The term of membership of the senates is six years as from the election day or the day the Election Commission publishes the result of the selection, as the case may be, and no senator shall hold office more than one term.

At the end of the term of office, the senators vacating office shall remain in office to continue their duties until the acquisition of the new senators.

Section 118.

Upon the expiration of membership of the senators acquired on the election basis, the King will issue a Royal Decree calling for a new general election of senators in which the election day must be fixed within thirty days as from the date of the expiration of membership of the senator acquired on the election basis and the election day must be the same throughout the Kingdom.

Upon the expiration of membership of the senators acquired on the selection basis, the Senators Selection Committee shall announce the commencing and period for selection process which shall complete within sixty days as from the date of the expiration of membership of the senator acquired on the selection basis.

Section 119.

Membership of the Senate terminates upon:

- (1) expiration of membership;
- (2) death;
- (3) resignation;
- (4) being disqualified under section 115;
- (5) acting in contravention of any of the prohibitions under section 116, section 265 or section 266;
- (6) the Senate passing a resolution under section 274 removing him from office or the Constitutional Court having a decision terminating his membership under section 91 or the Supreme Court having a decision under section 239 paragraph two or section 240 paragraph three; in such cases, his membership shall be deemed to have terminated as from the date of the resolution of the Senate or the decision of the Court, as the case may be;
- (7) having been absent for more than one-fourth of the number of days in a session the length of which is not less than one hundred and twenty days without permission of the President of the Senate;
- (8) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

Section 120.

When the office of a senator becomes vacant under section 119, the provisions of section 112, section 113, section 114 and section 118 shall apply *mutatis mutandis* to the election or selection of a senator, as the case may be, and the replacing senator shall remain in office for the unexpired term of office of the member he replaces. In the case where the term of office of a senator who vacates office is less than one hundred and eighty days, the election or selection may be omitted.

Section 121.

In considering the selection of a person to hold any position under this Constitution, the Senate shall appoint a committee for examining past records, behaviours and ethics of the person nominated for holding such position as well as gathering necessary facts and evidences to be reported to the Senate for its further consideration.

The proceeding of the committee under paragraph one shall be in accordance with the rules of procedure of the Senate.

PART 4

PROVISIONS APPLICABLE TO BOTH HOUSES

Section 122.

Members of the House of Representatives and senators are representatives of the Thai people and free from any mandate, commitment or control, and shall honestly perform the duties for the common interests of the Thai people without conflict of interest.

Section 123.

Before taking office, a member of the House of Representatives and a senator shall make a solemn declaration at a sitting of the House of which he is a member in the following words:

"I, (name of the declarer), do solemnly declare that I shall perform my duties in accordance with the honest dictates of my conscience for the common interests of the Thai people. I shall also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 124.

The House of Representatives and the Senate shall each have one President and one or two Vice-Presidents who are appointed by the King from the members of such House in accordance with its resolution.

The President and the Vice-Presidents of the House of Representatives hold office until the expiration of the term or the dissolution of the House.

The President and the Vice-Presidents of the Senate hold office until the day preceding the date of the election the new President and Vice-Presidents.

The President and the Vice-Presidents of the House

of Representatives and the President and the Vice-Presidents of the Senate vacate office before the expiration of the term of office under paragraph one or paragraph two, as the case may be, upon:

- (1) loss of membership of the House of which he is a member;
- (2) resignation;
- (3) holding a position of Prime Minister, Minister or other political official;
- (4) being sentenced by a judgment to imprisonment notwithstanding the case is not come to an end or the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

While being in office, the President and the Vice-Presidents of the House of Representatives shall not be members of the Executive Committee of a political party or members of a political party simultaneously.

Section 125.

The President of the House of Representatives and the President of the Senate shall have the powers and duties to carry out the business of each House in accordance with its rules of procedure. The Vice-presidents have the powers and duties as entrusted by the President and act on behalf of the President when the President is not present or unable to perform his duties.

The President of the House of Representatives, the President of the Senate and the persons who act on behalf of the President shall be impartial in the performance of duties.

When the President and the Vice-Presidents of the House of Representatives or the President and the Vice-Presidents of the Senate are not present at any sitting, the members of each House shall elect one among themselves to preside over such sitting.

Section 126.

At a sitting of the House of Representatives or the Senate, the presence of not less than one-half of the total number of the existing members of each House is required to constitute a quorum, except that in the case of considering the agenda on interpellation under section 156 and section 157, the House of Representatives and the Senate may otherwise prescribe a quorum in the rules of procedure.

A resolution on any issue shall be made by a majority of votes, unless it is otherwise provided in this Constitution.

In casting a vote, each member has one vote. In case of an equality of votes, the presiding member shall have an additional vote as a casting vote.

The President of the National Assembly, the President of the House of Representatives and the President of the Senate shall cause the voting of

each member to be recorded and disclose such record in a place where the public entry for its inspection is possible, except for the case of the voting by secret ballot.

The casting of votes to elect or give approval to a person for holding office shall be secret, unless otherwise provided in this Constitution, and members shall have autonomy and shall not be bound by resolutions of their political parties or any other mandate.

Section 127.

The National Assembly shall, within thirty days as from the date of the election of members of the House of Representatives, be summoned for the first sitting.

Each year, there shall be a general ordinary session and a legislative ordinary session.

The day on which the first sitting under paragraph one is held shall be considered as the first day of the general ordinary session, and the first day of the legislative ordinary session shall be fixed by the House of Representatives. In the case where the first sitting under in paragraph one has less than one hundred and fifty days up to the end of a calendar year, the legislative ordinary session may be omitted in that year.

During the legislative ordinary session, the National Assembly shall hold a sitting only in such cases as prescribed in Chapter 2 or in cases of the consideration of bills or organic law bills, the approval of an Emergency Decree, the approval of the declaration of war, the hearing and approval of a treaty, the election or approval of a person for holding office, the removal of a person from office, the interpellation and the amendment of the Constitution, unless the National Assembly has passed a resolution, by the votes of more than one-half of the total number of the existing members of both Houses, for considering other matters.

An ordinary session of the National Assembly shall last one hundred and twenty days but the King may prolong it.

An ordinary session may be prorogued before the end of one hundred and twenty days only with the approval of the National Assembly.

Section 128.

The King convokes the National Assembly, opens and prorogues its session.

The King may be present to perform the opening ceremony of the first general ordinary session under section 127 paragraph one or may command the Heir to the Throne who is sui juris or any person to perform the ceremony as His Representative.

When it is necessary for the interests of State, the King may convoke an extraordinary session of the National Assembly.

Subject to section 129, the convocation, the prolongation of session and the prorogation of the National Assembly shall be made by a Royal Decree.

Section 129.

Members of both Houses or members of the House of Representatives of not less than one-third of the total number of the existing members of both Houses have the right to present their petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly.

The petition referred to in paragraph one shall be lodged with the President of the National Assembly.

The President of the National Assembly shall present the petition to the King and countersign the Royal Command.

Section 130.

At a sitting of the House of Representatives or the Senate or at a joint sitting of the National Assembly, words expressed in giving statements of fact or opinions or in casting the vote by any member are absolutely privileged.

No charge or action in any manner whatsoever shall be brought against such member.

The privilege under paragraph one does not extend to a member who expresses words at a sitting which is broadcast through radio or television 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.

In the case of paragraph two, if the words expressed by the member cause damage to other 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 procedure and within such period of time as 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 privilege provided in this section extends to printers and publishers of the minutes of sittings in accordance with the rules of procedure of the House of Representatives, 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 with the permission of the President of such House *mutatis mutandis*.

Section 131.

No member of the House of Representatives or senator shall, during a session, be arrested, detained or summoned by a warrant for inquiry as the suspect in a criminal case unless permission of the House of which he is a member is obtained or he is arrested in flagrante delicto.

In the case where a member of the House of Representatives or a senator has been arrested in flagrante delicto, it shall be forthwith reported to the President of the House of which he is a member and such President may order the release of the person so arrested.

In the case where a criminal charge is brought against a member of the House of Representatives or a senator, whether the House is in session or not, the Court shall not try the case during a session, unless permission of the House of which he is a member is obtained or it is a case concerning the organic law on election of members of the House of Representatives and acquisition of senators, the organic law on Election Commission or the organic law on political parties; provided that the trial of the Court shall not hinder such member from attending the sitting of the House.

The trial and adjudication of the Court conducted before it is invoked that the accused is a member of either House are valid.

If a member of the House of Representatives or a senator is detained during the inquiry or trial before the beginning of a session, when the session begins, the inquiry official or the Court, as the case may be, must order his release as soon as the President of the House of which he is a member has so requested.

The order of release under paragraph one shall be effective as from the date of such order until the last day of the session.

Section 132.

During the expiration of the term or the dissolution of the House of Representatives, the Senate shall not hold its sitting except in the following cases:

- (1) a sitting at which the Senate shall act as the National Assembly under section 19, section 21, section 22, section 23 and section 189, and the votes taken shall be based on the number of senators;
- (2) a sitting at which the Senator shall consider of a person for holding office under the provision of this Constitution;
- (3) a sitting at which the Senate shall consider and pass a resolution removing a person from office.

Section 133.

A sitting of the House of Representatives and of the Senate and a joint sitting of the National Assembly shall be in public under the conditions

stipulated in the rules of procedure of each House. Nevertheless a sitting in camera shall be held at the request of the Council of Ministers or members of not less than one-fourth of the total number of the existing members of each House or of both Houses, as the case may be.

Section 134.

The House of Representatives and the Senate have the power to make the rules of procedure governing the election and performance of duties of the President, Vice-Presidents, matters or activities which are within the powers and duties of each standing committee, performance and quorum of committees, sittings, submission and consideration of bills and organic law bills, submission of motions, consultation, debate, passing of a resolution, recording and disclosure of the passing of a resolution, interpellation, general debate, observation of the rules and orders and other relevant matters and the power to make the codes of ethics of members and committee members and other matters for the execution under this Constitution.

Section 135.

The House of Representatives and the Senate have the power to select and appoint members of each house to constitute a standing committee and have the power to select and appoint persons, being or not being its members, to constitute a non-standing committee in order to perform any act, inquire into or study any matter within the powers and duties of the House and report its findings to the House. The resolution appointing such non-standing committee must specify its activities or the responsible matters clearly and without repetition or duplication.

The committee under paragraph one has the power to demand documents from any person or summon any person to give statements of fact or opinions on the act or the matter under its inquiry or study and such demand or summoning is enforceable as provided by law but it is not applicable to a judge performing his powers and duties in trial of the case or to the personnel management of each Court and to the Ombudsman or members of the independent Constitutional organisation in the performance of their powers and duties under the Constitution or the organic laws, as the case may be.

In the case where the person under paragraph two is a government official, official or employee of government agency, State agency, State enterprise or local government organisation, the Chairperson of the committee shall notify the Minister who supervises and controls the agency to which such person is attached in order to instruct him to act as prescribed in paragraph two, except that, in the case of the safety of or

important benefit to the State, it shall be deemed as a ground for the exemption to the compliance with paragraph two.

The privileges provided in section 130 shall also extend to the persons performing their duties under this section.

The number of members of a standing committee appointed solely from members of the House of Representatives shall be in proportion to or in close proportion to the number of members of the House of Representatives of each political party or group of political parties in the House of Representatives.

In the absence of the rules of procedure of the House of Representatives under section 134, the President of the House of Representatives shall determine the proportion under paragraph five.

PART 5 JOINT SITTINGS OF THE NATIONAL ASSEMBLY

Section 136.

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

- (1) the approval of the appointment of the Regent under section 19;
- (2) the making of a solemn declaration by the Regent before the National Assembly under section 21;
- (3) the acknowledgment of an amendment of the Palace Law on Succession, B.E. 2467 under section 22;
- (4) the acknowledgment or approval of the succession to the Throne under section 23;
- (5) the passing of a resolution for the consideration by the National Assembly of other matters during a legislative ordinary session under section 127;
- (6) the approval of the prorogation of a session under section 127;
- (7) the opening of the session of the National Assembly under section 128;
- (8) the making of the rules of procedure of the National Assembly under section 137;
- (9) the approval of the further consideration of a bill or an organic law bill under section 145;
- (10) the reconsideration of a bill or an organic law bill under section 151;
- (11) the approval of the further consideration of a Constitution Amendment, a bill or an organic law bill under section 153 paragraph two;
- (12) the announcement of policies under section 176;
- (13) the holding of a general debate under section 179;
- (14) the approval of the declaration of war under section 189;
- (15) the hearing and approval of a treaty under section 190;
- (16) the amendment of the Constitution under section 291;

Section 137.

At a joint sitting of the National Assembly, the rules of procedure of the National Assembly shall apply. While the rules of procedure of the National Assembly has not yet been issued, the rules of procedure of the House of Representatives shall apply *mutatis mutandis*.

The provisions applicable to both Houses shall apply *mutatis mutandis* to the joint sitting of the National Assembly, except that, for the appointment of a committee, the number of committee members appointed from the members of each House must be in proportion to or in close proportion to the number of members of each House.

PART 6**THE ENACTMENT OF THE ORGANIC LAW****Section 138.**

There shall be the following organic law:

- (1) the organic law on election of members of the House of Representative and acquisition of Senators;
- (2) the organic law on Election Commission;
- (3) the organic law on political parties;
- (4) the organic law on referendum;
- (5) the organic law on rules and procedure of the Constitutional Court;
- (6) the organic law on criminal proceeding against persons holding political positions;
- (7) the organic law on Ombudsman;
- (8) the organic law on counter corruption;
- (9) the organic law on State Audit.

Section 139.

An organic law bill may be introduced only by the followings:

- (1) the Council of Ministers;
- (2) members of the House of Representatives of not less than one-tenth of the total number of the existing number of the House of Representatives or members of the House of Representatives and senators of not less than one-tenth of members of the both Houses; or
- (3) the Constitutional Court, the Supreme Court of Justice or other independent Constitutional organisation by through the President of such Court or of such organizations whom having charge and control of the execution of the organic law.

Section 140.

The consideration of the organic law bill of the House of Representatives and the Senate shall be made in three readings as follows:

- (1) the voting for the acceptance of the principle of the bill in the first reading and for each section of the bill in the second reading shall be made by majority of votes of each House;
- (2) the voting for approval of the bill to be enacted as the organic law in the third reading shall

be made by more than one-half of the total number of the existing members of each House.

The provisions in Chapter 6, Part 7 the enactment of the Act shall apply *mutatis mutandis* to the consideration of the organic law bill.

Section 141.

Before presenting the organic law bill as approved by the National Assembly to the King for His signature, it shall be submitted to the Constitutional Court for considering of its constitutionality and, in such case, the Constitutional Court shall have a decision thereon within thirty days as from the date of receiving thereof.

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

In the case where the decision of the Constitutional Court resulting in the lapse of the provisions which are contrary to or inconsistent with the Constitution under paragraph two, such organic law bill shall be returned to the House of Representatives and the Senate respectively for their reconsideration. In such case, the House of Representatives or the Senate shall make an amendment to the organic law bill for its constitutionality by through the votes of more than one-half of the total number of the existing members of each House and the Prime Minister shall then proceed further under section 90 and section 150 or section 151, as the case may be.

Part 7**The Enactment of an Act****Section 142.**

Subject to section 139, a bill may be introduced only by the followings:

- (1) the Council of Ministers;
- (2) members of the House of Representatives of not less than twenty in number;
- (3) the Court or the independent Constitutional organisation, only for the bills relating to the administration of their organisations and the law in which the President of such Court or of such organisations whom having charge and control of the execution of the Act;
- (4) the persons having the right to vote of not less than ten thousand in number whom jointly introduce a bill under section 163.

If the bill under (2), (3) or (4) is a money bill, it shall be introduced only with the endorsement of the Prime Minister.

In the case where the person having the right to vote have introduced the bill under 4. and thereafter the person under (1) or (2) introduces the bill having the same principle thereto, the provisions of section 163 paragraph four shall apply to the consideration of such bill. A bill shall be first submitted to the House of Representatives.

In an introduction of a bill under paragraph one, a bill and its explanatory memorandum shall be submitted altogether.

A bill introduced to the National Assembly shall be opened to public and the public shall get access thereto conveniently.

Section 143.

A money bill means a bill with provisions dealing with any of the following matters:

- (1) the imposition, repeal, reduction, alteration, modification, remission, or regulation of taxes or duties;
- (2) the allocation, receipt, custody, payment of the State funds, or transfer of expenditure estimates of the State;
- (3) the raising of loans, or guarantee or redemption of loans, or any binding of State's properties;
- (4) currency.

In case of doubt as to whether a bill is a money bill which requires the endorsement of the Prime Minister or not, it shall be the power of a joint sitting of the President of the House of Representatives and Presidents of all its standing committees to make a decision thereon.

The President of the House of Representatives shall hold a joint sitting to consider the case under paragraph two within fifteen days as from the date such case occurs.

The resolution of the joint sitting under paragraph two shall be decided by a majority of votes. In case of an equality of votes, the President of the House of Representatives shall have an additional vote as a casting vote.

Section 144.

For any bill introduced by members of the House of Representatives which, at the stage of the adoption of its principle, was not a money bill but was then amended by the House of Representatives and, in the opinion of the President of the House, such amendment has rendered it to exhibit the characteristic of a money bill, the President of the House shall suspend the consideration of such bill and, within fifteen days as from the day on which such case occurs, shall refer it to a joint sitting of the President of the House of Representatives and Chairpersons of all its standing committees to make a decision thereon.

If the joint sitting under paragraph one decides that the amendment resulted in such bill exhibiting the characteristic of a money bill, the President

of the House shall refer it to the Prime Minister for endorsement. In the case where the Prime Minister does not endorse it, the House of Representative shall amend it so as to prevent it from being a money bill.

Section 145.

When a bill which has been specified by the Council of Ministers, in its policies stated to the National Assembly under section 176, as necessary for the administration of State affairs, if it is not approved by a resolution of the House of Representatives and the votes disapproving it are less than one-half of the total number of the existing members of the House, the Council of Ministers may request the National Assembly to hold a joint sitting for passing a resolution on another occasion. If it is approved, the National Assembly shall appoint the persons, being or not being its members, in such an equal number as proposed by the Council of Ministers, to constitute a joint committee of the National Assembly for considering such bill, and the joint committee of the National Assembly shall prepare a report thereon and submit the bill which it has already considered to the National Assembly. If such bill is approved by the National Assembly, further proceedings under section 150 shall be taken. If it is not approved, such bill shall lapse.

Section 146.

Subject to section 168, when the House of Representatives has considered a bill submitted under section 142 and resolved to approve it, the House of Representatives shall submit such bill to the Senate. The Senate must finish the consideration of such bill within sixty days; but if it is a money bill, the consideration thereof must be finished within thirty days; provided that the Senate may, as a special case, resolve to extend the period for not more than thirty 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.

The period referred to in paragraph one shall not include the period during which the bill is under the consideration of the Constitutional Court under section 149.

If the Senate has not finished the consideration of the bill within the period referred to in paragraph one, it shall be deemed that the Senate has approved it.

In the case where the House of Representatives submits a money bill to the Senate, the President of the House of Representatives shall also notify the Senate that the bill so submitted is a money bill. The notification of the President of the House of Representatives shall be deemed final.

In the case where the President of the House of Representatives does not notify the Senate that

the bill is a money bill, such bill shall not be deemed a money bill.

Section 147.

Subject to section 168, after the Senate has finished the consideration of a bill,

- (1) if it agrees with the House of Representatives, further proceedings under section 150 shall be taken;
- (2) if it disagrees with the House of Representatives, such bill shall be withheld and returned to the House of Representatives;
- (3) if there is an amendment, the amended bill shall be returned to the House of Representatives. If the House of Representatives approves such amendment, further proceedings under section 150 shall be taken. 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 the bill which it has already considered to both Houses. If both Houses approve the bill already considered by the joint committee, further proceedings under section 150 shall be taken. If either House disapproves it, the bill shall be withheld.

The joint committee has the power to demand documents from any person or summon any person to give statements of fact or opinions in respect of the consideration of the bill and the privileges provided in section 130 shall also extend to the person performing his duties under this section.

At a meeting of the joint committee, the presence of the members of the joint committee appointed by both Houses of not less than one-half of the total number of its members is required to constitute a quorum and the provisions of section 137 shall apply *mutatis mutandis*.

If the Senate fails to return the bill to the House of Representatives within the period under section 146, it shall be deemed that the Senate approves such bill and further proceeding under section 150 shall be taken.

Section 148.

A bill withheld under section 147 may be reconsidered by the House of Representatives only after the lapse of one hundred and eighty days as from the date the bill or the organic law bill is returned to the House of Representatives by the Senate in case of withholding under section 147 (2) and as from the date either House disapproves it in case of withholding under section 147 (3). In such cases, if the House of Representatives resolves to reaffirm the original bill 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 further proceedings under section 150 shall be taken.

If the bill withheld is a money bill, the House of Representatives may forthwith proceed to reconsider it. In such case, if the House of Representatives resolves to reaffirm the original bill 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 further proceedings under section 150 shall be taken.

Section 149.

While a bill is being withheld under section 147, 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.

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 the said 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.

Section 150.

The Prime Minister shall present the bill approved by the National Assembly to the King for His signature within twenty days as from the date of receiving such bill from the National Assembly and the bill shall come into force as an Act upon its publication in the Government Gazette.

Section 151.

If the King refuses His assent to a bill and either returns it to the National Assembly or does not return it within ninety days, the National Assembly must reconsider such bill. If the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of existing members of both Houses, the Prime Minister shall present such bill to the King for signature once again. If the King does not sign and return the bill within thirty days, the Prime Minister shall cause the bill to be promulgated as an Act in the Government Gazette as if the King had signed it.

Section 152.

In considering a bill the substance of which is decided by the President of the House of Representatives to be concerned with children, the youth, women, the elderly, the disabled or handicapped, if the House of Representatives does

not consider it by its full committee, the House of Representatives shall appoint a non-standing committee consisting of representatives, from private organisations concerned with the respective types of persons, of not less than one-third of the total number of members of the committee and the members thereof shall consist of women and men in closely apportion.

Section 153.

In the case where the term of the House of Representatives expires or the House of Representatives is dissolved, the draft Constitution Amendment or all bills to which the King has refused His assent or which have not been returned by the King within ninety days, shall lapse.

In the case where the term of the House of Representatives expires or where the House of Representatives is dissolved, the National Assembly, the House of Representatives or the Senate, as the case may be, may, after a general election of members of the House of Representatives, continue the consideration of the draft Constitution Amendment or the bill which has not yet been approved by the National Assembly if the Council of Ministers which is newly appointed after the general election so requests within sixty days as from the first sitting day of the National Assembly after the general election and the National Assembly approves it. If the Council of Ministers does not so request within such period of time, such draft Constitution Amendment or bill shall lapse.

The further consideration of the draft Constitution Amendment or the bill under paragraph two shall be in accordance with the rules of procedure of the House of Representatives, the Senate or the National Assembly, as the case may be.

PART 8

CONSTITUTIONALITY OF LAWS

Section 154.

After any bill has been approved by the National Assembly under section 150 or has been reaffirmed by the National Assembly under section 151, before the Prime Minister presents it to the King for signature:

- (1) if members of the House of Representatives, senators or members of both Houses of not less than onetenth of the total number of the existing members of both Houses are of the opinion that provisions of the said bill are contrary to or inconsistent with this Constitution or such bill is enacted contrary to the provisions of this 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, without delay, inform the Prime Minister thereof;

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

During the consideration of the Constitutional Court, the Prime Minister shall suspend the proceedings in respect of the promulgation of the bill until the Constitutional Court gives a decision thereon.

If the Constitutional Court decides that the provisions of such bill are contrary to or inconsistent with this Constitution or it is enacted contrary to the provisions of this 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 this Constitution otherwise than in the case specified in paragraph three, such conflicting or inconsistent provisions shall lapse and the Prime Minister shall proceed further in accordance with section 150 or section 151, as the case may be.

Section 155.

The provisions of section 154 shall apply mutatis mutandis to 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 which have already been approved by the House of Representatives, the Senate or the National Assembly, as the case may be, but remain unpublished in the Government Gazette.

PART 9

CONTROL OF THE ADMINISTRATION OF STATE AFFAIRS

Section 156.

Every member of the House of Representatives or senator has the right to interpellate a Minister on any matter within the scope of his authority, but the Minister has the right to refuse to answer it 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.

Section 157.

In the administration of State affairs on any matter which involves an important problem of public concern, affects national or public interest, or requires urgency, a member of the House of Representatives may notify the President of the House of Representatives in writing prior to the commencement of the sitting of the day, that he

will interpellate the Prime Minister or the Minister responsible for the administration of State affairs on that matter without specifying the question, and the President of the House of Representatives shall place such matter on the agenda of the meeting of that day.

The interpellation and the answer to the interpellation under paragraph one may be made once a week, and a verbal interpellation by a member of the House of Representatives on a matter involving the administration of State affairs may be made not exceeding three times on each matter in accordance with the rules of procedure of the House of Representatives.

Section 158.

Members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister. Such motion must nominate the suitable next Prime Minister who is also a person under section 171 paragraph two and, when the motion has been submitted, the dissolution of the House of Representatives shall not be permitted, except that the motion is withdrawn or the resolution is passed without being supported by the vote in accordance with paragraph three.

In the submission of the motion for a general debate under paragraph one, if it is concerned with the behaviour of the Prime Minister, which involves circumstances of unusual wealthiness, exhibits a sign of malfeasance in office or intentionally violates the provisions of the Constitution or law, it shall not be submitted without the petition under section 271 having been presented. Upon the submission of the petition under section 271, it may be proceeded without awaiting the outcome of the proceedings under section 272.

If the general debate is concluded with a resolution not to pass over the agenda of the general debate, the House of Representatives shall pass a vote of confidence or no-confidence. Voting in such case shall not take place on the date of the conclusion of the debate. The vote of no-confidence must be passed by more than one-half of the total number of the existing members of the House of Representatives.

In the case where a vote of no-confidence is passed by not more than one-half of the total number of the existing members of the House of Representatives, the members of the House of Representatives who submit the motion for the general debate shall no longer have the right to submit another motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Ministers throughout the session.

In the case where a vote of no-confidence is passed by more than one-half of the total number of the existing members of the House of Representatives, the President of the House of Representatives shall submit the name of the person nominated under paragraph one to the King for further appointment and section 172 shall not apply.

Section 159.

Members of the House of Representatives of not less than one-sixth of the total number of the existing members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in an individual Minister and the provisions of section 158 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

In the case where the Minister vacates his portfolio but being appointed to hold another portfolio after the submission of a motion under paragraph one, he still be a subject of a general debate for the purpose of passing a vote of no-confidence under paragraph one.

The provisions of paragraph two shall apply *mutatis mutandis* to the Minister who vacates his portfolio for the period of not exceeding ninety days before the submission of a motion under paragraph one but being appointed to be the Minister of another portfolio.

Section 160.

In the case where the number of members of the House of Representatives whose their political parties having members holding no ministerial positions is less than the number of members of the House required for the making of submission of a motion for a general debate under section 158 or section 159, more than one-half of the existing number of such members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister or in an individual Minister under section 158 or section 159 if the Council of Ministers conducts the administration of State affairs for more than two years.

Section 161.

Senators of 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 State affairs without a resolution to be passed.

The motion for the general debate under this section may be submitted only once in each session.

Section 162.

In the sitting of the House of Representatives or the Senate for consideration of an interpellation on any matter within the scope of the authority of Minister or for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister or in an individual Minister, the Prime Minister or such Minister shall attend the sitting of the House of Representatives or the Senate for giving statement or answer thereon by himself, provided that there occurs an inevitable cause which hinder him in so doing but he shall notify the President of the House of Representatives or the President of the Senate on or before the sitting date.

A member of the House of Representatives is not bound by the resolution of his political party in submitting an interpellation, debating and voting of no-confidence.

**CHAPTER VII
DIRECT POLITICAL PARTICIPATION OF THE
PUBLIC**

Section 163.

The persons having the right to vote of not less than ten thousand in number shall have a right to submit a petition to the President of the National Assembly to consider such bill as prescribed in Chapter 3 and Chapter 5 of this Constitution.

A bill must be attached to the petition referred to in paragraph one.

The rules and procedure for the petition and the examination thereof shall be in accordance with the provisions of the law.

In considering the bill under paragraph one, the House of Representatives and the Senate shall facilitate representatives of the persons submitting a petition to state the principles of the bill and the non-standing committee for considering such bill shall consist of representatives of the persons submitting a petition in an amount of not less than one-third of the total number of its members.

Section 164.

The persons having the right to vote of not less than twenty thousand in number shall have a right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 274 removing the persons under section 270 from office.

The request under paragraph one shall clearly itemise circumstances in which such persons have allegedly committed the act.

The rules, procedure and conditions for the lodging of the complaint by the voters under paragraph one shall be in accordance with the organic law on counter corruption.

Section 165.

A person having the right to vote in an election shall have the right to vote in a referendum.

A referendum shall be held when:

- (1) the Council of Ministers is of the opinion that any issue may affect national or public interests, the Prime Minister, with the approval of the Council of Ministers, may consult the President of the House of Representatives and the President of the Senate for the purpose of publishing in the Government Gazette calling for a referendum;
- (2) it is required by law.

A referendum under (1) or (2) may be held for the purpose of finding solution of the subject matter of a referendum through the majority of votes in a referendum or for the purpose of public consultation to the Council of Ministers, provided that otherwise prescribed by law.

A vote in a referendum shall be made for either approval or not approval to the subject matter of a referendum. A referendum shall not be held on an issue specifically relating to any individual or group of persons.

Before the referendum day, the State shall provide sufficient information to the public and provide equal opportunity to the peoples who agree or disagree with the subject matter of a referendum to state their opinions.

The rules and procedure for voting in a referendum shall be in accordance with the organic law on referendum which shall at least consist of details of the procedure for voting, referendum period and the number of votes required for final decision.

**CHAPTER VIII
MONETARY, FINANCE AND BUDGET**

Section 166.

The expenditure estimates of the State shall be made in the form of an Act. If the Annual Appropriations Act for the following fiscal year is not enacted in time, the law on annual appropriations for the preceding fiscal year shall apply for the time being.

Section 167.

In an introduction of the annual appropriations bill, the bill shall be annexed with documents stating estimated incomes, obscure objectives, activities, plans or projects of each item of expenditures including monetary and financial status of the country through the overview of economic condition arising from spending and gathering of incomes, benefits and deficiencies resulting from any specific tax exemption, justification for binding of overyear obligations, State debts and its incurring and financial status of State enterprises of that year and the previous year.

If any expenditure is unable to be directly allocated to a government agency, State enterprise or other State agencies, it shall be allocated to the item of reserved expenditure and, in such case, justification and necessary of such allocation shall also be stated.

There shall be a law on State monetary and finance laying down monetary and financial disciplines as well as the rules relating to a financial planning for medium term range, the gathering of incomes, a determination of guidelines for the making of expenditure estimates of State, the financial and properties management, an accounting, the public funds, an incurring of debts or any act resulting in the binding of properties of or the incurring of financial obligation of State, the rule for a determination of the amount of reserved money to be paid for emergency or necessity situation and other relevant acts which are the scope for the gathering of incomes and supervising of spending in accordance with the principles of balancing, economic sustainable development and social fairness.

Section 168.

The House of Representatives must finish the consideration of an annual appropriations bill, a supplementary appropriations bill and a transfer of appropriations bill within one hundred and five days as from the date the bill reaches the House of Representatives.

If the House of Representatives has not finished the consideration of the bill within the period referred to in paragraph one, such bill shall be deemed to have been approved by the House of Representatives and shall be submitted to the Senate.

In the consideration by the Senate, the Senate must approve or disapprove the bill without any amendment within twenty days as from the date the bill reaches the Senate. Upon the lapse of such period, such bill shall be deemed to have been approved; in such case and in the case where the Senate approves it, further proceedings under section 150 shall be taken.

If the Senate disapproves the bill, the provisions of section 148 paragraph two shall apply *mutatis mutandis*.

In the consideration of the annual appropriations bill, the supplementary appropriations bill and the transfer of appropriations bill, a member of the House of Representatives shall not submit a motion adding any item or amount to the bill, but may submit a motion reducing or abridging the expenditures which are not expenditures according to any of the following obligations:

- (1) money for payment of the principal of a loan;
- (2) interest on a loan;
- (3) money payable in accordance with the law.

In the consideration by the House of Representatives, the Senate or a committee, any proposal, submission of a motion or commission of an act, which results in direct or indirect involvement by members of the House of Representatives, senators or members of a committee in the use of the appropriations, shall not be permitted.

In the case where members of the House of Representatives or senators of not less than one-tenth of the total number of the existing members of each House are of the opinion that the violation of the provisions of paragraph six has occurred, they shall refer it to the Constitutional Court for decision and the Constitutional Court shall decide it within seven days as from the date of its receipt. In the case where the Constitutional Court decides that the violation of the provisions of paragraph six has occurred, such proposal, submission of the motion, or commission of the act shall be ineffective.

The State shall allocate adequate budgets for the autonomous administration of the National Assembly, the Constitutional Court, the Courts of Justice, the Administrative Courts and other Constitutional organisations.

In the consideration of the expenditure estimates of the National Assembly, the Courts and the organisations under paragraph eight, if such organisation is of the opinion that the allocated budget is insufficient, it shall submit a motion to the committee directly.

Section 169.

The payment of State funds shall be made only when it has been authorised by the law on appropriations, the law on budgetary procedure, the law on transfer of appropriations or the law on treasury balance, except that it may be prepaid in the case of urgent necessity under

the rules and procedure provided by law. In such case, the expenditure estimates for reimbursement must be set aside in the Transfer of Appropriations Act, the Supplementary Appropriations Act, or the Annual Appropriations Act for the following fiscal year, and the sources of incomes for reimbursement of expenditures paid-up from the treasury balance must be stated.

During the time when the country is in state of war or fighting, the Council of Ministers has the power to transfer or shift the budget allocated for any government agency or State enterprise to be used for other items forthwith even it is different from the provisions of the Annual Appropriation Act and it shall be reported to the National Assembly without delay.

If there is a transfer or shift of the budget allocated for any item to be used for other items of any government agency or State enterprise, the Government shall report the National Assembly for information every six months.

Section 170.

A State agency having income which is not required to be remitted as State revenue shall report the receipt and spending of such money to the Council of Ministers at the lapse of each fiscal year and the Council of Ministers shall report further to the House of Representatives and the Senate.

A spending of income under paragraph one shall be in accordance with the monetary and financial disciplines under this Chapter.

**CHAPTER IX
THE COUNCIL OF MINISTERS**

Section 171.

The King appoints the Prime Minister and not more than thirty-five other Ministers to constitute the Council of Ministers having the duty to carry out the administration of State affairs with collective accountability.

The Prime Minister must be a member of the House of Representatives appointed under section 172.

The President of the House of Representatives shall countersign the Royal Command appointing the Prime Minister.

The Prime Minister shall not hold office for more than eight consecutive years.

Section 172.

The House of Representatives shall complete its consideration and approval of the person suitable to be appointed as Prime Minister within thirty days as from the day the National Assembly is convoked for the first sitting under section 127. The nomination of a person who is suitable to be appointed as Prime Minister under paragraph one shall be endorsed by members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House.

The resolution of the House of Representatives approving the appointment of a person as Prime Minister shall be passed by the votes of more than one-half of the total number of the existing members of the House of Representatives. The passing of the resolution in such case shall be by open votes.

Section 173.

In the case where the period of thirty days as from the date the National Assembly is convoked for the first sitting of members of the House of Representatives has elapsed and no one has been approved for appointment as Prime Minister under section 172 paragraph three, the President of the House of Representatives shall, within fifteen days as from the lapse of such period, present to the King for the issuance of a Royal Command appointing the person who has received the highest votes as Prime Minister.

Section 174.

A Minister must possess the qualifications and must not be under any of the prohibitions as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than thirty five years of age;
- (3) having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) not being under any of the prohibitions under section 102 (1), (2), (3), (4), (6), (7), (8), (9), (11), (12), (13) or (14);
- (5) having been discharged for a period of less than five years before the appointment after being sentenced by a judgment to imprisonment, except for an offence committed through negligence or petty offence;
- (6) not being a senator or having been a senator whose membership has terminated for not more than two years up to the date of the appointment as Minister.

Section 175.

Before taking office, a Minister must 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 duty in the interests of the country and of the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 176.

The Council of Ministers which will assume the administration of State affairs must, within fifteen days as from the date it takes office, state its policies and explanation for an implementation of the directive principles of fundamental State policies under section 75; provided that no vote of confidence shall be passed, and must, after giving such statement, prepare a plan for the administration of State affairs as guideline for the administration of State affairs for each year under section 76.

Before stating policies to the National Assembly under paragraph one, if there occurs a case of importance and necessary urgency which, if left delayed, will affect material benefits of State, the Council of Ministers which has taken office may, for the time being, carry out such acts in so far as it is necessary.

Section 177.

A Minister has the right to attend and give a statement of facts or opinions at a sitting of the House. In the case where the House of Representatives or the Senate has passed a resolution requiring Ministers to attend a sitting for any matter, he shall attend the sitting. The provisions of section 130 governing privileges shall apply mutatis mutandis.

In the case where a Minister is a member of the House of Representatives simultaneously, he must, in the sitting of the House of Representatives, abstain from voting in relation to the matter concerning with the holding of his position or the performance of his duty or the matter he has interests therewith.

Section 178.

Ministers shall carry out the administration of State affairs in accordance with the provisions of the Constitution, laws and the policies stated under section 176, and shall be accountable individually to the House of Representatives for the performance of their duties and shall also be accountable collectively to the National Assembly for the general policies of the Council of Ministers.

Section 179.

In the case where there is an important problem in the administration of State affairs in regard to which the Council of Ministers deems it advisable to take opinion of members of the House of Representatives and senators, the Prime Minister may give a notice to the President of the National Assembly requesting that a general debate be held at a joint sitting of the National Assembly. In such case, no resolution shall be passed by the National Assembly on the issue put in the debate.

Section 180.

Ministers vacate office en masse upon:

- (1) the termination of ministership of the Prime Minister under section 182;
- (2) the expiration of the term or the dissolution of the House of Representatives;
- (3) the resignation of the Council of Ministers.

In the case where the ministership of the Prime Minister terminates under section 182 (1), (2), (3), (4), (5), (7) or (8), the procedure under section 172 and section 173 shall apply mutatis mutandis.

Section 181.

The outgoing Council of Ministers shall remain in office for carrying out duty until the newly appointed Council of Ministers takes office, but in case of vacation of office under section 180 (2) the Council of Ministers and a Minister is able to carry out any duty as necessary within the following conditions:

- (1) refraining from the exercise of power which resulting in the appointment or transfer of government officials holding permanent positions or salaries or of officials of State agency, State enterprise or any enterprise in which the State is a major shareholders or resulting in leaving such persons from the performance of their duties or offices or replacing other persons to replace him except by prior approval of the Election Commission;

- (2) refraining from doing an act which resulting in giving of approval to spend budget reserved for emergency or necessity situation except by prior approval of the Election Commission;
- (3) refraining from doing an act which resulting in giving approval of work or project or which the forthcoming Council of Ministers may be bound;
- (4) refraining from using resources or personnel of State to do an act which may affect the result of a general election, and refraining from the violation of any prohibitions under the rules prescribed by the Election Commission.

Section 182.

The ministership of an individual Minister terminates upon:

- (1) death;
- (2) resignation;
- (3) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense;
- (4) the passing of a vote of no-confidence by the House of Representatives under section 158 or section 159;
- (5) being disqualified or being under any of the prohibitions under section 174;
- (6) the issuance of a Royal Command to remove a Minister from office under section 183;
- (7) having done an act prohibited by section 267, section 268 or section 269;
- (8) being removed from office by a resolution of the Senate under section 274.

Apart from the termination of ministership of individual Minister under paragraph one, the ministership of the Prime Minister terminates upon the lapse of the period under section 171 paragraph four.

The provisions of section 91 and section 92 shall apply to the termination of ministership under (2), (3), (5) or (7) or paragraph two and, in such case, the Election Commission may also refer the matter thereof to the Constitutional Court for decision.

Section 183.

The King has the prerogative to remove a Minister from his office upon the advice of the Prime Minister.

Section 184.

For the purpose of maintaining national or public safety or national economic security, or averting public calamity, the King may issue an Emergency Decree which shall have the force as an Act.

The issuance of an Emergency Decree under paragraph one shall be made only when the Council of Ministers is of the opinion that it is the case of emergency and necessary urgency which is unavoidable.

In the next succeeding sitting of the National Assembly, the Council of Ministers shall submit the Emergency Decree to the National Assembly for its consideration without delay. If it is out of session and it would be a delay to wait for the opening of an ordinary session, the Council of Ministers must proceed to convoke an extraordinary session of the National Assembly in order to consider whether to approve or disapprove the Emergency Decree without delay. If the House of Representatives disapproves it or approves it but the Senate disapproves it and the House of Representatives reaffirms its approval by the votes of not more than one-half of the total number of the existing members of the House, the Emergency Decree shall lapse; provided that it shall not affect any act done during the enforcement of such Emergency Decree.

If the Emergency Decree under paragraph one has the effect of amending or repealing any provisions of any Act and such Emergency Decree has lapsed in accordance with paragraph three, the provisions of the Act in force before the amendment or repeal shall continue to be in force as from the day the disapproval of such Emergency Decree is effective.

If the House of Representatives and the Senate approve the Emergency Decree, or if the Senate disapproves it but the House of Representatives reaffirms its approval by the votes of more than one-half of the total number of the existing members of the House, such Emergency Decree shall continue to have the force as an Act.

The Prime Minister shall cause the approval or disapproval of the Emergency Decree to be published in the Government Gazette. In case of disapproval, it shall be effective as from the day following the date of its publication in the Government Gazette.

The consideration of an Emergency Decree by the House of Representatives and the Senate in case of reaffirmation of an Emergency Decree must take place at the first opportunity when such Houses hold their sittings.

Section 185.

Before the House of Representatives or the Senate approves an Emergency Decree under section 184 paragraph three, 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 in accordance with section 184 paragraph one or paragraph two, and the President of such House shall, within three days as from the date of receipt of such opinion, refer it to the Constitutional Court for decision. After the Constitutional Court

has given a decision thereon, it shall notify such decision to the President of the House referring such opinion.

When the President of the House of Representatives or the President of the Senate has received the opinion from members of the House of Representatives or senators under paragraph one, the consideration of such Emergency Decree shall be deferred until the decision of the Constitutional Court under paragraph one has been notified.

In the case where the Constitutional Court decides that any Emergency Decree is not in accordance with section 184 paragraph one or paragraph two, such Emergency Decree shall not have the force of law ab initio.

The decision of the Constitutional Court that an Emergency Decree is not in accordance with section 184 paragraph one or paragraph two, must be given by the votes of not less than two-thirds of the total number of judges of the Constitutional Court.

Section 186.

If, during a session, it is necessary to have a law on taxes, duties or currency, which, in the interests of State, requires an urgent and confidential consideration, the King may issue an Emergency Decree which shall have the force as an Act.

The Emergency Decree issued under paragraph one must be submitted to the House of Representatives within three days as from the day following the date of its publication in the Government Gazette, and the provisions of section 184 shall apply mutatis mutandis.

Section 187.

The King has the prerogative to issue a Royal Decree which is not contrary to the law.

Section 188.

The King has the prerogative to declare and lift the martial law in accordance with the conditions and manner under the Martial Law.

In the case where it is necessary to declare the martial law in a certain locality as a matter of urgency, the military authority may do so under the Martial Law.

Section 189.

The King has the prerogative to declare war with the approval of the National Assembly.

The approval resolution of the National Assembly must be passed by the votes of not less than two-thirds of the total number of the existing members of both Houses.

During the expiration of the term or the dissolution of the House of Representatives, the Senate shall perform the function of the National Assembly in giving the approval under paragraph one, and the

resolution shall be passed by the votes of not less than two-thirds of the total number of the existing senators.

Section 190.

The King has the prerogative to conclude a peace treaty, armistice and other treaties with other countries or international organisations.

A treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law or requires the enactment of an Act for its implementation or affects immensely to economic or social security of the country or results in the binding of trade, investment budget of the country significantly must be approved by the National Assembly. In such case, the National Assembly must complete its consideration within sixty days as from the date of receipt of such matter.

Before the conclusion of a treaty with other countries or international organisations under paragraph two, the Council of Ministers must provide information thereon to the public, conduct public consultation and state information in relevant thereto to the National Assembly.

In such case, the Council of Ministers must submit negotiation framework to the National Assembly for approval.

Upon giving signature to the treaty under paragraph two, the Council of Ministers shall, prior to give consent to be bound, facilitate the public to get access to the details of such treaty. In the case where the application of such treaty has affected the public or small and medium entrepreneurs, the Council of Ministers must revise or render remedy to such effects rapidly, expediently and fairly.

There shall be a law determining measure and procedure for the conclusion of a treaty having immense effects to economic or social security of the country or resulting in the binding of trade or investment of the country significantly and the revision or rendering of remedy to the effects of such treaty with due regard to the fairness among the beneficiaries, the affected persons and the general public.

A matter arising from the provisions of paragraph two falls within the jurisdiction of the Constitutional Court and the provisions of section 154 1. shall apply mutatis mutandis to the referring of the matter to the Constitutional Court.

Section 191.

The King has the prerogative to grant a pardon.

Section 192.

The King has the prerogative to remove titles and recall decorations.

Section 193.

The King appoints and removes officials in the military service and civil service who hold the positions of Permanent Secretary of State, Director-General and their equivalents except in the case where they vacate office upon death.

Section 194.

A government official and a State official holding a permanent position or receiving a salary and not being a political official shall not be a political official or hold other political positions.

Section 195.

All laws, Royal Prescripts and Royal Commands relating to State affairs must be countersigned by a Minister unless otherwise provided in this Constitution.

All laws which have been signed or deemed to have been signed by the King shall forthwith be published in the Government Gazette.

Section 196.

Emoluments and other remuneration of Privy Councillors, President and Vice-Presidents of the House of Representatives, President and Vice-Presidents of the Senate, Leader of the Opposition in the House of Representatives, members of the House of Representatives and senators shall be prescribed by the Royal Decree which the provisions thereof must not allow payment prior to the date such persons taking offices. Gratuities, pensions or other remuneration of Privy Councillors who vacate their office shall be prescribed by the Royal Decree.

CHAPTER X THE COURTS

PART 1

General Provisions

Section 197.

The trial and adjudication of cases are the power of the Courts, which must be proceeded by justice in accordance with the Constitution and the law and in the name of the King.

Judges are independent in the trial and adjudication of cases with accurate, rapid and impartial practice in accordance with the Constitution and the law.

The transfer of a judge without his prior consent shall not be permitted except in the case of termly transfer as provided by law, promotion to a higher position, being under a disciplinary action or becoming a defendant in a criminal case, being affected to justice in the trial and adjudication or in case of force majeure or any other inevitable necessity as provided by law.

Judges shall not be political officials or hold political positions.

Section 198.

All Courts may be established only by Acts.

A new Court for the trial and adjudication of any particular case or a case of any particular charge in place of the Court existing under the law and having jurisdiction over such case shall not be established.

A law having an effect of changing or amending the law on the organisation of Courts or on judicial procedure for the purpose of its application to a particular case shall not be enacted.

Section 199.

In the case where there is a dispute on the competent jurisdiction among the Court of Justice, the Administrative Court, the Military Court or any other Court, it shall be decided by a committee consisting of the President of the Supreme Court of Justice as Chairperson, the President of the Supreme Administrative Court, the President of such other Court and not more than four qualified persons as provided by law as members.

The rules for the submission of the dispute under paragraph one shall be as provided by law.

Section 200.

The King appoints and removes judges except in the case of removal from office upon death.

The appointment and removal from office of a judge of any Court other than the Constitutional Court, the Court of Justice, the Administrative Court and the Military Court as well as the adjudicative jurisdiction and procedure of such Courts shall be in accordance with the law on the establishment of such Courts.

Section 201.

Before taking office, a judge 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 His Majesty the King and will faithfully perform my duty in the name of the King without any partiality in the interest of justice, of the people and of the public order of the Kingdom. I will also uphold and observe the democratic regime of government with the King as Head of the State, the Constitution of the Kingdom of Thailand and the law in every respect."

Section 202.

Salaries, emoluments and other benefits of judges shall be as prescribed by law; provided that the system of salaryscale or emoluments applicable to civil servants shall not be applied.

The provisions of paragraph one shall apply to Election Commissioners, Ombudsmen, members of the National Counter Corruption Commission and members of the State Audit Commission mutatis mutandis.

Section 203.

No person may simultaneously become a member, whether an ex officio member or a qualified member, of the Judicial Commission of the Courts of Justice, the Administrative Court or any other Court as provided by law.

PART 2

THE CONSTITUTIONAL COURT

Section 204.

The Constitutional Court consists of the President and eight judges of the Constitutional Court to be appointed by the King upon advice of the Senate from the following persons:

- (1) three judges of the Supreme Court of Justice holding a position of not lower than judge of the Supreme Court of Justice and elected at a general meeting of the Supreme Court of Justice by secret ballot;
- (2) two judges of the Supreme Administrative Court elected at a general meeting of the Supreme Administrative Court by secret ballot;
- (3) two qualified persons in law who having orientated knowledge and experience in this field and having been selected under section 206;
- (4) two qualified persons in political science, public administration or other social sciences who having orientated knowledge and experience in the administration of State affairs and having been selected under section 206.

In the case where no judge of the Supreme Court of Justice or judge of the Supreme Administrative Court having been elected under (1) or (2), the Supreme Court of Justice or the Supreme Administrative Court, as the case may be, shall elect, at its general meeting, other persons whom qualified and not being under the prohibitions provided in section 205, having orientated knowledge and experience in law and suitable for the performance of the duty as judges of the Constitutional Court to be judges of the Constitutional Court under (1) or (2), as the case may be.

The elected persons under paragraph one shall hold a meeting and elect one among themselves to be the President of the Constitutional Court and notify the result to the President of the Senate accordingly.

The President of the Senate shall countersign the Royal Command appointing the President and judges of the Constitutional Court.

Section 205.

The qualified persons under section 204 3. and 4. shall possess the qualifications and shall not be under any of the prohibitions as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than forty five years of age;

- (3) having been a Minister, a judge of the Supreme Military Court, an Election Commissioner, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Rights Commission, or having served in a position of not lower than Deputy Prosecutor General, Director-General or a person holding an administrative position in a government agency having administrative power equivalent to Director-General, or holding an academic position of not lower than Professor or having been a lawyer practicing legal profession regularly and continuously for not less than thirty years up to the date of nomination;
- (4) not being under any of the prohibitions under section 100 or section 102 (1), (2), (4), (5), (6), (7), (13) or (14);
- (5) not being a member of the House of Representatives, senator, political official, member of a local assembly or local administrator;
- (6) not being or having been a member or holder of other position of a political party over the period of three years preceding the taking of office;
- (7) not being an Election Commissioner, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Rights Commission.

Section 206.

The selection and election of judges of the Constitutional Court under section 204 (3) and (4) shall be proceeded as follows:

- (1) there shall be a Selective Committee for Judges of the Constitutional Court consisting of the President of the Supreme Court of Justice, the President of the Supreme Administrative Court, the President of the House of Representatives, the Leader of the Opposition in the House of Representatives and the President of the Constitutional independent organisations whom elected among themselves to be one in number, as members. The Selective Committee must complete the selection under section 204 (3) and (4) within thirty days as from the date a ground for the selection occurs and then nominates the selected persons, with their consents, to the President of the Senate. The selection resolution shall be by open votes and passed by the votes of not less than two-thirds of the total number of the existing members of the Selective Committee. In the case where there is no member in any position or a member is unable to perform his duty and the number of the remaining members is not less than one-half thereof, the Selective Committee shall

consist of the remaining members; provided that the provisions of section 113 paragraph two shall apply mutatis mutandis;

- (2) the President of the Senate shall convoke a sitting of the Senate for the passing of approval resolution to the selected persons under 1. within thirty days as from the date of receipt of the nomination. A resolution shall be made by secret ballot. In case of approval resolution, the President of the Senate shall tender the nominated persons to the King for His appointment. In the case where the Senate disapproves the nomination, whether wholly or partly, it shall be returned to the Selective Committee for reselection.

In such case, if the Selective Committee disagrees with the Senate and reaffirms its resolution unanimously, the names of the selected person shall be nominated to the President of the Senate to present to the King for His appointment, but if the reaffirmation is not passed by unanimous resolution, the reselection shall be commenced and it shall complete within thirty days as from the date a ground for the selection occurs.

If it is unable to complete the selection under (1) within the specified period by any cause, the Supreme Court of Justice shall, at its general meeting, appoint three judges of the Supreme Court of Justice holding a position of not lower than a judge of the Supreme Court of Justice and the Supreme Administrative Court shall, at its general meeting, appoint two judges of the Supreme Administrative Court to be members of the Selective Committee for the carrying out the duty under (1).

Section 207.

The President and judges of the Constitutional Court shall not:

- (1) be a government official holding a permanent position or receiving a salary;
- (2) be an official or employee of a State agency, State enterprise or local government organisation or a director or adviser of a State enterprise or State agency;
- (3) hold any position in a partnership, a company or an organisation carrying out business with a view to sharing profits or incomes, or be an employee of any person;
- (4) engage in any independent profession.

In the case where the general meeting of the Supreme Court of Justice or of the Supreme Administrative Court or the Senate, has approved the person in (1), (2), (3) or (4) with the consent of that person, the selected person can commence the performance of duty only when he has resigned from the position in (1), (2) or (3) or has satisfied that his engagement in such independent profession has ceased to exist. This

must be done within fifteen days as from the date of the selection or approval. If such person has not resigned or has not ceased to engage in the independent profession within the specified period, it shall be deemed that that person has never been selected or approved to be a judge of the Constitutional Court and the provisions of section 204 and section 206, as the case may be, shall apply.

Section 208.

The President and judges of the Constitutional Court shall hold office for nine years as from the date of their appointment by the King and shall hold office for only one term.

The outgoing President and judges of the Constitutional Court shall remain in office to perform duty until the newly appointed President and judges of the Constitutional Court take office.

The President and judges of the Constitutional Court shall be judicial officials under the law.

Section 209.

In addition to the vacation of office upon the expiration of term, the President and judges of the Constitutional Court vacate office upon:

- (1) death;
- (2) being of seventy years of age;
- (3) resignation;
- (4) being disqualified or being under any of the prohibitions under section 205;
- (5) having done an act in violation of section 207;
- (6) the Senate passing a resolution under section 274 for the removal from office;
- (7) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offence.

When a case under paragraph one occurs, the remaining judges shall continue to perform their duties subject to section 216.

Section 210.

In the case where the President and judges of the Constitutional Court vacate office en masse at the expiration of term, the proceedings under section 204 and section 206 shall be taken within thirty days as from the date of the vacation of office.

In the case where the President and judges of the Constitutional Court vacate office otherwise than in the case under paragraph one, the following proceedings shall be taken:

- (1) in the case of the judge of the Constitutional Court who was selected at the general meeting of the Supreme Court of Justice, the proceedings under section 204 shall complete within thirty days as from the date of the vacation of office;

- (2) in the case of the judge of the Constitutional Court who was selected at the general meeting of the Supreme Administrative Court, the proceedings under section 204 shall complete within thirty days as from the date of the vacation of office;

- (3) in the case of the judges of the Constitutional Court under section 204 3. or 4., the proceedings under section 206 shall complete within thirty days as from the date of the vacation office.

In the case where some or all judges of the Constitutional Court vacate office out of a session of the National Assembly, the proceedings under section 206 shall be taken within thirty days as from the date of the opening of a session of the National Assembly.

In the case where the President of the Constitutional Court vacates office, the provisions of section 204 paragraph three shall apply.

Section 211.

In the application of the provisions of any law to any case, if the Court by itself is of the opinion that, or a party to the case raises an objection with reasons that, the provisions of such law fall within the provisions of section 6 and there has not yet been a decision of the Constitutional Court on such provisions, the Court shall submit, in the course of official service, its opinion to the Constitutional Court for consideration and decision. During such period, the Court may continue the trial, but the adjudication to the case shall be suspended until the Constitutional Court has made its decision.

In the case where the Constitutional Court is of the opinion that the objection of a party under paragraph one is not essential for decision, the Constitutional Court may refuse to accept the case for consideration.

The decision of the Constitutional Court shall apply to all cases but shall not affect final judgments of the Courts.

Section 212.

A person whose rights and liberties recognised by this Constitution are violated, has the right to submit a motion to the Constitutional Court for its a decision as to whether the provisions of the law are contrary to or inconsistent with the Constitution.

The exercise of right under paragraph one must be in the case of unable to exercise the right by other means as provided in the organic law on rules and procedure of the Constitutional Court;

Section 213.

In the performance of duty, the Constitutional Court shall have the power to demand documents or relevant evidence from any person or summon any person to give statements of fact as well as

request inquiry officials, a government agency, State agency, State enterprise or local government organisation to carry out any act for the purpose of its consideration.

The Constitutional Court shall have the power to appoint a person or a group of persons to carry out duty as entrusted.

Section 214.

In the case where a dispute arises as to the power and duty among the National Assembly, the Council of Ministers or the Constitutional organisation other than the Courts and such dispute arises between two or more of such organisations, the President of the National Assembly, the Prime Minister, or such organisation shall submit a matter together with its opinion to the Constitutional Court for decision.

Section 215.

In the case where the Constitutional Court is of the opinion that a matter or issue submitted for its consideration has been decided, the Constitutional Court may refuse to accept such matter or issue for consideration.

Section 216.

The quorum of judges of the Constitutional Court for hearing and rendering a decision shall consist of not less than five judges. The decision of the Constitutional Court shall be made by a majority of votes, unless otherwise provided in this Constitution.

Every judge of the Constitutional Court who constitutes a quorum shall give a decision on his own part and make an oral statement to the meeting before passing a resolution.

The decisions of the Constitutional Court and all judges thereof shall be published in the Government Gazette.

The decision of the Constitutional Court must at least consist of the background or allegation, summary of facts obtained from hearings, reasons for the decision on questions of fact and questions of law and the provisions of the Constitution and the law invoked and resorted to.

The decision of the Constitutional Court shall be deemed final and binding on the National Assembly, Council of Ministers, Courts and other State organs.

The rules and procedure of the Constitutional Court shall be in accordance with the organic law on rules and procedure of the Constitutional Court.

Section 217.

The Constitutional Court shall have its autonomous secretariat, with the Secretary-General of the Office of the Constitutional Court as the superintendent

responsible directly to the President of the Constitutional Court.

A person to be appointed as the Secretary-General of the Office of the Constitutional Court must be nominated by the President of the Constitutional Court with approval of judges of the Constitutional Court as provided by law.

The Office of the Constitutional Court shall have autonomy in its personnel administration, budget and other activities as provided by law.

PART 3 COURTS OF JUSTICE

Section 218.

The Courts of Justice have the power to try and adjudicate all cases except those specified by this Constitution or the law to be within the jurisdiction of other Courts.

Section 219.

There shall be three levels of Courts of Justice, viz, Courts of First Instance, Courts of Appeal and the Supreme Court of Justice, except otherwise provided by this Constitution or other laws.

The Supreme Court of Justice has the power to try and adjudicate cases provided by the Constitution or the law to submit directly to the Supreme Court of Justice and appeals against judgments or orders of Courts of First Instance or Courts of Appeal as provided by law, except where the Supreme Court of Justice is of the opinion that the question of law or the question of fact of the such appeals is not essential for decision, it has the power to refuse the acceptance of such cases for consideration in accordance with the rule provided by its general meeting.

The Supreme Court of Justice has the power to try and adjudicate the election related cases and the suspension of the right to vote at an election of members of the House of Representatives and acquisition of senators, and the Court of Appeal has the power to try and adjudicate the election related cases and the suspension of the right to vote at an election of members of a local assembly or local administrators; provided that, the rules and procedure for trial and adjudication of such cases shall base upon inquisitorial system in accordance with the rules and procedure provided by a general meeting of the Supreme Court of Justice and shall be conducted without delay.

There shall be in the Supreme Court of Justice a Criminal Division for Persons Holding Political Positions, the quorum of which consists of nine judges of the Supreme Court of Justice holding a position of not lower than judge of the Supreme Court of Justice or senior judges having held a position of not lower than judge of the Supreme Court of Justice whom elected at a general meeting of the Supreme Court of Justice by secret ballot and on a case-by-case basis.

The competence of the Supreme Court of Justices Criminal Division for Persons Holding Political Positions and the criminal procedure for such persons shall be as provided by this Constitution and the organic law on criminal procedure for persons holding political positions.

Section 220.

The appointment and removal from office of a judge of a Court of Justice must be approved by the Judicial Commission of the Courts of Justice before they are tendered to the King.

The promotion, increase salaries and punishment of judges of the Courts of Justice must be approved by the Judicial Commission of the Courts of Justice. In such case, the Judicial Commission of the Courts of Justice shall appoint a sub-committee in each level of Courts for rendering opinion thereon for its consideration.

In giving approval of the Judicial Commission of the Courts of Justice under paragraph one and paragraph two, regard shall be had to knowledge, competency and moral behaviour of such person.

Section 221.

The Judicial Commission of the Courts of Justice consists of the following persons:

- (1) President of the Supreme Court of Justice as Chairperson;
- (2) qualified members of all levels of Courts, viz, six members from the Supreme Court of Justice, four members from the Courts of Appeal, and two members from the Courts of First Instance, who are judges of each level of Courts and elected by judicial officials of all levels of Courts;
- (3) two qualified members who are not judicial officials and elected by the Senate.

The qualifications, prohibitions and procedure for the election of the qualified members shall be in accordance with the provisions of law.

In the case where there is no qualified member under paragraph one (3) or the number of such members is less than two and if not less than seven members of the Judicial Commission of the Courts of Justice are of the opinion that there is an urgent matter to be approved, the said number of the members of the Judicial Commission of the Courts of Justice shall constitute a quorum to consider such urgent matter.

Section 222.

The Courts of Justice shall have an autonomous secretariat, with the Secretary-General of the Office of the Courts of Justice as the superintendent responsible directly to the President of the Supreme Court of Justice.

A person to be appointed as the Secretary-General of the Office of the Courts of Justice must be

nominated by the President of the Supreme Court of Justice with approval of the Judicial Commission of the Courts of Justice as provided by law.

The Office of the Courts of Justice shall have autonomy in its personnel administration, budget and other activities, as provided by law.

PART 4 ADMINISTRATIVE COURTS

Section 223.

Administrative Courts have the power to try and adjudicate cases of dispute between a government agency, State agency, State enterprise, local government organisation or Constitutional organisation, or between State officials and private individual, or between a government agency, State agency, State enterprise, local government organisation or Constitutional organisation, or among State officials themselves, as a consequence of the exercise of an administrative power provided by law, or of the carrying out of an administrative act of a government agency, State agency, State enterprise, local government organisation,

Constitutional organisation or State officials, as provided by law, as well as to try and adjudicate matters prescribed by the Constitution or the law to be under the jurisdiction of the Administrative Courts.

The jurisdiction of the Administrative Courts under paragraph one does not include the adjudication of disputes made by Constitutional organisation as the direct exercise of their powers under the Constitution.

There shall be the Supreme Administrative Court and Administrative Courts of First Instance, and there may also be the Appellate Administrative Court.

Section 224.

The appointment and removal from office of an administrative judge must be approved by the Judicial Commission of the Administrative Courts as provided by law before they are tendered to the King.

Qualified persons in the field of law or the administration of State affairs may be appointed as judges of the Supreme Administrative Court. Such appointment shall be made in the number of not less than one-third of the total number of judges of the Supreme Administrative Court and must be approved by the Judicial Commission of the Administrative Courts as provided by law and by the Senate before it is tendered to the King.

The promotion, increase of salaries and punishment of administrative judges must be approved by the Judicial Commission of the Administrative Courts as provided by law.

The number of administrative judges in each level of the Courts shall be as prescribed by the Judicial Commission of the Administrative Courts.

Section 225.

The appointment of an administrative judge as President of the Supreme Administrative Court, shall, when already approved by the Judicial Commission of the Administrative Courts and the Senate, be tendered by the Prime Minister to the King for appointment.

Section 226.

The Judicial Commission of the Administrative Courts consists of the following persons:

- (1) President of the Supreme Administrative Court as Chairperson;
- (2) nine qualified members who are administrative judges and elected by administrative judges among themselves;
- (3) three qualified members, two of whom are elected by the Senate and the other by the Council of Ministers.

The qualifications, prohibitions and procedure for the election of the qualified members shall be in accordance with the provisions of law.

In the case where there is no qualified member under paragraph one (3) or the number of such members is less than three and if not less than six members of the Judicial Commission of the Administrative Courts are of the opinion that there is an urgent matter to be approved, the said number of the members of the Judicial Commission of the Administrative Courts shall constitute a quorum to consider such urgent matter.

Section 227.

The Administrative Courts shall have an autonomous secretariat, with the Secretary-General of the Office of the Administrative Courts as the superintendent responsible directly to the President of the Supreme Administrative Courts.

A person to be appointed as the Secretary-General of the Office of the Administrative Courts must be nominated by the President of the Supreme Administrative Courts with approval of the Judicial Commission of Administrative Courts as provided by law.

The Office of the Administrative Courts shall have autonomy in its personnel administration, budget and other activities as provided by law.

PART 5

MILITARY COURTS

Section 228.

Military Courts have the power to try and adjudicate the cases which offenders are subjected to the jurisdiction of the Military Courts and other cases, as provided by law.

The appointment and removal from office of military judges shall be as provided by law.

CHAPTER XI

CONSTITUTIONAL ORGANISATION

PART 1

INDEPENDENT ORGANISATIONS

1. THE ELECTION COMMISSION

Section 229.

The Election Commission consists of a Chairperson and other four Commissioners appointed, by the King with the advice of the Senate, from persons of apparent political impartiality and integrity.

The President of the Senate shall countersign the Royal Command appointing the Chairperson and Commissioners under paragraph one.

Section 230.

An Election Commissioner shall have the qualifications and shall not be under any prohibition as follows:

- (1) being of not less than forty years of age;
- (2) having graduated with not lower than a Bachelor's degree or its equivalent;
- (3) having qualifications and not being under any of the prohibitions under section 205 or section 205 (1), (4), (5) and (6);
- (4) not being a judge of the Constitutional Court, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Right Commission.

The provisions of section 207 shall also apply *mutatis mutandis* to the Election Commissioner.

Section 231.

The selection and election of Chairperson and Election Commissioners shall be proceeded as follows:

- (1) there shall be a Selective Committee of seven members consisting of the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives, the Leader of the Opposition in the House of Representatives, a person selected at a general meeting of the Supreme Court of Justice and a person selected at a general meeting of the Supreme Administrative Court as members to be in charge of the selection and nomination of three persons, who have the qualifications under section 230 and suitable to be Election Commissioners, to the President of the Senate upon their consents. The selection resolution shall be passed by the votes of not less than two-thirds of the total number of the existing members of the Selective Committee. In the case where there is no member in any position or a member is unable to perform his duty and the number of the remaining members is not less than one-half thereof, the Selective

Committee shall consist of the remaining members; provided that the provisions of section 113 paragraph two shall apply mutatis mutandis;

Persons selected by the Supreme Court of Justice and the Supreme Administrative Court at their general meeting under paragraph one shall not be judges and shall not be members of the Selective Committee for other Constitutional organisations simultaneously.

- (2) the Supreme Court of Justice shall, at its general meeting, consider and select two persons who have qualifications under section 230 and suitable to be Election Commissioners for making nomination to the President of the Senate upon their consents;
- (3) the selection under (1) and (2) shall be made within thirty days as from the date when a ground for the section of persons to be in such office occurs. In the case where it is unable to make nomination within specified period, or unable to make nomination in the complete number within the period specified in (1), the Supreme Court of Justice shall, at its general meeting, make selection to obtain the complete number within fifteen days as from the date of the expiration of the nomination time under (1);
- (4) the President of the Senate shall convoke the Senate for passing a resolution, by secret ballot, approving the nominated persons under (1), (2) and (3);
- (5) in the case where the Senate approves the nomination, the proceedings under 6. shall be proceeded, but in the case where the Senate disapproves the nomination, whether wholly or partly, it shall be returned to the Selective Committee or the Supreme Court of Justice, at its general meeting, for reselection. In such case, if the Selective Committee or the Supreme Court of Justice, at its general meeting, disagrees with the Senate and reaffirms its resolution unanimously or by the votes of not less than two-thirds of the general meeting of the Supreme Court of Justice, as the case may be, the proceedings (6) shall be proceeded, but in the case where the reaffirmation is not passed unanimously or by the votes of less than the required number, the reselection shall be commenced and it shall complete within thirty days as from the date a ground for the selection occurs.
- (6) the person approved under (4) or (5) shall meet and elect among themselves to be Chairperson of the Election Commission and, then, notify the President of the Senate of the result. The President of the Senate shall tender to the King for further appointment.

Section 232.

Election Commissioners shall hold office for a term of seven years as from the date of their appointment by the King and shall serve for only one term.

The Election Commissioners who vacate office upon the expiration of the term shall remain in office to continue to perform their duties until the newly appointed Election Commissioners take office.

The provisions of section 209 (1), (2), (3), (5), (6), (7) and the disqualifications and the prohibitions under section 230 shall also apply mutatis mutandis to the vacation of office of Election Commissioners.

Section 233.

Members of the House of Representatives, senators, or members of both Houses of not less than one-tenth of the total number of the existing members of the two Houses have the right to lodge with the President of the National Assembly a complaint that any Election Commissioner is disqualified or is under any of the prohibitions or has acted in contravention of any of the prohibitions under section 230 and the President shall refer that complaint, within three days as from the date of receipt of the complaint, to the Constitutional Court for its decision.

When the Constitutional Court has passed a decision, it shall notify the President of the National Assembly and the Chairperson of the Election Commission of such decision.

The provisions of section 92 shall also apply mutatis mutandis to the vacation of office of Election Commissioners.

Section 234.

In the case where the Election Commissioners have vacated office en masse at the expiration of term, the selective process under section 231 shall be taken within ninety days as from the date of the vacation.

In the case where Election Commissioners vacate office for any reason other than the expiration of term, the selection process under section 231 shall be completed within sixty days as from the date in which the reason has occurred, and the approved person shall serve only for the remainder of the term of the replaced Commissioners.

Section 235.

The Election Commission shall control and hold, or cause to be held, an election of members of the House of Representatives, senators, members of a local assembly and local administrators, as the case may be, including the voting in a referendum for the purpose of rendering it to proceed in an honest and fair manner.

The Chairperson of the Election Commission shall

have the charge and control of the execution of the organic law on election of members of the House of Representatives and acquisition of senators, the organic law on political parties, the organic law on Election Commission, the organic law on referendum and the law on election of members of local assemblies or local administrators and shall be the political-party registrar.

There shall be the Office of the Election Commission being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Section 236.

The Election Commission shall have the following powers and duties:

- (1) to issue notifications or regulations determining all acts necessary for the execution of the laws referred to in section 235 paragraph two including regulations relating to a launching of election campaigns and any act of political parties, candidates and persons having the right to vote to proceed in an honest and fair manner and determining rules to be complied by State in giving support of fair election and equal opportunity in campaigning;
- (2) to lay down regulations determining prohibitions in performance of duties of the Council of Ministers and portfolio Minister under section 181 with due regard to the maintenance of interest of State and to honesty, fairness, equality and equal opportunity in an election;
- (3) to determine measures for controlling of a donation of money to political parties, rendering of financial support by State, spending of money of political parties and candidates and auditing publicly of accounts of political parties, and to control a disbursement and receipt of money for benefit in voting at an election;
- (4) to give orders instructing government officials, officials or employees of a State agency, State enterprise or local government organisation or other State officials to perform all necessary acts under the laws referred to in section 235 paragraph two;
- (5) to conduct investigations and inquiries and to make decisions on arising problems or disputes under the laws referred to in section 235 paragraph two;
- (6) to order a new election or a new voting at a referendum to be held in any or all polling stations when there occurs convincing evidence that the election or the voting at a referendum in that or those polling stations has not proceeded in an honest and fair manner;
- (7) to announce the result of an election and the voting in a referendum;
- (8) to promote and support or co-ordinate with

government agency, State agency, State enterprise or local government organisation or to support private organisations in giving education to the public on the democratic regime of government with the King as Head of State and the enhancement of public participation in politics;

(9) to perform other acts as provided by law.

In the performance of duties, the Election Commission has the power to summon any relevant document or evidence from any person, or summon any person to give statements as well as to request public prosecutors, inquiry officials, government agencies, State agencies, State enterprises or local government organisations to take action for the purpose of performing duties, investigating, conducting inquiries and passing decisions.

The Election Commission has the power to appoint persons, a group of persons or representatives of private organisations to perform such duties as entrusted.

Section 237.

A candidate in an election who commits an act or causes or supports another person to act in violation of the organic law on election of members of the House of Representatives and acquisition of senators or regulations or notifications of the Election Commission which resulting in the election not to be honest and fair, his right to vote at an election shall be suspended under the organic law on election of members of the House of Representatives and acquisition of senators.

If it appears convincing evidence, through an act of the person under paragraph one, that the President or an executive board of director of a political party connives or neglects at such commission or such commission is known to him but he fails to deter or revise such commission for the maintenance of honest and fair election, it shall be deemed that such political party doing an act for the acquisition of the power to rule the country by means which is not in accordance with the provisions of this Constitution under section 68. In such case, if the Constitutional Court orders to dissolve such political party, the right to vote at an election of the President or the executive board of directors of a political party shall be suspended for the period of five years as from the date such order is made.

Section 238.

The Election Commission shall conduct an investigation and inquiry forthwith upon the occurrence of any of the followings;

- (1) an objection is made by a voter, a candidate at an election or a political party having its members stand for at an election in any constituency

that an election in that constituency is not appropriate or unlawful;

- (2) an objection is made by a candidate in the selection or a member of the organisation referred to in section 114 paragraph one that the selection of senators is not appropriate or unlawful;
- (3) it appears convincing evidence that, prior to being elected or selected, a member of the House of Representatives, senator, member of a local assembly or local administrator had committed any dishonest act to enable him to be elected or selected or he has been elected or selected dishonestly as a result of any act committed by any person or political party in violation of the organic law on election of members of the House of Representatives and acquisition of senators, the organic law on political parties or the organic law on election of members of local assemblies and local administrators;
- (4) it appears convincing evidence that voting in a referendum is in violation of law or an objection is made by a person having the right to vote that voting in a referendum in any polling station is not appropriate or unlawful.

The Election Commission shall, at the completion of the conducts under paragraph one, pass forthwith a decision thereon.

Section 239.

In the case where the Election Commission passes the decision to have re-election or suspend the right to vote at an election before the announcement of the result of the election of members of the House of Representatives and senators, such decision shall be final.

If the Election Commission is of the opinion, after the announcement of the result of election, that re-election must be held or the right to vote at an election of a member of the House or Representatives or a senator must be suspended, it shall submit a complaint to the Supreme Court of Justice for decision. When the Supreme Court of Justice receives the complaint of the Election Commission, such member of the House or Representatives or senator shall not be able to perform his duty until the complaint is dismissed by the Supreme Court of Justice. In the case where the Supreme Court of Justice has an order for reelection in any constituency or for suspension of the right to vote at an election of any member of the House of Representatives or senator, the membership of the House of Representatives or the membership of the Senate in such constituency shall terminate.

In the case where the person under paragraph two is unable to perform his duty, he shall not be regarded as one of the existing members of the

House of Representatives or the Senate, as the case may be.

The provisions of paragraph one, paragraph two and paragraph three shall apply mutatis mutandis to the election of members of local assemblies and local administrators and, in such case, a submission of a complaint under paragraph two shall be made to the Courts of Appeal and the order of the Courts of Appeal shall be final.

Section 240.

If there is an objection that the selection of a senator is not appropriate or unlawful or there is convincing evidence that a senator committed an act under section 238 prior to be selected, the Election Commission shall conduct an investigation and inquiry forthwith.

Upon reaching any decision, the Election Commission shall forthwith submit its decision to the Supreme Court of Justice for decision and the provision of section 239 paragraph two and paragraph three shall apply mutatis mutandis to an inability of such senator.

In the case where the Supreme Court of Justice orders to revoke the selection or suspend the right to vote at an election of a senator, the membership of the Senate of such senator shall terminate as from the date such order is made, and the selection to fulfil the vacancy shall be taken.

The Chairperson of the Election Commission shall not participate in the proceeding or the giving of decision under paragraph one or paragraph two and, in this case, it shall be deemed that the Election Commission consisting of the remaining Commissioners.

The objection and consideration of the Election Commission shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 241.

During the period in which a Royal Decree calling for an election of members of the House of Representatives or senators, a Notification calling for selection of senators or a Notification calling for the voting in a referendum is effective, no Election Commissioner shall be arrested, detained or summoned by a warrant for inquiry except in the case where permission of the Election Commission is obtained or where the arrest is made in flagrante delicto.

In the case where an Election Commissioner has been arrested in flagrante delicto, or where an Election Commissioner is arrested or detained in other cases,

it shall be forthwith reported to the Chairperson of the Election Commission and the Chairperson may order a release of the person so arrested, but in the case where the Chairperson of the Election

Commission is arrested or detained, the remaining Election Commissioners shall have the power to order a release.

2. The Ombudsmen

Section 242.

There shall be three Ombudsmen who shall be appointed by the King with the advice of the Senate from the persons recognised and respected by the public, with knowledge and experience in the administration of State affairs, enterprises or activities of common interests of the public and with apparent integrity.

The elected persons to be Ombudsmen shall hold a meeting and elect one among themselves to be the President of the Ombudsmen and notify the result to the President of the Senate accordingly.

The President of the Senate shall countersign the Royal Command appointing the Ombudsmen.

The qualifications and prohibitions of the Ombudsmen shall be in accordance with the organic law on Ombudsmen.

The Ombudsmen shall hold office for a term of six years as from the date of their appointment by the King and shall serve for only one term.

There shall be the Office of the Ombudsmen being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Section 243.

The provisions of section 206 and 207 shall apply mutatis mutandis to the selection and election of the Ombudsmen. In such case, there shall be a Selective Committee of seven members consisting of the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives, the Leader of the Opposition in the House of Representatives, a person selected at a general meeting of the Supreme Court of Justice and a person selected at a general meeting of the Supreme Administrative Court and the provisions of section 231 1. paragraph two shall apply mutatis mutandis.

Section 244.

The Ombudsmen have the powers and duties as follows:

- (1) to consider and inquire into the complaint for factfindings in the following cases:
 - (a) failure to perform in compliance with the law or performance beyond powers and duties as provided by law of a government official, an official or employee of a government agency, State agency, State enterprise or local government organisation;

- (b) performance of or omission to perform duties of a government official, an official or employee of a government agency, State agency, State enterprise or local government organisation, which unjustly causes injuries to the complainant or the public whether such act is lawful or not;
 - (c) investigation any omission to perform duties or unlawful performance of duties of the Constitutional organisation or agencies in the administration of justice, except the trial and adjudication of the Courts;
 - (d) other cases as provided by law;
- (2) to conduct the proceeding in relation to ethics of persons holding political positions and State officials under section 279 paragraph three and section 280;
 - (3) to monitor, evaluate and prepare recommendations on the compliance with the Constitution including considerations for amendment of the Constitution as deemed necessary;
 - (4) to report the result of its investigation and performance together with comments to the Council of Ministers, the House of Representatives and the Senate annually. Such report shall be published in the Government Gazette and disclosed to the public.

In exercising of powers and duties under (1) (a), (b) and (c), the Ombudsmen shall proceed where there is a complaint thereon, provided that the Ombudsmen is of the opinion that such act causes injuries to the public or it is necessary to protect public interests and, in such case, the Ombudsmen may consider and conduct investigation irrespective of a complaint.

Section 245.

The Ombudsmen may submit a case to the Constitutional Court or Administrative Court in the following cases:

- (1) if the provisions of any law begs the question of the constitutionality, the Ombudsmen shall submit the case and the opinion to the Constitutional Court and the Constitutional Court shall decide without delay in accordance with the organic law on rules and procedure of the Constitutional Court;
- (2) if rules, orders or actions of any person under section 244 (1) (a) begs the question of the constitutionality or legality, the Ombudsmen shall submit the case and the opinion to the Administrative Court and the Administrative Court shall decide without delay in accordance with the Act on Establishment of the Administrative Courts and Administrative Courts Procedure.

3. The National Counter Corruption Commission

Section 246.

The National Counter Corruption Commission consists of the President and eight members appointed by the King with the advice of the Senate.

Members of the National Counter Corruption Commission shall be persons of apparent integrity, with qualifications and without any of the prohibitions under section 205 and having been a Minister, an Election Commissioner, an Ombudsman, a member of the National Human Rights Commission or a member of the State Audit Commission, or having served in a position of not lower than a Director-General or a person holding an administrative position in a government agency having administrative powers equivalent to a Director-General or a person holding an academic position of not lower than Professor, or a representative of a private development organisation or a professional practitioner of a professional organisation established under the law who practises such profession for not less than thirty years whom certified and nominated to the selection by such private development organisation or professional organisation.

The provisions of section 204 paragraph three and paragraph four, section 206 and section 207 shall apply mutatis mutandis to the selection and election of members of the National Counter Corruption Commission and, in such case, the Selective Committee shall consist of five members, viz, the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives and the Leader of the Opposition in the House of Representatives.

The President of the Senate shall countersign the Royal Command appointing the President and members of the National Counter Corruption Commission.

There shall be a Counter Corruption Commissioner to each Changwat and its qualifications, selection and powers and duties shall be in accordance with the organic law on counter corruption.

Section 247.

Members of the National Counter Corruption Commission shall hold office for a term of nine years as from the date of their appointment by the King and shall serve for only one term.

Members of the National Counter Corruption Commission who vacate office at the expiration of term shall remain in office to continue to perform their duties until the newly appointed members take office.

The provisions of section 209 and section 210 shall apply mutatis mutandis to the vacation from office,

the selection and an election for the fulfilment of the vacancy of members of the National Counter Corruption Commission.

Section 248.

Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House or voters of not less than twenty-thousand in number have a right to lodge with the President of the Senate a complaint that any member of the National Counter Corruption Commission has acted unjustly, intentionally violated the Constitution or laws or has been under any circumstance which is seriously detrimental to the dignity of the holding of office, in order to request the Senate to pass a resolution removing him from office.

The resolution of the Senate removing the member of the National Counter Corruption Commission from office under paragraph one shall be passed by the votes of not less than three-fourths of the total number of the existing members of the Senate.

Section 249.

Members of the House of Representatives, senators or members of both Houses of not less than one-fifth of the total number of the existing members of both Houses have a right to lodge with the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions an allegation that any member of the National Counter Corruption Commission has become unusually wealthy or has committed an offence of corruption or malfeasance in office.

The request under paragraph one shall clearly itemise the circumstance in which such person has allegedly committed the act under paragraph one and shall be submitted to the President of the Senate. When the President of the Senate has received the said request, the President shall refer it to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for trial and adjudication.

The alleged member of the National Counter Corruption Commission shall not perform his duty until the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has dismissed the said request.

In the case where a member of the National Counter Corruption Commission is unable to perform his duty under paragraph three and the remaining members of the National Counter Corruption Commission are less than one-half of the total number thereof, the President of the Supreme Court of Justice and the President of Supreme Administrative Court shall jointly appoint a person having qualifications and is not under the same prohibitions of members of the National Counter Corruption Commission as acting member of the National Counter Corruption Commission

pro tempore. The appointed person shall act as a member of the National Counter Corruption Commission until a member of the National Counter Corruption Commission he acting for is able to perform his duty or until there is a decision of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions that such person has committed an offence.

Section 250.

The National Counter Corruption Commission shall have the following powers and duties:

- (1) to inquire into facts, summarise the case and prepare opinions in relation to the removal from office to be submitted to the Senate according to section 272 and section 279 paragraph three;
- (2) to inquire into facts, summarise the case and prepare opinions in relation to a criminal proceedings of the persons holding political positions to be submitted to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions in accordance with section 275;
- (3) to inquire and decide whether a State official of high administration level or a government official holding a position of a Divisional Director or its equivalent or higher level has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office, and to take such actions against a State official or a government official of lower level who participates in the commission of such offence with the person holding the said position or the person holding political position or who commits an offence in the manner deemed appropriate by the National Counter Corruption Commission in accordance with the organic law on counter corruption;
- (4) to inspect the accuracy, actual existence as well as change of assets and liabilities of the persons holding positions under section 259 and section 264 as stated in the account and supporting documents submitted in accordance with the rules and procedures prescribed by the National Counter Corruption Commission;
- (5) to supervise and monitor moral and ethics of persons holding political positions;
- (6) to submit an inspection report and a report on the performance of duties together with recommendations to the Council of Ministers, the House of Representatives and the Senate annually. The report shall be published in the Government Gazette and disclosed to the public;
- (7) to carry on other acts as provided by law. The provisions of section 213 shall apply mutatis mutandis to the performance of duties of the National Counter Corruption Commission.

The President of the National Counter Corruption Commission shall be judicial officials under the law.

Section 251.

The National Counter Corruption Commission shall have an autonomous secretariat, with the Secretary-General of the National Counter Corruption Commission as the superintendent responsible directly to the President of the National Counter Corruption Commission.

A person to be appointed as the Secretary-General of the National Counter Corruption Commission must be nominated by the President of the National Counter Corruption Commission with approval of members of the National Counter Corruption Commission.

The Office of the National Counter Corruption Commission shall have autonomy in its personnel administration, budget and other activities as provided by law.

4. The State Audit Commission

Section 252.

The State audit shall be carried out by the State Audit Commission that is independent and impartial.

The State Audit Commission consists of the Chairperson and six other members appointed by the King from persons with expertise and experience in state audit, accounting, internal audit, finance and other fields.

The provisions of section 204 paragraph three and paragraph four, section 206 and section 207 shall apply mutatis mutandis to the selection and election of members the State Audit Commission and the Auditor General, provided that the composition of the Selective Committee shall be in accordance with section 243.

The President of the Senate shall countersign the Royal Command appointing the Chairperson and members of the State Audit Commission and the Auditor General.

Members of the State Audit Commission shall hold office for a term of six years from the date of their appointment by the King and shall serve for only one term.

Qualifications, prohibitions and vacation of office of members of the State Audit Commission and the Auditor General as well as powers and duties of the State Audit Commission, the Auditor General and the Office of the State Audit Commission shall be in accordance with the organic law on State Audit.

The determination of qualifications and procedure for the selection of persons to be appointed as members of the State Audit Commission and the Auditor General shall be made in the manner which

can secure persons of appropriate qualifications an integrity and which can provide for the guarantee of the independence in the performance of duties of such persons.

Section 253.

The State Audit Commission has the powers and duties to determine standards relating to State audit, to provide opinions, suggestions and recommendations for the correction of faults in State audit and to appoint the independent Financial Disciplinary Committee to render decisions on actions relating to financial discipline, finance and budget and the cases of dispute in relation to the decisions of the Financial Disciplinary Committee shall be under the jurisdiction of the Administrative Courts.

The Auditor General shall have the powers and duties in relation to State Audit and shall be independent and impartial.

Section 254.

The State Audit Commission shall have an autonomous secretariat, with the Auditor General as the superintendent responsible directly to the Chairperson of the State Audit Commission.

There shall be the Office of the State Audit Commission being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

PART 2

OTHER ORGANISATIONS

1. The Public Prosecutors

Section 255.

Public prosecutors shall have the powers and duties as provided in this Constitution and the law on powers and duties of public prosecutors and other laws.

Public prosecutors are independent in considering and making orders to the cases and in the performance of duties for fairness.

The appointment and removal from office of the Prosecutor General shall be by the resolution of the Public Prosecutors Committee upon the approval of the Senate.

The President of the Senate shall countersign the Royal Command appointing the Prosecutor General.

The Public Prosecutors shall have its autonomous secretariat having autonomy in its personnel administration, budget and other activities, with the Prosecutor General as the superintendent as provided by law.

A public prosecutor shall neither being a member of the board of directors of a State enterprise or other enterprises of State having similar nature; provided that an approval is given by the Public Prosecutors Committee, nor engaging in any

occupation or profession or in any enterprise that may affect the performance of his duties or may detriment the dignity of his office and shall not be a member of the board of directors, director, legal advisor or holding any other position having similar nature in any partnership or company.

The provisions of section 202 shall apply *mutatis mutandis*.

2. The National Human Rights Commission

Section 256.

The National Human Rights Commission consists of a President and six other members appointed, by the King with the advice of the Senate, from the persons having apparent knowledge and experiences in the protection of rights and liberties of the people with due regard to the participation of representatives from private organisations in the field of human rights.

The President of the Senate shall countersign the Royal Command appointing the President and members of the National Human Rights Commission.

The qualifications, prohibitions, selection, election, removal and determination of the remuneration of members of the National Human Rights Commission shall be as provided by law.

The members of the National Human Rights Commission shall hold office for a term of six years as from the date of their appointment by the King and shall serve for only one term.

The provisions of section 204 paragraph three, section 206, section 207 and section 209 (2) shall apply *mutatis mutandis*, provided that the composition of the Selective Committee shall be in accordance with section 243.

There shall be the Office of the National Human Rights Commission being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Section 257.

The National Human Rights Commission has the powers and duties as follows:

- (1) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts for taking action. In the case where it appears that no action has been taken as proposed, the Commission shall report to the National Assembly for further proceeding;
- (2) to submit the case together with opinions to the Constitutional Court in the case where the Commission agrees with the complainant that the provisions of any law are detrimental

to human rights and beg the question of the constitutionality as provided by the organic law on rules and procedure of the Constitutional Court;

- (3) to submit the case together with opinions to the Administrative Courts in the case where the Commission agrees with the complainant that any rule, order or administrative act is detrimental to human rights and begs the question of the constitutionality and legality as provided by the law on establishment of Administrative Courts and Administrative Court Procedure;
 - (4) to bring the case to the Courts of Justice for the injured person upon request of such person if it deems appropriate for the resolution of human rights violation problem as a whole as provided by law;
 - (5) to propose to the National Assembly and the Council of Ministers policies and recommendations with regard to the revision of laws, rules or regulations for the promotion and protection of human rights;
 - (6) to promote education, researches and the dissemination of knowledge on human rights;
 - (7) to promote co-operation and co-ordination among government agencies, private organisations and other organisations in the field of human rights;
 - (8) to prepare an annual report for the appraisal of situations in the sphere of human rights in the country and submit it to the National Assembly;
 - (9) other powers and duties as provided by law.
- In the performance of duties of the National Human Rights Commission, regard shall be had to interests of the country and the public.

The National Human Rights Commission has the power to demand relevant documents or evidence from any person or summon any person to give statements of fact including other powers for the purpose of performing its duties as provided by law.

3. The National Economic and Social Council Section 258.

The National Economic and Social Council has the duties to give advice and recommendations to the Council of Ministers on economic and social problems as well as related laws.

A national economic and social development plan and other plans as provided by law shall obtain opinions of the National Economic and Social Council before they can be adopted and published.

The composition, sources, powers and duties and operation of the National Economic and Social Council shall be in accordance with the provisions of law.

There shall be the Office of the National Economic and Social Council being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

CHAPTER XII INSPECTION OF THE EXERCISE OF STATE POWER

PART 1 INSPECTION OF ASSETS Section 259.

Persons holding the following political positions shall submit an account showing particulars of assets and liabilities of themselves, their spouses and children who have not yet become sui juris to the National Counter Corruption Commission on each occasion of taking or vacating office:

- (1) Prime Minister;
- (2) Ministers;
- (3) members of the House of Representatives;
- (4) senators;
- (5) other political officials;
- (6) local administrators and members of a local assembly as provided by law.

The account under paragraph one shall be submitted together with supporting documents evidencing the actual existence of such assets and liabilities as well as a copy of the personal income tax return of the previous fiscal year.

The account showing particulars of assets and liabilities under paragraph one and paragraph two shall include assets of the persons holding political positions under direct or indirect possession or care of other persons.

Section 260.

The account showing particulars of assets and liabilities under section 259 shall disclose the particulars of assets and liabilities actually existing as of the date of taking or vacating office, as the case may be, and shall be submitted within the following period:

- (1) in the case of the taking of office, within thirty days as from the date of taking office;
- (2) in the case of the vacation of office, within thirty days as from the date of the vacation;
- (3) in the case where the person under section 259, who has already submitted the account, dies while being in office or before submitting the same after the vacation of office, an heir or an administrator of an estate of such person shall submit an account showing the particulars of assets and liabilities existing on the date of such person's death within ninety days as from the date of the death.

In addition to the submission of the account under 2., the person holding a position of Prime Minister, Minister, local administrator, member of a local assembly or the person holding a political

position but having vacated office shall also re-submit an account showing particulars of assets and liabilities within thirty days as from the date of the expiration of one year after the vacation of office.

Section 261.

The account showing particulars of assets and liabilities and supporting documents submitted by the Prime Minister, Ministers, members of the House of Representatives and senators shall be disclosed to public without delay but not later than thirty days as from the date of the expiration of the time limit for the submission of such account. The account of the persons holding other positions shall be disclosed in the case where the disclosure thereof may be beneficial to the trial and adjudication of case or for the making of decision and a request is made by the Courts, an interest person or the State Audit Commission.

The President of the National Counter Corruption Commission shall convene a meeting of the Commission to inspect the accuracy and the actual existence of assets and liabilities without delay.

Section 262.

In the case where the submission of the account is made by reason of the vacation of office or death of any person holding a political position, the National Counter Corruption Commission shall inspect the change of assets and liabilities of such person and prepare a report of the inspection. Such report shall be published in the Government Gazette.

In the case where it appears that the assets of the person under paragraph one have unusually increased,

the President of the National Counter Corruption Commission shall send all documents together with the inspection report to the Prosecutor General to institute an action in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions so that the unusually increasing assets shall vest in the State and the provisions of section 272 paragraph five shall apply mutatis mutandis.

Section 263.

Any person holding a political position who intentionally fails to submit the account showing assets and liabilities and the supporting documents as provided in this Constitution or intentionally submits the same with false statements or conceals the facts which should be revealed, the National Counter Corruption Commission shall refer the matter to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for further decision.

If the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions decides that

any person holding a political position committed an offence under paragraph one, such person shall vacate office on the date such decision is made and the provision of section 92 shall apply mutatis mutandis. In this case, such person is prohibited from holding any political position or any position of a political party for the period of five years as from the date the decision of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions is made.

Section 264.

The provisions of section 259, section 260, section 261 paragraph two and section 263 paragraph one shall apply mutatis mutandis to State officials as determined by the National Counter Corruption Commission.

The National Counter Corruption Commission may disclose the account showing particulars of assets and liabilities as submitted to interested parties if such disclosure is beneficial to the trial or decision of offences as provided by the organic law on counter corruption.

PART 2

CONFLICT OF INTERESTS

Section 265.

Members of the House of Representatives and 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, local administrator or local government official;
- (2) receive or interfere or intervene in, whether directly or indirectly, any concession from State, a government agency, State agency or State enterprise, or become a party to a contract of the nature of economic monopoly with 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 the contract of that nature;
- (3) receive any special money or benefit from a government agency, State agency or State enterprise apart from that given by a government agency, State agency or State enterprise to other persons in the ordinary course of business.
- (4) act in violation of the prohibitions under section 48.

The provisions of this section shall not apply in the case where a member of the House of Representatives or a senator receives military pensions, gratuities, pensions, annuities for royalty or any other form of payment of the same nature, and shall not apply in the case where a member of the House of Representatives accepts

or holds a position of committee member of the National Assembly, the House of Representatives or the Senate, or committee member appointed in the course of the administration of State affairs.

The provisions in (2), (3) and (4) shall apply to spouses and children of members of the House of Representatives or senators and to other persons other than spouses and children of such members of the House of Representatives or senators who act as agents or partners of, or who are entrusted by, members of the House of Representatives or senators to act under this section.

Section 266.

A member of the House of Representatives and a senator shall not, through the status or position of member of the House of Representatives or senator, interfere or intervene the following matters, directly or indirectly, for the benefit of his own or other persons or of political party:

- (1) the performance of official duties or routine works of a government official, official or employee of a government agency, State agency, State agency, an enterprise in which the State is a major shareholders or a local government organisation;
- (2) the recruitment, appointment, reshuffle, transfer, promotion and elevation of the salary scale of a government official holding a permanent position or receiving salary and not being a political official, an official or employee of a government agency, State agency, State enterprise or local government organisation;
- (3) the removal from office of a government official holding a permanent position or receiving salary and not being a political official, an official or employee of a government agency, State agency, State enterprise or local government organisation.

Section 267.

The provisions of section 265 shall apply to the Prime Minister and Ministers, except for the holding of position or an act to be done under the provisions of law. The Prime Minister and Ministers shall neither hold any position in a partnership, a company or an organisation carrying out business with a view to sharing profits or incomes nor being an employee of any person.

Section 268.

The Prime Minister and a Minister shall not perform any act in violation of the provisions of section 266, except the performance of powers and duties for the administration of State affairs as stated to the National Assembly or as provided by law.

Section 269.

The Prime Minister and a Minister shall not be a partner or shareholder of a partnership or a company or retain his being a partner or shareholder of a partnership or a company up to

the limit as provided by law. In the case where the Prime Minister or any Minister intends to continue to receive benefits in such cases, the Prime Minister or such Minister shall inform the President of the National Counter Corruption Commission within thirty days as from the date of the appointment and shall transfer his shares in the partnership or company to a juristic person which manages assets for the benefit of other persons as provided by law.

The Prime Minister and a Minister shall not do any act which, by nature, amounts to the administration or management of shares or affairs of such partnership or company.

This section apply to the spouse and children who have not yet become sui juris of the Prime Minister and a Minister and section 259 paragraph three shall apply mutatis mutandis.

PART 3 REMOVAL FROM OFFICES Section 270.

A person holding a position of Prime Minister, Minister, member of the House of Representatives, senator, President of the Supreme Court of Justice, President of the Constitutional Court, President of the Supreme Administrative Court or Prosecutor General, who is under the circumstance of unusual wealthiness indicative of the commission of corruption, malfeasance in office, malfeasance in judicial office or an intentional exercise of power contrary to the provisions of the Constitution or law or seriously violates or fails to comply with ethical standard, may be removed from office by the Senate. The provisions of paragraph one shall also apply to the persons holding the following positions:

- (1) judge of the Constitutional Court, Election Commissioner, Ombudsman and member of the State Audit Commission;
- (2) judge, public prosecutor or high ranking official in accordance with the organic law on counter corruption.

Section 271.

Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 274 removing the persons under section 270 from office. The said request shall clearly itemise circumstances in which such persons have allegedly committed the act.

Senators of not less than one-fourth of the total number of the existing members of the Senate have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 274 removing a senator from office.

Voters of not less than twenty-thousand in number have the right to lodge a complaint in order to request the Senate to pass a resolution under section 164 removing the persons under section 270 from office.

Section 272.

Upon receipt of the request under section 271, the President of the Senate shall refer the matter to the National Counter Corruption Commission for inquisition without delay.

When the inquisition is complete, the National Counter Corruption Commission shall prepare a report thereon for submission to the Senate. The said report shall clearly state whether, and to what extent, the accusation put in the request is prima facie case together with convincing evidences and shall state the resolutions therefor.

In the case where the National Counter Corruption Commission is of the opinion that the accusation put in the request is an important matter, the National Counter Corruption Commission may make a separate report specifically on the said accusation and refer it to the Senate in advance.

If the National Counter Corruption Commission passes a resolution by the votes of not less than onehalf of the total number of the existing members that the accusation has a prima facie case, the holder of the position against whom the accusation has been made shall not, as from the date of such resolution, perform his duties until the Senate has passed its resolution.

The President of the National Counter Corruption Commission shall submit the report, existing documents and its opinion to the President of the Senate for proceeding in accordance with section 273 and to the Prosecutor General for instituting prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. If the National Counter Corruption Commission is of the opinion that the accusation has no prima facie case, such accusation shall lapse.

In the case where the Prosecutor General is of the opinion that the report, documents and opinion submitted by the National Counter Corruption Commission under paragraph four are not so complete as to institute prosecution, the Prosecutor General shall notify the National Counter Corruption Commission for further proceedings and, for this purpose, the incomplete items shall be specified on the same occasion. In such case, the National Counter Corruption Commission and the Prosecutor General shall appoint a working committee, consisting of their representatives

in an equal number, for collecting complete evidence and submit it to the Prosecutor General for further prosecution. In the case where the working committee is unable to reach a decision

as to the prosecution, the National Counter Corruption Commission shall have the power to prosecute by itself or appoint a lawyer to prosecute on its behalf.

Section 273.

Upon receipt of the report under section 272, the President of the Senate shall convoke a sitting of the Senate for considering the said matter without delay.

In the case where the National Counter Corruption Commission submits the report out of session of the Senate, the President of the Senate shall inform the President of the National Assembly in order to tender a petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly. The President of the Senate shall countersign the Royal Command.

Section 274.

A senator shall have autonomy in casting a vote, which must be by secret ballot. A resolution for the removal of any person from office shall be passed by the votes of not less than three-fifths of the total number of the existing members of the Senate.

A person who is removed from office shall vacate office or be released from government service as from the date of the resolution of the Senate. Such person shall be deprived of the right to hold any political position or to serve in the government service for five years.

The resolution of the Senate under this section shall be final and no request for the removal of such person from office shall be made on the same ground, without, however, prejudice to the trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

PART 4 CRIMINAL PROCEEDINGS AGAINST PERSONS HOLDING POLITICAL POSITIONS

Section 275.

In the case where the Prime Minister, a Minister, member of the House of Representatives, senator or other political official has been accused of becoming unusually wealthy, or of the commission of malfeasance in office according to the Penal Code or a dishonest act in the performance of duties or corruption according to other laws, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall have the competent jurisdiction to try and adjudicate the case.

The provisions of paragraph one shall also apply to the case where the said person or other person is a principal, an instigator or a supporter including a person who gives, asks to give or promises to give

property or other benefits to the person under paragraph one with a view to induce him from acting or omitting or delaying an act resulting in a dishonest act in the performance of duties.

The submission of an accusation requesting the National Counter Corruption Commission to conduct the proceedings under section 250 (2) shall be in accordance with the organic law on counter corruption.

In the case where the accused under paragraph one is a person holding position of Prime Minister, Minister, President of the House of Representatives or President of the Senate, the person injured by such act may submit an accusation to the National Counter Corruption Commission to conduct the proceedings under section 250 (2) or to the Supreme Court of Justice to appoint, at its general meeting, an independent inquisitor under 276.

If the injured person has submitted the said accusation to the National Counter Corruption Commission, he may submit the accusation to the Supreme Court of Justice only when the National Counter Corruption Commission refuses to accept the accusation for further inquisition, proceeds the inquisition with materially delay or is of the opinion that the accusation has no prima facie case.

If the National Counter Corruption Commission is of the opinion that there is a ground under paragraph four and it has the resolution to conduct the proceedings under section 250 (2) by the votes of not less than one-half of the total number of its existing member, the National Counter Corruption Commission shall conduct the proceedings under section 250 (2) forthwith and, in such case, the injured person shall not submit an accusation to the Supreme Court of Justice under paragraph four.

The provisions of section 272 paragraph one, paragraph four and paragraph five shall apply mutatis mutandis.

Section 276.

In the case where the Supreme Court of Justice, at its general meeting, is of the opinion that the submitted accusation should be proceeded under section 275 paragraph four, the Supreme Court of Justice, at its general meeting, may appoint an independent inquisitor from a person of apparent political impartiality and integrity or refer the matter to the National Counter Corruption Commission for inquisition under section 250 (2) in lieu of the appointment of an independent inquisitor.

Qualifications, powers and duties, inquisition and other necessary acts of an independent inquisitor shall be provided by law.

If the independent inquisitor, after inquiring into facts, summarising the case and preparing opinions, is of the opinion that accusation has

prima facie case, he shall submit the report and existing documents together with its opinion to the President of the Senate for further proceedings under section 273 and shall submit the inquisition file and opinion to the Prosecutor General to bring the case to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. The provisions of section 272 paragraph five shall apply mutatis mutandis.

Section 277.

In a trial, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall rely on the file of the National Counter Corruption Commission or of the independent inquisitor, as the case may be, and may conduct an inquisition in order to obtain additional facts or evidence as it thinks fit.

The rules and procedure of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall be as provided in the organic law on criminal proceedings against persons holding political positions, and the provisions of section 213 shall apply mutatis mutandis to the performance of duties of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

The provisions on the immunity of members of the House of Representatives and senators under section 131 shall not apply to a trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

Section 278.

An adjudication of a case shall be made by a majority of votes; provided that every judge constituting the quorum shall prepare his written opinion and make oral statements to the meeting prior to the passing of a resolution.

Orders and decisions of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. shall be disclosed and final, unless in case of paragraph three.

In the case where a person who has been sentenced by a judgement of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions finds newly discovered evidence which may alter the fact of the case materially, he may appeal to the general meeting of the Supreme Court of Justice within thirty days as from the date of rendering of a judgement of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

An appeal and the consideration and adjudication of the general meeting of the Supreme Court of Justice shall be prescribed in the regulation laid down by the general meeting of the Supreme Court of Justice.

**CHAPTER XIII
ETHICS OF PERSONS HOLDING POLITICAL
POSITIONS AND STATE OFFICIALS**

Section 279.

Ethical standard of each kind of person holding political position, government official or State official shall be in accordance with the established Code of Ethics.

Ethical standard under paragraph one shall consist of mechanism and system that ensure its effective enforcement and shall have punishment procedure for each degree of violation.

Any violation or failure to comply with ethical standard under paragraph one is deemed to be in breach of discipline. In the case where a person holding political position violates or fails to comply therewith, the Ombudsmen shall report to the National Assembly, the Council of Ministers or related local assemblies, as the case may be, and shall refer the matter, in case of serious violation or failure, to the National Counter Corruption Commission for further proceedings and it is deemed the cause for removal from office under section 270.

The consideration, selection, scrutiny or appointment of any person to hold the position relating to the exercise of power of State power, including the transfer, promotion and elevation of the salary scale and punishment of such person shall be in accordance with merit system with due regard to ethical behaviour of that person.

Section 280.

For the purpose of this Chapter, the Ombudsmen have the powers and duties in giving suggestion or recommendation in the making of or improving the Code of Ethics under section 279 paragraph one and enhances ethical consciousness of persons holding political positions, government officials and State officials, and have duties to report any violation of the Code of Ethics to the responsible person for the enforcement of the Code under section 279 paragraph three.

In the case where the violation or failure to comply with the ethical standard is made in a serious manner or there is a reasonable ground to believe that the responsible may act unfairly, the Ombudsmen may conduct inquiry and disclose the result thereof to the public.

**CHAPTER XIV
LOCAL ADMINISTRATION**

Section 281.

Subject to section 1, the State shall give autonomy to local government organisation with the principle of self-government according to the will of the people in a locality and shall encourage local government organisation to be the principal public services provider and to participate in

rendering resolution to any problem occurs within its vicinity.

Any locality has a tendency to self-government shall have the right to be formed as a local government organisation as provided by law.

Section 282.

The supervision of local government organisations shall be exercised in so far as it is necessary under the rules, procedure and conditions which are clear, expedient and appropriate for each type of local government organisation as provided by law but must be protecting local interest or the interests of the country as a whole, provided, at any rate, that it shall not substantially affect the principle of self-government according to the will of the people in the locality otherwise than as provided by law.

In the conduct of supervision under paragraph one, there shall be a supervision standard to be applied to local government organisations, upon their own selection, with regard to the appropriateness and difference of level of development and efficiency in the administration of each type of local government organisation without prejudice to capability of local government organisations in making decision for the fulfillment of their requirements and there shall be a mechanism for the examination of performance thereof which is executed mainly by the people.

Section 283.

Local government organisations have the powers and duties to maintain and provide, in general, public services for the benefit of the people in localities and enjoys autonomy in laying down policies, administration, provision of public services, personnel administration, finance and shall have powers and duties particularly on their own part with regard to the compliance with the development of Changwat and the country as a whole.

Local government organisations shall receive any promotion and support to strengthen their autonomous in administration and capability to response efficiently to requirements of the people in their localities, to develop locally financial system so as to provide all public services under their powers and duties and to establish or jointly establish organisations to provide public services under their powers and duties with a view to provide valuable and beneficial services to public thoroughly.

There shall be a law determining plans and process for decentralisation prescribing the delineation of powers and duties and the allocation of revenue between central and provincial administrations and local government organisation and between local government organisations themselves with due regard to an increasing of distributed powers along

the capability of each type of local government organisation. In such case, an examination and evaluation system by the committee consisting of representatives of concerned government agencies, representatives of local government organisations and qualified persons in an equal number shall be provided by law.

There shall be a law on local revenue prescribing powers and duties for the collection of taxes and other revenues of local government organisations and the provisions of which shall be in compliance with the nature of each type of taxes, the distribution of resources in public sector and the balance of revenue and expenditure of local government organisations. In such case, regard shall be had to level of economic development of localities, financial status of local government organisations and sustainability of State finance.

In the case where the delineation of powers and duties and the distribution of revenue to local government organisations has made, the committee under paragraph three shall review them every five years in order to consider the suitability of the delineation of powers and duties and the allocation of revenue previously made, having particular regard to the promotion of decentralisation.

The proceeding under paragraph five shall be effective when the approval of the Council of Ministers has been obtained and the National Assembly has been notified thereof.

Section 284.

A local government organisation shall have a local assembly and local administrative committee or local administrators. Members of a local assembly shall be elected.

A local administrative committee or local administrators shall be directly elected by the people or shall be from the approval of a local assembly.

An election of members of a local assembly and local administrative committee or local administrators who must be directly elected by the people shall be made by direct suffrage and secret ballot.

Members of a local assembly, local administrative committee or local administrators shall hold office for the period of four years.

A member of a local administrative committee or local administrator shall not be a government official holding a permanent position or receiving a salary or an official or employee of a government agency, State agency, State enterprise or local government organisation and shall not have any conflict of interest in the holding of position as provided by law.

The qualifications of the person having the right to vote and the person having the right to apply for candidacy in an election of members of a local assembly, members of a local administrative committee and local administrators and rules and procedure therefor shall be in accordance with the provisions of the law.

In the case where a local administrative committee has vacated office en masse or local administrators vacate office and a local administrative committee or local administrators must be temporarily appointed, the provisions of paragraph three and paragraph six shall not apply, as provided by law.

The establishment of the special local government organisation having different organisational structure from the provisions in this section shall be as provided by law, provided that a local administrative committee or local administrators thereof shall be elected.

The provisions of section 265, section 266, section 267 and section 268 shall apply mutatis mutandis to members of local assembly and local administrative committee or local administrators.

Section 285.

If persons having the right to vote in an election in any local government organisation consider that any member of the local assembly or any administrator of that local government organisation is not suitable to remain in office, such persons shall have the right to vote for removal of such member of the local assembly or any administrator from office. The number of persons having the right to lodge such request, rules and procedure for lodging a request, the examination of request and voting shall be provided by law.

Section 286.

Persons having the right to vote in any local government organisation shall have the right to lodge with the President of the local assembly a request for the issuance by the local assembly of local ordinances.

The number of persons having the right to lodge such request, rules and procedure for lodging a request and the examination of request shall be provided by law.

Section 287.

People in a locality have the right to participate in the administration of local government organisation and the local government organisation shall facilitate the people to have participation thereto.

In the case where any act of the local government organisation may be detrimental to way of life of the people within its locality materially, the local government organisation shall provide information thereof to the people prior to the commencement of such act within a reasonable period. If it

deems appropriate or upon the request of people having the rights to vote at an election in such locality, the local government organisation shall conduct public consultation on such matter before the commencement of such act or conduct the referendum for decision thereon as provided by law.

The local government organisation shall report to the public of its preparation of appropriation, expenditures and the result of the performance of its duties in each year with a view to enhance public examination and supervision of its administration.

The provisions of section 168 paragraph six shall apply mutatis mutandis to the preparation of appropriation of a local government organisation under paragraph three.

Section 288.

The appointment and removal of officials and employees of a local government organisation shall be in accordance with the need of and suitability to each locality but personnel administration of local government organisations shall be based upon similar standard and it may be jointly developed or personnel transfer among local government organisations shall be made and it shall obtain prior approval from the Local Officials Committee, the central personnel administration of local government organisations, as provided by law.

There shall be the Local Officials Merit Protection Committee, in personnel administration of local government organisations, so as to establish and maintain merit and ethics protection system in personnel administration as provided by law.

The Local Officials Committee under paragraph one shall consist, in an equal number, of representatives of relevant government agencies, representatives of local government organisations and qualified persons possessing the qualifications as provided by law.

The transfer, promotion, increase of salaries and the punishment of the officials and employees of a local government organisation shall be in accordance with the provisions of law.

Section 289.

A local government organisation has the duty to conserve local arts, custom, wisdom and good culture of locality.

A local government organisation has the right to provide education and professional training in accordance with the suitability to and the need of that locality and participate in the provision of education and training by State with regard to the compliance with the national education standard and system.

In providing education and training under paragraph two, the local government organisation

shall also have regard to the conservation of local arts, custom, wisdom and good culture.

Section 290.

A local government organisation has the powers and duties to promote and conserve the quality of the environment as provided by law.

The law under paragraph one shall at least contain the following matters as its substance:

- (1) the management, preservation and exploitation of the natural resources and environment in the area of the locality;
- (2) the participation in the preservation of natural resources and environment outside the area of the locality only in the case where the living of the inhabitants in the area may be affected;
- (3) the participation in considering the initiation of any project or activity outside the area of the locality which may affect the quality of the environment, health or sanitary conditions of the inhabitant in the area;
- (4) the participation of local community.

**CHAPTER XV
AMENDMENT OF THE CONSTITUTION
Section 291.**

An amendment of the Constitution may be made only under the rules and procedure as follows:

- (1) a motion for amendment must be proposed either by the Council of Ministers or members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House of Representatives or members of both Houses of not less than one-fifth of the total number of the existing members thereof or persons having the right to votes of not less than fifty thousand in number under the law on the public submission of a bill;

A motion for amendment which has the effect of changing the democratic regime of government with the King as Head of State or changing the form of State shall be prohibited;

- (2) a motion for amendment must be proposed in the form of a draft Constitution Amendment and the National Assembly shall consider it in three readings;
- (3) the voting in the first reading for acceptance in principle shall be by roll call and open voting, and the amendment must be approved by votes of not less than one-half of the total number of the existing members of both Houses;
- (4) in the consideration section by section in the second reading, consultation with the people who submit a draft Constitution Amendment shall be held;

The voting in the second reading for consideration section by section shall be decided by a simple majority of votes;

- (5) at the conclusion of the second reading, there shall be an interval of fifteen days after which the National Assembly shall proceed with its third reading;
- (6) the voting in the third and final reading shall be by roll call and open voting, and its promulgation as the Constitution must be approved by votes of more than one-half of the total number of the existing members of both Houses;
- (7) after the resolution has been passed in accordance with the above rules and procedure, the draft Constitution Amendment shall be presented to the King, and the provisions of section 150 and section 151 shall apply *mutatis mutandis*.

Transitory Provisions

Section 292.

The Privy Council holding office on the date of the promulgation of this Constitution shall be the Privy Council under the provisions of this Constitution.

Section 293.

The National Legislative Assembly under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall act as the National Assembly, the House of Representatives and the Senate under the provisions of this Constitution until the first meeting of the National Assembly under section 127.

During the period under paragraph one, if the provisions of this Constitution or other laws prescribes that the President of the National Assembly, the President of the House of Representatives or the President of the Senate shall countersign the Royal Command, the President of the National Legislative Assembly shall countersign the Royal Command in lieu thereof.

At the initial period, if there is the first meeting of the National Assembly under section 127 but the Senate is unavailable, the National Legislative Assembly shall act as the Senate; except the consideration for appointment or removal any person from office under the provisions of this Constitution, until there is the Senate under this Constitution. In such case, any act done by the National Legislative Assembly during such period is deemed to be an act of the Senate and in the case where this Constitution or other laws prescribes that the President of the Senate shall countersign the Royal Command, the President of the National Legislative Assembly shall countersign the Royal Command in lieu thereof.

The provisions of section 93, section 94, section 101, section 102, section 106, section 109, section 111, section 113, section 114, section 115, section 119, section 120, section 197 paragraph four and section 261 and the provisions of other laws which prohibit persons from holding political

positions shall not apply to the holding of positions of members of the National Legislative Assembly. The provisions of section 153 shall apply *mutatis mutandis* to the lapse of the National Legislative Assembly.

Section 294.

The Constituent Assembly and the Constitution Drafting Commission under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall lapse on the date of the promulgation of this Constitution.

In order to deter conflict of interest, no member of the Constitution Drafting Commission shall apply for candidacy in an election of members of the House of Representatives or holding a position of senator within two years as from the date of vacation from office under paragraph one.

Section 295.

The National Legislative Assembly shall complete the consideration of the organic law bill on election of members of the House of Representatives and acquisition of senators, the organic law bill on political parties and the organic law bill on Election Commission as submitted by the Constitution Drafting Commission within the period prescribed in the Constitution of the Kingdom of Thailand (Interim), B.E. 2549.

In the case where the National Legislative Assembly is unable to finish the consideration of such organic law bills within the period under paragraph one, the President of the National Legislative Assembly shall present the organic law bills submitted by the Constitution Drafting Commission to the King for His signature within seven days as if the approval of the National Legislative Assembly is given thereto.

During the period the organic law on political parties and the organic law on Election Commission under paragraph one is not come into force, the Organic Law on Political Parties, B.E. 2541 and the Organic Law on Election Commission, B.E. 2541 shall still in force until the said organic laws come into force.

Section 296.

The election of members of the House of Representatives under this Constitution shall be held within ninety days and the acquisition of senators under this Constitution shall be held within one hundred and fifty days as from the date the organic law under section 295 comes into force.

At the first general election of members of the House of Representatives after the promulgation of this Constitution, a person who is eligible to be a candidate in an election shall be member of only one political party for not less than thirty days up to the election day and, in such case, the period

under section 101 (4) (a) shall be one year and the period under section 101 (4) (c) and (d) shall be two years.

At the initial period, the persons having been senators elected for the first time under the Constitution of the Kingdom of Thailand, B.E. 2540 shall not hold positions of senators whom will be firstly acquired under this Constitution, and the provisions of section 115 (9) and section 116 paragraph two shall not apply to the persons whom elected for the last time under the Constitution of the Kingdom of Thailand, B.E. 2540.

Section 297.

At the initial period, senators acquired upon the selection basis hold office for a term of three years as from the commencement of membership and the provisions prohibiting senators from holding office for more than one term shall not apply to such persons in the subsequence selection.

Section 298.

The Council of Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution shall be the Council of Ministers under this Constitution and shall vacate office en masse when the Council of Ministers appointed under this Constitution taking office.

The National Security Council under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall vacate office en masse at the time when the Council of Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution vacate office.

The provisions of section 171 paragraph two, section 172, section 174 and section 182 (4), (7) and (8) shall not apply to the holding of office of the Prime Minister and Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution.

Section 299.

The Ombudsmen holding positions on the date of promulgation of this Constitution shall be the Ombudsmen under this Constitution and shall be in offices until the expiration of the term of office. In such case, the term of office shall commence as from the date the appointment is made by the King and the Ombudsmen shall elect one among themselves to be the President of the Ombudsmen within sixty days as from the date of promulgation of this Constitution and the provisions of section 242 paragraph two and paragraph three shall apply *mutatis mutandis*.

Election Commissioners, members of the National Counter Corruption Commission and members of the National Economic and Social Council holding positions on the date of promulgation of this

Constitution shall be in office until the expiration of the term of office and, in such case, the term of office shall commence as from the date of appointment.

Members of the National Human Rights Commission holding positions on the date of promulgation of this Constitution shall be in office until the appointment of the National Human Rights Commission under this Constitution. In the case where such persons hold office for not more than one year as from the date of promulgation of this Constitution, the provisions prohibiting members of the National Human Rights Commission from holding office for more than one term shall not apply to such persons in the first appointment of members of the National Human Rights Commission under this Constitution.

The persons under this section shall continue the performance of duties under the organic laws or other relevant laws which are in force on the date of promulgation of this Constitution until the enactment of the organic laws or other laws for the compliance with this Constitution, unless the provisions thereof are contrary to or inconsistent with the provisions of this Constitution, the provisions of this Constitution shall replace.

Section 300.

The Constitutional Tribunal under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall be the Constitutional Court under this Constitution and the person holding the position of President of the Supreme Court of Justice shall be the President of the Constitutional Court, the person holding the position of President of the Supreme Administrative Court shall be the Vice-President of the Constitutional Court and the judges of the Supreme Court of Justice and of the Supreme Administrative Court selected under section 35 of the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall be judges of the Constitutional Court until the appointment of the Constitutional Court under this Constitution which shall finish within one hundred and fifty days as from the date of appointment of the President of the House of Representatives and the Leader of the Opposition in the House of Representatives after the first general election of members of the House of Representatives under this Constitution.

The provisions of section 205 (3), section 207 (1) and (2) and section 209 (5) shall not apply to the holding of position of the judges of the Constitutional Court under paragraph one.

The provisions of section 35 paragraph two, paragraph three and paragraph four of the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall continue in force until the enactment of the organic law on rules and procedure of the Constitutional Court.

All cases or acts under the consideration of the Constitutional Tribunal under paragraph one shall be considered by the Constitutional Court under this section and when the Constitutional Court under this Constitution is appointed, all pending cases or acts shall be in the jurisdiction of the newly appointed Constitutional Court.

During the period the organic law on rules and procedure of the Constitutional Court is not yet enacted, the Constitutional Court has the powers to prescribe a determination related to its trial and rendering of decisions but such organic law shall be enacted within one year as from the date of promulgation of this Constitution.

Section 301.

The selection for the State Audit Commission and the Auditor General shall finish within one hundred and twenty days as from the date of appointment of the President of the House of Representatives and the Leader of the Opposition in the House of Representatives after the first general election of members of the House of Representatives under this Constitution and, if the President of the Constitutional Court from the selection proceedings under this Constitution does not exist, the Selective Committee shall consist of the existing members.

In the case where the State Audit Commission does not exist, the Auditor General shall act as the President of the State Audit Commission and the State Audit Commission.

Section 302.

The following organic laws shall continue in force under the conditions under this section:

- (1) Organic Law on Ombudsmen, B.E. 2542 and the President of the Ombudsmen shall have charge and control of the execution of this Organic Law;
- (2) Organic Law on Counter Corruption, B.E. 2542 and the Chairperson of the National Counter Corruption Commission shall have charge and control of the execution of this Organic Law;
- (3) Organic Law on State Audit, B.E. 2542 and the Chairperson of the State Audit Commission shall have charge and control of the execution of this Organic Law;
- (4) Organic Law on Criminal Proceeding Against Persons Holding Political Positions, B.E. 2542 and the President of the Supreme Court of Justice shall have charge and control of the execution of this Organic Law.

Amendment to the organic laws by the Acts promulgated during the period the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 being in force is deemed to be made by the organic laws under this Constitution.

Persons having charge and control of the execution of the organic laws under paragraph one shall

cause revision to the organic laws for the compliance with this Constitution within one year as from the date of promulgation of this Constitution or, in the case where the person having charge and control of the execution of such organic law does not exist, the period of one year shall commence as from the date of appointment of such person.

The House of Representatives shall complete the consideration of the organic law bills under this section within one hundred and twenty days as from the date of receipt of such organic law bills and the Senate shall finish its consideration thereon within ninety days as from the date of receipt of such organic law bills.

A resolution approves such amendment or disapproves the organic law bills under paragraph one shall be made by the votes of not less than one-half of the total members of each House.

The Election Commission shall prepare the organic law bill on referendum for the compliance with this Constitution and the provisions in paragraph three, paragraph four and paragraph five shall apply *mutatis mutandis*.

Section 303.

At the initial period, the Council of Ministers taking office after the first general election under this Constitution shall cause a preparation or amendment to laws in the matters and within the specific period as follows:

- (1) laws related to the determination of measures for supporting and protecting rights and liberties under section 40, section 44, Freedom of Expression of Individual and the Press in Part 7, Rights and Liberties in Education in Part 8, Rights to Public Health Services and Welfare in Part 9 and Rights to Information and Petition in Part 10 as well as laws on personal data under section 56, Community Rights in Part 12, law establishing autonomous consumer protection organisation under section 61 paragraph two, law on political development council under section 78 (7), law establishing organisation for reforming the judicial process under section 81 (4), law establishing farmer council under section 84 (8), law establishing civil politics development fund under section 87 (4) and law on National Human Rights Commission under section 256; within one year as from the date its policies is stated to the National Assembly under section 176;
- (2) law for the development of national education under section 80 which promotes formal education, non-formal education, education-at-will, selflearning, life-long learning, community college or other forms of education and causes amendment to law for determining agencies to be responsible for the provision of education appropriately and in conformity with all levels of all education systems of basic education;

within one year as from the date its policies is stated to the National Assembly under section 176;

- (3) law under section 190 paragraph five which consists of, at least, detailed measure and procedure for the conclusion of treaty having system for the balancing of powers thereon between the Council of Ministers and the National Assembly and securing transparency, efficiency and actual public participation, and details of studies or researches conducted independently before the commencement of negotiation in which there is no conflict of interests between interests of State and the of researchers through the binding period of the treaty; within one year as from the date its policies is stated to the National Assembly under section 176;
- (4) law under section 86 (1) and section 167 paragraph three; within two years as from the date its policies is stated to the National Assembly under section 176;
- (5) law determining plans and process for decentralisation, law on local revenue, law on establishment of local government organisation, law on local officials and other laws as referred to in Chapter XIV Local Administration for the compliance with this Constitution; within two years as from the date its policies is stated to the National Assembly under section 176. Such law may be complied in form of Local Administration Code.

In the case where the laws enacted before the date of promulgation of this Constitution have compatible substances with this Constitution, the execution of this section to such laws is exempted.

Section 304.

The Code of Ethics under section 279 shall finish within one year as from the date of promulgation of the Constitution.

Section 305.

At the initial period, the some provisions of this Constitution shall not apply to specific cases under specific conditions as follows:

- (1) the provisions of section 47 paragraph two shall not apply until the enactment of the law under section 47 to establish the regulatory body having duty to distribute the frequencies and supervise radio and television broadcasting and telecommunication businesses which shall not more than one hundred and eighty days as from the date the government policies is stated to the National Assembly. Such law shall, at least, establish specialised committees within such regulatory body whereby one of which for supervision of radio or television broadcasting and the other one for supervision of telecommunication businesses and they

work apart, and shall have details on the supervision and protection of business, the establishment of telecommunication resources development fund and the promotion of public participation in running of public mass media, but the aforesaid shall not affect the permissions, concessions or legal contracts concluded before the date of promulgation of this Constitution until the termination of such permissions, concessions or contracts;

- (2) subject to section 296 paragraph three, the provisions of section 102 (10) particularly to the requirement on having been senator, section 115 (9) and section 116 paragraph two shall not apply to the first election of members of the House of Representatives and the holding of political positions at the first time under this Constitution;
- (3) the provisions of section 141 shall not apply to the enactment of the organic law under section 295;
- (4) the provisions of section 167 paragraph one and paragraph two, section 168 paragraph nine, section 169 particularly to the requirement on the determination of sources of income for reimbursement of expenditures paid-up from the treasury balance, and section 170 shall not apply within one year as from the date of promulgation of this Constitution;
- (5) any act in relation to the conclusion or implementation of treaty which have been done prior to the date of promulgation of this Constitution shall be valid and the provisions of section 190 paragraph three shall not apply; provided, at any rate, that the provisions of section 190 paragraph three shall apply to the pending procedure that must be continued;
- (6) the provisions of section 209 (2) shall not apply to members of the National Human Rights Commission holding office on the date of promulgation of this Constitution;
- (7) the provisions of section 255 paragraph five and section 288 paragraph three shall not apply within one year as from the date of promulgation of this Constitution.

Section 306.

At the initial period, judges of the Supreme Court of Justice having held positions of not lower than judges of the Supreme Court of Justice who turn to sixty years of age in the fiscal year 2550 shall perform the duties of senior judges in the Supreme Court of Justice under section 219 until the amendment of law prescribing rules for the performance of duties of senior judges.

Within one year as from the date of promulgation of this Constitution, there shall enact the law extending term of office of judges of the Courts of Justice to seventy years of age and a judge of the Courts of Justice who turns to sixty years of age or

more in any fiscal year, performs of duties for not less than twenty years and passes the performance capability test may request to hold the office of senior judge in the Courts of not higher than the Court he held his last office.

The law to be enacted under paragraph one and paragraph two shall have the provisions that persons who turn to sixty years of age or more in any fiscal year, within the first ten years as from the date such law come into force, gradually and continually vacate their offices and enable such persons to make a request for holding the office of senior judge.

The provisions of paragraph two and paragraph three shall apply *mutatis mutandis* to public prosecutors.

Section 307.

Qualified members of the Judicial Commission of the Courts of Justice holding office on the date of promulgation of this Constitution shall remain in office; except a qualified member who turns to sixty years of age in the fiscal year 2550 and a qualified member in any level of the Courts who transferred from the such level of the Court, but not more than one hundred and eighty days as from the date of promulgation of this Constitution.

Section 308.

The Council of Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution shall appoint the independent Law Reform Committee within ninety days as from the date of promulgation of this Constitution having duties to study and give recommendation on the preparation of laws to be enacted for the compliance with this Constitution and to prepare the law establishing the law reform organisation under section 81 (3) within one year as from the date of promulgation of this Constitution and such law shall have, at least, the provisions that entrusting to such organisation a duty to support the preparation of bills of persons having the right to vote in an election.

The execution under paragraph one is not prejudice to the powers and duties of other organisations in the preparation of bills under their responsibilities.

Section 309.

Any act that its legality and constitutionality has been recognised by the Constitution of the Kingdom of Thailand (Interim), B.E. 2549, including all acts related therewith committed whether before or after the date of promulgation of this Constitution shall be deemed constitutionally under this Constitution.

Countersigned by:
Meechai Ruchuphan
President of the National Legislative Assembly

VIETNAM



CONSTITUTION OF VIETNAM

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INDEPENDENCE – FREEDOM – HAPPINESS

PREAMBLE

In the course of their millennia old history, the Vietnamese people, working diligently, creatively, and fighting courageously to build their country and defend it, have forged a tradition of unity, humanity, uprightness, perseverance and indomitableness for their nation and have created Vietnamese civilization and culture.

Starting in 1930, under the leadership of the Communist Party of Vietnam formed and trained by President Ho Chi Minh, they waged a protracted revolutionary struggle full of hardships and sacrifices, resulting in the triumph of the August Revolution. On 2nd September 1945, President Ho Chi Minh read the Declaration of Independence and the Democratic Republic of Vietnam came into existence. In the following decades, the people of all nationalities in our country conducted an uninterrupted struggle with the precious assistance of friends throughout the world, especially the socialist countries and the neighbouring countries, achieved resounding exploits, the most outstanding ones being the historic Dien Bien Phu and Ho Chi Minh campaigns, defeated the two wars of aggression by the colonialists and the imperialists, liberated the country, reunified the Fatherland, and brought to completion the people's national democratic revolution.

On July 2nd, 1976 the National Assembly of reunified Vietnam decided to change the country's name to the Socialist Republic of Vietnam; the country entered a period of transition to socialism, strove for national construction, and unyieldingly defended its frontiers while fulfilling its international obligations.

In successive periods of resistance war and national construction, our country adopted the 1946, 1959, and 1980 Constitutions. Starting in 1986, a comprehensive national renewal advocated by the 6th Congress of the Communist Party of Vietnam has achieved very important initial results.

The National Assembly has decided to revise the 1980 Constitution in response to the requirements of the new situation and tasks.

This Constitution establishes our political regime, economic system, social and cultural institutions; it deals with our national defence and security, the fundamental rights and duties of the citizen, the structure and principles regarding the organization and activity of State organs; it institutionalises the relationship between the Party as leader, the people as master, and the State as administrator.

In the light of Marxism-Leninism and Ho Chi Minh's thought, in furtherance of the Program for National Construction in the period of transition to socialism, the Vietnamese people vow to bring into full play the tradition of patriotism, unite millions as one, uphold the spirit of self-reliance and self-improvement in the national construction, pursue a foreign policy of independence, sovereignty, peace, friendship and cooperation with all countries, strictly abide by the Constitution, and win ever greater successes in the cause of renovating, building and defending the Fatherland.

CHAPTER I THE SOCIALIST REPUBLIC OF VIETNAM – THE POLITICAL REGIME

Article 1 [Independence and Sovereignty]

The Socialist Republic of Vietnam is an independent and sovereign country enjoying unity and territorial integrity, including its mainland, islands, territorial waters, and air space.

Article 2 [Law Governance, People's State, State Powers]

- (1) The Socialist Republic of Vietnam State is a law governed socialist State of the people, by the people and for the people. All State powers belong to the people and are based on the alliance between the working class, the peasantry and the intelligentsia.
- (2) The State powers are unified and decentralized to State bodies, which shall coordinate with one another in the exercise of the legislative, executive and judiciary powers.

Article 3 [State Objectives]

The State guarantees and unceasingly promotes the people's mastery in all aspects, with a view to achieving the objectives of prosperous people, strong country, equitable, democratic and civilized society, in which all people enjoy an abundant, free and happy life and are given conditions for all-sided development; and severely punishes all acts of infringing upon the interests of the Fatherland and the people.

Article 4 [The Communist Party]

- (1) The Communist Party of Vietnam, the vanguard of the Vietnamese working class, the faithful representative of the rights and interests of the working class, the toiling people, and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the force leading the State and society.
- (2) All Party organizations operate within the framework of the Constitution and the law.

Article 5 [Nationalities]

- (1) The Socialist Republic of Vietnam is the unified State of all nationalities living on the territory of Vietnam.
- (2) The State carries out a policy of equality, solidarity and mutual assistance among all

nationalities, and forbids all acts of national discrimination and division.

- (3) Every nationality has the right to use its own language and system of writing, to preserve its national identity, and to promote its fine customs, habits, traditions and culture.
- (4) The State carries out a policy of comprehensive development and gradually raises the material and spiritual living conditions of the national minorities.

Article 6 [Democratic Centralism]

- (1) The people make use of State power through the agency of the National Assembly and the People's Councils, which represent the will and aspirations of the people, are elected by them and responsible to them.
- (2) Democratic centralism is the principle governing the organization and activity of the National Assembly, the People's Councils, and all other State organs.

Article 7 [Elections]

- (1) Elections to the National Assembly and the People's Councils are held in accordance with the principles of universal, equal, direct, and secret suffrage.
- (2) A member of the National Assembly shall be removed from office by the electors or the National Assembly, a member of a People's Council by the electors or the People's Council, when this member is no longer worthy of the confidence of the people.

Article 8 [Duties of Agencies, Cadres and Employees]

All State agencies, cadres, officials and employees must show respect for the people, devotedly serve the people, maintain close contact with the people, listen to their opinions and submit to their supervision; resolutely struggle against corruption, wastefulness and all manifestations of bureaucracy, arrogance, authoritarianism.

Article 9 [The Vietnam Fatherland Front]

- (1) The Vietnam Fatherland Front is a political alliance and a voluntary union of political organizations, sociopolitical organizations, social organizations and individuals representing their social classes and strata, nationalities, religions, and overseas Vietnamese.
- (2) The Vietnam Fatherland Front and its member organizations constitute the political base of the people's administration. The Front promotes the tradition of national solidarity, strengthens the people's unity of mind in political and spiritual matters, participates in the building and consolidation of the people's administration, joins the State in caring for and protecting the legitimate interests of the people, encourages people to exercise their right to mastery, to strictly abide by the Constitution and laws,

supervise activities of the State agencies, people-elected representatives as well as State cadres, officials and employees.

- (3) The State creates conditions for the Fatherland Front and its member organizations to operate efficiently.

Article 10 [The Trade Union]

The Trade Union, being the socio-political organization of the working class and the toiling people, joins State organs, economic and social bodies in looking after and safeguarding the rights and interests of cadres, workers, employees and other labouring people; it participates in State administration and social management, in the control and supervision of the activity of State organs and economic bodies; educates cadres, workers, employees and other labouring people to work well for national construction and defence.

Article 11 [Participation of the Citizens]

The citizen exercises his right to mastery at the grassroots by participating in State and social affairs; he is duty bound to help protect public property, legitimate civic rights and interests, maintain national security and social order, and organise public life.

Article 12 [Rule of Law]

- (1) The State exercises the administration of society by means of the law; it shall unceasingly strengthen socialist legality.
- (2) All State organs, economic and social bodies, units of the people's armed forces, and all citizens must seriously observe the Constitution and the law, strive to prevent and oppose all criminal behaviour and all violations of the Constitution and the law.
- (3) All infringements of State interests, of the rights and legitimate interests of collectives and individual citizens shall be dealt with in accordance with the law.

Article 13 [Inviolability of the Fatherland]

- (1) The Vietnamese Fatherland is sacred and inviolable.
- (2) All machinations and acts directed against the independence, sovereignty, unity, and territorial integrity of the Fatherland, against the construction and defence of the socialist Vietnamese Fatherland, shall be severely punished in accordance with the law.

Article 14 [Principles of External Relations]

The Socialist Republic of Vietnam carries out a policy of peace and friendship, seeks to expand its relations and cooperation with all countries in the world, regardless of their political and social regimes, on the basis of respect for each other's independence, sovereignty and territorial integrity, non-interference in each other's internal affairs, equality, and mutual interest; it seeks to

strengthen solidarity, friendship and cooperation with the socialist countries and neighbouring countries; it actively supports and participates in the common struggle of the peoples of the world for peace, national independence, democracy and social progress.

CHAPTER II ECONOMIC SYSTEM

Article 15 [Basic Principles of the Economic System]

- (1) The State builds an independent and sovereign economy on the basis of bringing into full play the internal resources and actively integrating into the international economy; and carries out the national industrialization and modernization.
- (2) The State consistently implements the policy of developing a socialist-oriented market economy. The multi sector economic structure with diversified forms of production and business organization is based on the regime of the entire people's ownership, collective ownership and private ownership, in which the entire people's ownership and collective ownership constitute the foundation.

Article 16 [Aim of the Economic Policy, Economic Sectors]

- (1) The aims of the State's economic policy are to make the people prosperous and the country strong, to better and better satisfy the people's material and spiritual demands on the basis of releasing all production capacity, bringing into full play all potentials of the economic sectors, including the State economic sector, the collective economic sector, the private and small owner economic sector, the private capitalist economic sector, the State capitalist economic sector and foreign invested economic sector in various forms, boosting the construction of material-technical foundations, broadening economic, scientific and technical cooperation as well as exchange with the world market.
- (2) All economic sectors are important constituents of the socialist-oriented market economy. Organizations and individuals of all economic sectors are allowed to conduct business and/or production activities in branches and trades not banned by law and to be jointly engaged in long-term development, cooperation and healthy competition according to law.
- (3) The State accelerates the formation, development and gradual improvement of markets of all kinds along the socialist orientation.

Article 17 [Ownership of the Entire People]

The land, forests, rivers and lakes, water supplies, wealth lying underground or coming from the sea, the continental shelf and the air, the funds and

property invested by the State in enterprises and works in all branches and fields - the economy, culture, society, science, technology, external relations, national defence, security - and all other property determined by law as belonging to the State, come under ownership by the entire people.

Article 18 [Management of the Land]

- (1) The State manages all the land according to overall planning and in conformity with the law, and guarantees that its use shall conform to the set objectives and yield effective results.
- (2) The State shall entrust land to organizations and private individuals for stable and lasting use.
- (3) These organizations and individuals are responsible for the protection, enrichment, rational exploitation and economical use of the land; they may transfer the right to use the land entrusted to them by the State, as determined by law.

Article 19 [The State Economic Sector]

The State economic sector shall be consolidated and developed, particularly in key branches and domains, play the leading role in the national economy, and, together with the collective economic sector, become an ever firmer and firmer foundation of the national economy.

Article 20 [The Collective Sector]

- (1) The collective sector growing out of the pooling by citizens of funds and efforts for cooperative production and trading shall be organised in various forms following the principles of free consent, democracy, and mutual benefit.
- (2) The State shall create favourable conditions for consolidating and broadening the cooperatives and allowing them to operate efficiently.

Article 21 [The Private Economic Sectors]

- (1) The private individual, small owner and private capitalist economic sectors may opt for organizational forms of production and business, may set up enterprises not restricted in scope of operation in branches and trades beneficial to the national economy and the people's life.
- (2) The family household economy is encouraged to develop.

Article 22 [Rights and Obligations of Enterprises]

- (1) Production and trading enterprises belonging to all components of the economy must fulfil all their obligations to the State; they are equal before the law; their capital and lawful property shall receive State protection.
- (2) Enterprises belonging to all components of the economy can enter into joint venture and partnership with individuals and economic

organizations at home and abroad in accordance with the provisions of the law.

Article 23 [Property, Expropriation]

- (1) The lawful property of individuals and organizations shall not be nationalised.
- (2) In cases made absolutely necessary by reason of national defence, security and the national interest, the State can make a forcible purchase of or can requisition pieces of property of individuals or organizations against compensation, taking into account current market prices.
- (3) The formalities of the forcible purchase or requisition shall be determined by law.

Article 24 [External Economic Relations]

The State manages and expands external economic relations, promotes economic ties of all kinds with all nations and all international organizations on the basis of the principles of respect for each other's independence and sovereignty, mutual advantage, and aiming at the protection and stimulation of domestic production.

Article 25 [Foreign Investments, Vietnamese People Abroad]

- (1) The State encourages foreign organizations and individuals to invest capital and technologies in Vietnam in conformity with Vietnamese law and international law and practice; it guarantees the right to lawful ownership of capital, property and other interests by foreign organizations and individuals. Enterprises with foreign investments shall not be nationalised.
- (2) The State encourages and creates favorable conditions for overseas Vietnamese to investing the country.

Article 26 [State Management of the Economy]

The State manages the national economy by means of laws, plans and policies; it makes a division of responsibilities and devolves authority to various departments and levels of the administration; the interests of individuals and collectives are brought into harmony with those of the State.

Article 27 [Relevance of the Economy]

All economic and social activities and State administration as a whole have to observe economy.

Article 28 [Protection of the Economy]

- (1) All illegal production and trading activities, all acts wrecking the national economy and damaging the interests of the State, the rights and lawful interests of collectives and individual citizens shall be dealt with severely and equitably by the law.
- (2) The State shall enact policies protecting the rights and interests of the producers and the consumers.

Article 29 [Protection of the Environment]

- (1) State organs, units of the armed forces, economic and social bodies, and all individuals must abide by State regulations on the rational use of natural wealth and on environmental protection.
- (2) All acts likely to bring about exhaustion of natural wealth and to cause damage to the environment are strictly forbidden.

CHAPTER III CULTURE, EDUCATION, SCIENCE, TECHNOLOGY

Article 30 [Culture]

- (1) The State and the society preserve and develop the Vietnamese culture, which is modern and deeply imbued with the national identity; inherit and promote the values of cultures of all nationalities in Vietnam, and the thought, morality and style of Ho Chi Minh; absorb the mankind's cultural quintessence; and bring into full play all creative talents among the people.
- (2) The State exercises the unified management of cultural activities, strictly prohibits the popularization of reactionary and depraved thoughts and cultures, eliminates superstition and bad customs.

Article 31 [Education]

The State shall create favourable conditions for the citizens to develop all-sidedly; it shall undertake civic education and urge people to live and work in accordance with the Constitution and the law, to set up families that are cultured and happy, marked by patriotism, love of socialism, a genuinely internationalist spirit, friendship and cooperation with all nations in the world.

Article 32 [Arts]

- (1) Literature and art contribute to fostering the personality of and nurturing spiritual nobility and beauty of the Vietnamese people.
- (2) The State shall make investments for the promotion of culture, literature and art; it shall create favourable conditions for the people's enjoyment of valuable literary and artistic works; it shall give its patronage to creative talent in literature and the arts.
- (3) The State shall promote diversity in literary and artistic activity; it shall give encouragement to mass literary and artistic activities.

Article 33 [Media]

The State shall promote information work, the press, radio, television, cinema, publishing, libraries and other means of mass communication. All activities in the fields of culture and information that are detrimental to the national interests and which undermine the fine personality, morality, and way of life of the Vietnamese people shall be strictly banned.

Article 34 [Cultural Heritage]

- (1) The State and society seek to preserve and develop the national cultural heritage; they take good care of preservation and museum work; they look after the repair and maintenance of, and seek to obtain the best effects from, historical vestiges, revolutionary relics, items of the national heritage, artistic works, and places with beautiful scenery.
- (2) All acts in infringing historical vestiges, revolutionary relics, art works and places with beautiful scenery are strictly forbidden.

Article 35 [Relevance and Aim of Education]

- (1) Development of education is a primary national policy.
- (2) The State and the society develop education with a view to elevating the people's intellectual standards, training human resources and fostering talents.
- (3) The aim of education is to form and nurture the personality, qualities and capabilities of citizens; to train laborers who are possessed of professional skills, dynamism, creativeness, national pride, good morality and the will to strive harder to contribute to making people prosperous and the country strong, meeting the requirements of the cause of building and defending the Fatherland.

Article 36 [Management of Education]

- (1) The State exercises the unified management of the national education system with regard to the educational objectives, programs, contents and plans, the teachers' criteria, the regulations on examinations and the system of diplomas and certificates.
- (2) The State develops in a balanced manner the educational system consisting of the pre-school education, general education, vocational training, college and post-graduate education; it enforces the universalisation of secondary education; it develops various educational institutions: State-run schools, people-run schools as well as other educational forms.
- (3) The State prioritizes investment in education and encourages other sources of investment.
- (4) The State adopts the priority policy to ensure the educational development in mountainous areas, regions inhabited by ethnic minority people and regions encountering exceptional difficulties.
- (5) Mass organizations, first of all the Ho Chi Minh Communist Youth Union, social organizations, economic organizations and families shall, together with schools, have the responsibility to educate the youth, teenagers and children.

Article 37 [Science and Technology]

- (1) Development of science and technology is a primary national policy. Science and technology play a key role in the country's socio-economic development.

- (2) The State works out and implements the national policy on science and technology; builds an advanced science and technology; synchronously develops sciences, studies and absorbs scientific and technological achievements in the world in order to build scientific grounds for the elaboration of lines, policies and legislation, renovate technology, develop production forces, raise the managerial skill level, ensure the quality and rate of economic development, and contribute to maintaining national defence and security.

Article 38 [State Support of Science]

The State makes investment in and gives financial assistance to science through various channels, priority being reserved for vanguard sciences and technologies.

It looks after the training and rational use of scientific and technical cadres particularly highly-qualified ones, skilled workers and artisans; it strives to create favourable conditions for creative work by scientists; devises many forms of organization and activity for researchers, ties scientific research to the requirements of socio-economic development, ensures good coordination between scientific research and training on the one hand and production and trading on the other.

Article 39 [Public Health Care]

- (1) The State makes investment in, ensures the development of, and exercises unified management over the protection of the people's health; it mobilises and organises all social forces in the building and development of Vietnamese medicine following a far-sighted orientation; prevention shall be combined with treatment, traditional medicine and pharmacology with modern medicine and pharmacology, State health services with people's health services; the State shall see to the organization of health insurance and create the necessary conditions for all citizens to enjoy health care.
- (2) Priority is given to the programme of health care for highlanders and national minorities.
- (3) It is strictly forbidden to private organizations and individuals to dispense medical treatment, to produce and trade in medicaments illegally, thereby damaging the people's health.

Article 40 [Family]

It is the responsibility of the State, society, the family and the citizen to ensure care and protection for mothers and children; to carry into effect the population programme and family planning.

Article 41 [Sports]

- (1) The State and society shall develop a system of physical culture and sports that is national, scientific and popular.

(2) The State exercises overall management for the development of physical culture and sports; it shall establish a regime of compulsory physical education in the school; it shall give encouragement and assistance to various forms of physical culture and sports activity freely practised by the people; it shall create the necessary conditions for the unceasing expansion of mass activity in physical culture and sports; it shall pay attention to activities in professional sports and to the fostering of sports talent.

Article 42 [Tourism]

The State and society shall promote tourism; tourist activities shall be expanded inside and outside the country.

Article 43 [International Cooperation]

The State shall expand international exchanges and cooperation in the fields of culture, information, literature, art, science, technology, education, health care, physical culture and sports.

CHAPTER IV DEFENCE OF THE SOCIALIST VIETNAMESE FATHERLAND

Article 44 [National Defence]

- (1) The entire people shall endeavour to defend the socialist Vietnamese Fatherland and ensure national security.
- (2) The State shall consolidate and strengthen national defence by the entire people and the people's security, the people's armed forces being regarded as the core, and shall develop to the full the aggregate strength of the country to defend the national territory.
- (3) All State organs, economic bodies, social organizations and all citizens shall fulfil all their national defence and security obligations as laid down by the law.

Article 45 [Duties of the Armed Forces]

All units of the people's armed forces must show absolute loyalty to the Fatherland and the people; their duty is to stand ready to fight to safeguard national independence and sovereignty, the country's unity and territorial integrity, national security and social order, to safeguard the socialist regime and the fruits of the revolution, and to join the entire people in national construction.

Article 46 [The Army]

The State shall build a revolutionary people's army which shall be a well-trained regular army to be gradually modernised; it shall built up powerful reserves and selfdefence militia by combining national construction with national defence, the strength of the people's armed forces with that of the entire people, the strength of the traditional unity against foreign aggression with that of the socialist regime.

Article 47 [The Police]

The State shall build a revolutionary people's police which shall be a well-trained regular force to be gradually modernised; this police shall rely on the people and shall serve as the core of a popular movement to safeguard national security and social order, political stability and the citizen's freedoms and democratic rights, the lives and property of the people and socialist property; it shall seek to prevent all crimes and shall fight against them.

Article 48 [Basic Principles of the National Defence Policy]

The State shall develop to the full the people's patriotism and revolutionary heroism, educate the entire people in matters of national defence and security, enforce compulsory military service and an appropriate policy with regard to soldiers' families, build up the national-defence industry to ensure proper equipment for the armed forces. It shall harmonise national defence with the economy and vice versa, seek to ensure proper material and spiritual living conditions for officers and soldiers, national-defence workers and employees. It shall build powerful people's armed forces and unceasingly reinforce the country's national-defence potential.

CHAPTER V FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZEN

Article 49 [Citizenship]

A citizen of the Socialist Republic or Vietnam is a person with Vietnamese nationality.

Article 50 [Human Rights]

In the Socialist Republic of Vietnam human rights in the political, civic, economic, cultural and social fields are respected. They are embodied in the citizen's rights and are determined by the Constitution and the law.

Article 51 [Inseparability of Rights and Duties]

- (1) The citizen's rights are inseparable from his duties. The State guarantees the rights of the citizen; the citizen must fulfil his duties to the State and society.
- (2) The citizen's rights and duties are determined by the Constitution and the law.

Article 52 [Equality]

All citizens are equal before the law.

Article 53 [Right to Participate]

The citizen has the right to participate in the administration of the State and management of society, the discussion of problems of the country and the region; he can send petitions to State organs and vote in referendums organised by the State.

Article 54 [Right to Vote]

The citizen, regardless of nationality, sex, social background, religious belief, cultural standard, occupation, time of residence, shall, upon reaching the age of eighteen, have the right to vote, and, upon reaching the age of twentyone, have the right to stand for election to the National Assembly and the People's Councils in accordance with the provisions of the law.

Article 55 [Right and Duty to Work]

- (1) The citizen has both the right and the duty to work.
- (2) The State and society shall work out plans to create ever more employment for the working people.

Article 56 [Protection of Labour]

- (1) The State shall enact policies and establish regimes for the protection of labour.
- (2) The State shall establish working times, wage scales, regimes of rest and social insurance for State employees and wage-earners; it shall encourage and promote other forms of social insurance for the benefit of the working people.

Article 57 [Freedom of Enterprise]

The citizen enjoys freedom of enterprise as determined by law.

Article 58 [Ownership, Inheritance]

- (1) The citizen enjoys the right of ownership with regard to his lawful income, savings, housing, chattel, means of production funds and other possessions in enterprises or other economic organizations; with regard to land entrusted by the State for use, the matter is regulated by the provisions of Articles 17 and 1(8)
- (2) The State protects the citizen's right of lawful ownership and right of inheritance.

Article 59 [Education]

- (1) Education is both a right and duty of citizens.
- (2) Primary education is compulsory and dispensed free of charge.
- (3) The citizen has the right to get general education and vocational training in various ways.
- (4) With regard to school students with special aptitudes the State and society shall create conditions for them to blossom out.
- (5) The State shall enact policies regarding tuition fees and scholarships.
- (6) The State and society shall create the necessary conditions for handicapped children and other children in particularly difficult circumstances to enjoy appropriate general and vocational education.

Article 60 [Freedom of Science and Arts, Protection of Copyright]

The citizen has the right to carry out scientific and technical research, make inventions and discoveries, initiate technical innovations, rationalise production, engage in literary and artistic creation and criticism, and participate in other cultural activities. The State protects copyright and industrial proprietorship.

Article 61 [Access to Health Care, Public Hygiene, Prohibition of Drug Abuse]

- (1) The citizen is entitled to a regime of health protection.
- (2) The State shall establish a system of hospital fees, together with one of exemption from and reduction of such fees.
- (3) The citizen has the duty to observe all regulations on disease prevention and public hygiene.
- (4) It is strictly forbidden to produce, transport, deal in, store and use unlawfully opium and other narcotics. The State shall enact regulations on compulsory treatment of drug addiction and treatment of dangerous social diseases.

Article 62 [Construction]

The citizen has the right to build dwelling-houses accord to zoning regulations and the law. The right of tenants and landlords are protected by the law.

Article 63 [Sexual Equality]

- (1) Male and female citizens have equal rights in all fields - political, economic, cultural, social, and the family life.
- (2) All acts of discrimination against women and all acts damaging women's dignity are strictly banned.
- (3) Men and women shall receive equal pay for equal work. Women workers shall enjoy a regime related to maternity. Women who are State employees and wage-earners shall enjoy paid pre-natal and postnatal leaves during which they shall receive all their wages and allowances as determined by law.
- (4) The State and society shall create all necessary conditions for women to raise their qualifications in all fields and increasingly bring into full play their roles in society, they shall ensure the development of maternity homes, paediatric departments, creches and other social-welfare units so as to lighten house work and allow women to engage more actively in work and study, undergo medical treatment, enjoy periods of rest and fulfil their maternal duties.

Article 64 [Protection of the Family, Freedom of Marriage]

- (1) The family is the cell of society.
- (2) The State protects marriage and the family.
- (3) Marriage shall conform to the principles of free consent, progressive union, monogamy and equality between husband and wife.
- (4) Parents have the responsibility to bring up their children into good citizens. Children and grandchildren have the duty to show respect to and look after their parents and grandparents.
- (5) The State and society shall recognise no discrimination among children.

Article 65 [Protection of Children]

Children enjoy protection, care and education by the family, the State and society.

Article 66 [Promotion of Young People]

The family, the State and society shall create favourable conditions for young people to study, work, relax, develop bodies and minds, and shall educate them in morality, national tradition, civic consciousness and the socialist ideal, for them to be in the van of creative labour and national defence.

Article 67 [War Invalids, Old People, Disabled People, Orphans]

- (1) War invalids, sick soldiers, and the families of fallen soldiers and revolutionary martyrs shall enjoy preferential treatment in State policies. War invalids shall enjoy favourable conditions for their physical rehabilitation, shall be given employment suited to their state of health and assistance in securing stable living conditions.
- (2) Individuals and families credited with meritorious service to the country shall be given commendation and reward and shall be looked after.
- (3) Old people, disabled people and orphans without support shall receive State assistance.

Article 68 [Freedom of Movement]

The citizen shall enjoy freedom of movement and of residence within the country; he can freely travel abroad and return home from abroad in accordance with the provisions of the law.

Article 69 [Freedom of Opinion, Press, Information, Assembly, Association, Demonstration]

The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law.

Article 70 [Freedom of Religion]

- (1) The citizen shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law.

- (2) The places of worship of all faiths and religions are protected by the law.
- (3) No one has the right to infringe on the freedom of faith and religion or to take advantage of the latter to violate State laws and policies.

Article 71 [Inviolability of the Person; Legal Guaranties to Protect Liberty; Ban on Torture]

- (1) The citizen shall enjoy inviolability of the person and the protection of the law with regard to his life, health, honour and dignity.
- (2) No one can be arrested in the absence of a ruling by the People's Court, a ruling or sanction of the People's Office of Supervision and Control except in case of flagrant offences. Taking a person into, or holding him in, custody must be done with full observance of the law.
- (3) It is strictly forbidden to use all forms of harassment and coercion, torture, violation of his honour and dignity, against a citizen.

Article 72 [Presumption of Innocence, Compensation, Rehabilitation]

- (1) No one shall be regarded as guilty and be subjected to punishment before the sentence of the Court has acquired full legal effect.
- (2) Any person who has been arrested, held in custody, prosecuted, brought to trial in violation of the law shall be entitled to damages for any material harm suffered and his reputation shall be rehabilitated. Anybody who contravenes the law in arresting, holding in custody, prosecuting, bringing to trial another person thereby causing him damage shall be dealt with severely.

Article 73 [Inviolability of Domicile, Secrecy of Correspondence]

- (1) The citizen is entitled to the inviolability of his domicile.
- (2) No one is allowed to enter the domicile of another person without his consent, except in cases authorised by the law.
- (3) Safety and secrecy are guaranteed to the citizen correspondence, telephone conversations and telegrams.
- (4) Domiciliary searches and the opening, control, and confiscation of a citizen's correspondence and telegrams can only be done by a competent authority in accordance with the provisions of the law.

Article 74 [Right of Complaint and Denunciation]

- (1) The citizen has the right to lodge complaints and denunciations with the competent State authorities against the illegal doings of State organs, economic bodies, social organizations, units of the people's armed forces, or of any individual.

- (2) The complaints and denunciations must be examined and settled by the State authorities within the time laid down by the law.
- (3) All acts violating the interests of the State, the rights and legitimate interests of collectives and citizens shall be dealt with severely in time. The person who has suffered loss and injury shall be entitled to damages for any material harm suffered and his reputation rehabilitated.
- (4) It is strictly forbidden to take vengeance on the person making complaints and denunciations, or to misuse the right to make complaints and denunciations with the aim of slandering and causing harm to another person.

Article 75 [Vietnamese People Abroad]

- (1) Overseas Vietnamese make up a part of the Vietnamese nationalities community. The State protects the legitimate interests of Vietnamese people residing abroad.
- (2) The State encourages and creates favourable conditions for Vietnamese residing abroad to preserve the Vietnamese cultural identity, maintain close ties with their families and native land, and to contribute to national construction.

Article 76 [Loyalty]

- (1) The citizen must show loyalty to his Fatherland.
- (2) To betray one's Fatherland is the most serious crime.

Article 77 [Duty of Defence]

- (1) It is the sacred duty and the noble right of the citizen to defend his Fatherland.
- (2) The citizen must fulfil his military obligation and join in the all-people national defence.

Article 78 [Respect for State Property and Public Interest]

The citizen has the duty to respect and protect the property of the State and the public interest.

Article 79 [Duty to Obey Laws and Rules]

The citizen has the duty to obey the Constitution and the law, join in the safeguarding of national security and social order and the preserving of national secrets, and respect the established rules of public life.

Article 80 [Tax Duty]

The citizen has the duty to pay taxes and perform public interest labour according to the provisions of the law.

Article 81 [Rights and Duties of Foreign Residents]

Foreigners residing in Vietnam must obey the Constitution and law of Vietnam; they shall receive State protection with regard to their lives, possessions and legitimate interests in accordance with the provisions of Vietnamese law.

Article 82 [Asylum]

The Socialist Republic of Vietnam shall consider granting asylum to foreigners struggling for freedom, national independence, socialism, democracy and peace, or are harmed because of their scientific work.

CHAPTER VI THE NATIONAL ASSEMBLY

Article 83 [The National Assembly]

- (1) The National Assembly is the highest representative organ of the people and the highest organ of State power of the Socialist Republic of Vietnam.
- (2) The National Assembly is the only organ with constitutional and legislative powers.
- (3) The National Assembly shall decide the fundamental domestic and foreign policies, the socio-economic tasks, the country's national-defence and security issues, the essential principles governing the organization and activity of the State machinery, the social relations and the activities of the citizen.
- (4) The National Assembly shall exercise supreme control over all activities of the State.

Article 84 [Duties and Powers]

The National Assembly has the following duties and powers:

1. To make and amend the Constitution; to make and amend laws; to work out a programme for making laws and decree-laws;
2. To exercise supreme control over conformity to the Constitution, the law and the resolutions of the National Assembly, to examine the reports of the State President, the Standing Committee of the National Assembly, the Government, the Supreme People's Court, the Supreme People's Office for Supervision and Control;
3. To decide on the national socio-economic development plan;
4. To decide on the national financial and monetary policies; to decide on planning of the State budget and allocation of the central State budget; to approve the accounts of the State budget; to set, change, or abolish taxes;
5. To decide on the State's policies on nationalities and policies on religions;
6. To regulate the organization and activity of the National Assembly, the State President, the Government, the People's Courts, the People's Office of Supervision and Control and the local administrations.
7. To elect, release from duty, remove from office the State President and Vice-President, the Chairman of the National Assembly, the Vice-Chairmen and members of the Standing Committee of the National Assembly, the Prime Minister, the President of the Supreme People's Court, the Head of the Supreme People's Office of Supervision and Control; to sanction the

proposals of the State President on the list of members of the Defence and Security Council; to cast a vote of confidence on persons holding positions elected or approved by the National Assembly.

8. To set up or suppress government ministries and government organs of ministerial rank; to establish, merge, divide, or adjust the boundaries of provinces and cities under direct central rule; to set up or disband special administrative-economic units;
9. To abrogate all formal written documents issued by the State President, the Standing Committee of the National Assembly, the Government, the Prime Minister, the Supreme People's Court, and the Supreme People's Office of Supervision and Control, that run counter to the Constitution, the law, and resolutions taken by the National Assembly;
10. To proclaim an amnesty;
11. To institute titles and ranks on the people's armed forces, in the diplomatic service and other State titles and ranks; to institute medals, badges and State honours and distinctions;
12. To decide issues of war and peace; to proclaim a state of emergency and other special measures aimed at ensuring national defence and security;
13. To decide on fundamental policies in external relations; to ratify or nullify international treaties signed directly by the State President; to ratify or nullify other international treaties signed or acceded to at the proposal of the State President;
14. To hold a referendum.

Article 85 [Tenure]

- (1) The duration of each National Assembly is five years.
- (2) Two months before the end of its tenure, a new National Assembly shall have been elected. The electoral procedure and the number of members of the National Assembly shall be established by law.
- (3) In special cases, with the approval of at least two-thirds of its members, the National Assembly can either reduce or prolong its period of tenure.

Article 86 [Sessions]

- (1) The National Assembly shall hold two sessions each year, to be convened by its Standing Committee.
- (2) When so required by the State President, the Prime Minister, or at least one-third of the total membership of the National Assembly, or in pursuance of its own decision, the Standing Committee may convene an extraordinary session of the National Assembly.

- (3) The first session of the newly-elected National Assembly shall be convened two months after its election at the latest; it shall be opened and presided over by the chairman of the outgoing Assembly until the election by the incoming Assembly of its chairman.

Article 87 [Submission of Draft Laws]

- (1) The State President, the Standing Committee of the National Assembly, the Nationalities Council and Committees of the National Assembly, the Government, the Supreme People's Court, the Supreme People's Office of Supervision and Control, the Vietnam Fatherland Front and its member organizations may submit draft laws to the National Assembly.
- (2) Members of the National Assembly may present motions concerning laws and draft laws to the National Assembly.
- (3) The procedure for the presentation to the National Assembly of draft laws and motions concerning laws shall be established by law.

Article 88 [Adoption of Laws and Resolutions]

- (1) Laws and resolutions of the National Assembly must be approved by the majority of its members; but decisions taken by the National Assembly to remove from office one of its members as stipulated in Article 7, to reduce or prolong its tenure as stipulated in Article 85 and to amend the Constitution as stipulated in Article 147 must be approved by at least two-thirds of its total membership.
- (2) Laws and resolutions of the National Assembly must be made public fifteen days after their adoption at the latest.

Article 89 [Credentials Committee]

The National Assembly shall elect a Credentials Committee and base itself on the report of the Committee to confirm the capacity of its members.

Article 90 [Standing Committee]

- (1) The Standing Committee of the National Assembly is its permanent Committee.
- (2) It is composed of:
 - the Chairman of the National Assembly,
 - the Vice-Chairmen of the National Assembly;
 - the members.
- (3) The membership of the Standing Committee shall be determined by the National Assembly. A member of the Standing Committee of the National Assembly cannot be at the same time a member of the Government.
- (4) The Standing Committee of each legislature shall fulfil its tasks and exercise its powers until the election by the new legislature of a new Standing Committee.

Article 91 [Duties and Powers of the Standing Committee]

The Standing Committee of the National Assembly has the following duties and powers:

1. To call and preside over the election of the National Assembly;
2. To prepare for, to convene, and preside over the sessions of the National Assembly;
3. To interpret the Constitution, the law, and decree-laws;
4. To enact decree-laws on matters entrusted to it by the National Assembly;
5. To exercise supervision and control over the implementation of the Constitution, the law, the resolutions of the National Assembly, decreelaws, the resolutions of the Standing Committee of the National Assembly; over the activities of the Government, the Supreme People's Court, the Supreme People's Office of Supervision and Control; to suspend the execution of the formal written orders of the Government, the Prime Minister, the Supreme People's Court, the Supreme People's Office of Supervision and Control, that contravene the Constitution, the law, the resolutions of the National Assembly; to report the matter to the National Assembly for it to decide the abrogation of such orders; to repeal the written orders of the Government, Prime Minister, the Supreme People's Court, the Supreme People's Office of Supervision and Control that are contrary to the decree-laws and resolutions of the Standing Committee of the National Assembly;
6. To exercise supervision and control over, and to give guidance to the activities of the People's Councils; to annul wrong resolutions by the People's Councils of provinces and cities under direct central rule; to disband People's Councils of provinces and cities under direct central rule whenever such Councils cause serious harm to the interests of the people;
7. To direct, harmonise, and co-ordinate the activities of the Nationalities Council and the Committees of the National Assembly, to give guidance to, and to ensure good working conditions for, members of the National Assembly;
8. In cases where the National Assembly cannot meet, to decide on proclaiming the state of war when the country is invaded, and report it to the National Assembly for consideration and decision at its nearest session;
9. To proclaim general or partial mobilisation; to proclaim a state of emergency throughout the country or in a particular region;
10. To carry out the National Assembly's external relations;
11. To organise a referendum as decided by the National Assembly.

Article 92 [Chairman]

- (1) The Chairman of the National Assembly shall preside over its sessions; authenticate through his signature laws and resolutions of the National Assembly; give leadership to the activities of its Standing Committee; organise the carrying out of its external relations; maintain relationship with its members.
- (2) The Vice-Chairmen of the National Assembly shall assist the Chairman in the fulfilment of his duties as required by him.

Article 93 [Laws and Resolutions of the Standing Committee]

The decree-laws and resolutions of the Standing Committee of the National Assembly must be approved by more than half of its membership. They must be made public fifteen days following their adoption at the latest, except in case they are presented by the State President to the National Assembly for review.

Article 94 [Nationalities Council]

- (1) The National Assembly shall elect a Nationalities Council comprising the Chairman, Vice-Chairmen, and members.
- (2) The Nationalities Council studies and makes proposals to the National Assembly on issues concerning the nationalities; supervises and controls the implementation of policies on nationalities, the execution of programmes and plans for socioeconomic development of the highlands and regions inhabited by national minorities.
- (3) Prior to the promulgation of decisions related to nationalities policies, the Government must consult the Nationalities Council.
- (4) The Chairman of the Nationalities Council can sit in on meetings of the Standing Committee of the National Assembly and meetings of the Government at which are discussed ways of putting into effect policies on nationalities.
- (5) The Nationalities Council has also other duties and powers as assigned to the Committees of the National Assembly in Article 9(5)
- (6) A number of members of the Nationalities Council are in charge of special tasks.

Article 95 [Election of Committees]

- (1) The National Assembly shall elect its Committees.
- (2) The Committees of the National Assembly study and check draft laws, make proposals concerning laws, draft decree-laws and other drafts, and reports entrusted to them by the National Assembly or its Standing Committee; present to the National Assembly and its Standing Committee their views on legislative programmes; exercise supervision and control within the bounds determined by law; make proposals concerning issues within their fields of activity.

- (3) A number of members of each Committee are in charge of special tasks.

Article 96 [Access to Information]

- (1) The Nationalities Council and the Committees of the National Assembly can require members of the Government, the President of the Supreme People's Court, the Head of the Supreme People's Office of Supervision and Control, and other State officials to report or supply documents on certain necessary matters. Those to whom such requests are made must satisfy them.
- (2) It is the responsibility of State organs to examine and answer the proposals made by the Nationalities Council and the Committees of the National Assembly.

Article 97 [Duties of the Representatives]

- (1) The deputy to the National Assembly represents the will and aspirations of the people, not only of his constituency but of the whole country.
- (2) The deputy to the National Assembly must maintain close ties with the electors; submit himself to their control; collect and faithfully reflect their views and aspirations for the consideration of the National Assembly and the State organs concerned; maintain regular contacts with and make reports to the electors on his own activities and the National Assembly's; answer the requests and proposals of the electors; examine, activate and keep track of the way citizens' complaints and denunciations are dealt with, and give guidance and assistance to citizens seeking to exercise their rights.
- (3) The deputy to the National Assembly shall popularise and urge the people to implement the Constitution, laws and resolutions of the National Assembly.

Article 98 [Rights of the Representatives]

- (1) The deputy to the National Assembly has the right to interpellate the State President, the Chairman of the National Assembly, the Prime Minister, Cabinet Ministers and other members of the Government, the President of the Supreme People's Court, and the Head of the Supreme People's Office of Supervision and Control.
- (2) The interpellated officials must give an answer at the current session; in case an inquiry is needed the National Assembly may decide that the answer should be given to its Standing Committee or at one of its own subsequent sessions, or may allow the answer to be given in writing.
- (3) The deputy to the National Assembly has the right to request State organs, social organizations, economic bodies, and units of the armed forces to answer questions on matters with which he is concerned.

The people in charge of those organs, organizations, bodies and units have the responsibility to answer questions put by the deputy within the time limit set by the law.

Article 99 [Immunity]

- (1) A member of the National Assembly cannot be arrested or prosecuted without the consent of the National Assembly and, in the intervals between its sessions, without the consent of its Standing Committee.
- (2) In case of a flagrant offence and the deputy is taken into temporary custody, the organ effecting his arrest must immediately report the facts to the National Assembly or its Standing Committee for it to examine them and take a decision.

Article 100 [Duties and Rights of the Representatives]

- (1) The deputy to the National Assembly must devote the necessary time to his work.
- (2) It is the responsibility of the Standing Committee of the National Assembly, the Prime Minister, the Cabinet Ministers, the other members of the Government, and the other State organs to supply him with the material he requires and to create the necessary conditions for him to fulfil his duty.
- (3) The State shall ensure that he has the money necessary to his activities.

CHAPTER VII THE STATE PRESIDENT

Article 101 [The State President]

The State President is the Head of State and represents the Socialist Republic of Vietnam internally and externally.

Article 102 [Election, Responsibility]

- (1) The State President shall be elected by the National Assembly from among its members.
- (2) He is responsible to the National Assembly for his work and reports to it.
- (3) His term of office follows that of the National Assembly. At the end of the latter's tenure he shall continue in office until a new President of the State is elected by the new legislature.

Article 103 [Duties and Powers]

The State President has the following duties and powers:

1. To promulgate the Constitution, laws and decrees;
2. To have overall command of the armed forces and hold the office of Chairman of the National Defence and Security Council;
3. To propose to the National Assembly to elect, release from duty, remove from office, the Vice-President of the State, the Prime Minister, the President of the Supreme People's Court, the Head of the Supreme People's Office of Supervision and Control;

4. On the basis of resolutions of the National Assembly, to appoint, release from duty or dismiss Deputy Prime Ministers, Ministers and other members of the Government;
5. On the basis of resolutions of the National Assembly or its Standing Committee to proclaim a state of war; to proclaim an amnesty;
6. On the basis of resolutions of the Standing Committee of the National Assembly, to issue order on general mobilization or limited mobilization, to declare the state of emergency; in cases where the National Assembly Standing Committee cannot meet, to declare the state of emergency nationwide or in a locality;
7. To propose to the National Assembly Standing Committee to revise its ordinances within ten days from the date these ordinances were passed; if such ordinances are still voted for by the National Assembly Standing Committee against the State President's disapproval, the State President shall report it to the National Assembly for decision at its nearest session;
8. To appoint, release from duty, dismiss the Vice-Presidents and judges of the Supreme People's Court, the Deputy Head and members of the Supreme People's Office of Supervision and Control;
9. To decide on the conferment of titles and ranks on senior officers of the people's armed forces, the ambassadorial title and rank and the State titles and ranks in other domains; to decide on the award of medals, badges, State prizes and State honors and distinctions;
10. To appoint and recall Vietnam's ambassadors extraordinary and plenipotentiary; to accept foreign ambassadors extraordinary and plenipotentiary; to negotiate and conclude international agreements in the name of the State of the Socialist Republic of Vietnam with the heads of other States; to submit to the National Assembly for ratification international agreements directly signed by him/her; to decide on ratification of, or accession to international treaties, except where they must be submitted to the National Assembly for decision;
11. To grant Vietnamese nationality, release from Vietnamese nationality, or deprive of Vietnamese nationality;
12. To grant pardons.

Article 104 [The National Defence and Security Council]

- (1) The National Defence and Security Council consists of a Chairman, Vice Chairmen and other members.
- (2) The State President shall propose a list of members of the National Defence and Security Council to the approval of the National Assembly. Members of the National Defence

and Security Council shall not necessarily be members of the National Assembly.

- (3) The National Defence and Security Council shall mobilise all forces and potentialities of the country for national defence.
- (4) In case of war the National Assembly can entrust the National Defence and Security Council with special duties and powers.
- (5) The National Defence and Security Council shall operate as a collegium and take its decisions by a vote of the majority.

Article 105 [Attendance Rights]

- (1) The State President is entitled to attend sessions of the Standing Committee of the National Assembly.
- (2) Whenever he deems it necessary he can attend meetings of the Government.

Article 106 [Orders and Decisions]

The State President shall issue orders and decisions for the accomplishment of his duties and the exercise of his powers.

Article 107 [The Vice-President]

- (1) The Vice-President of the State shall be elected by the National Assembly from among its members.
- (2) He shall assist the State President in the performance of his duties and may be delegated by him to perform certain tasks.

Article 108 [Powers of the Vice-President]

- (1) When the State President is incapacitated for work over a long period of time, the Vice-President shall act as President.
- (2) In case of vacancy of the State Presidency, the Vice-President shall be acting President until the election of a new President by the National Assembly.

Chapter VIII The Government

Article 109 [The Government]

- (1) The Government is the executive organ of the National Assembly, the highest organ of State administration of the Socialist Republic of Vietnam.
- (2) The Government shall carry out overall management of the work for the fulfilment of the political, economic, cultural, social, national-defence, security and external duties of the State; it shall ensure the effectiveness of the State apparatus from the centre to the grassroots; it shall ensure respect for and implementation of the Constitution and the law; it shall promote the mastery of the people in national construction and defence; it shall ensure security and the improvement of the people's material and cultural living conditions.
- (3) The Government is accountable to the National Assembly and shall make its reports to the

National Assembly, its Standing Committee, and the State President.

Article 110 [Members of the Government]

- (1) The Government shall be composed of the Prime Minister, the Deputy Prime Ministers, the Cabinet Ministers, and other members. With the exception of the Prime Minister, its members are not necessarily members of the National Assembly.
- (2) The Prime Minister is accountable to the National Assembly and shall make his reports to the National Assembly, its Standing Committee, and the State President.
- (3) The Deputy Prime Ministers shall assist the Prime Minister in the performance of his duties, as required by him. In the absence of the Prime Minister, one of his Deputies shall be delegated by him to direct the work of the government.

Article 111 [Attendance of Chairmen]

The Chairman of the Central Committee of the Vietnam Front, the Chairman of the Vietnam Federation of Labour and the heads of mass organizations shall be invited to attend the sessions of the Government when relevant problems come up for discussion.

Article 112 [Duties and Powers]

The Government has the following duties and powers:

1. To direct the work of the ministries, the organs of ministerial rank and the organs of the Government, the People's Committees at all levels; to build and consolidate the unified system of the apparatus of State administration from the centre to the grassroots; to guide and control the People's Councils in their implementation of the directives of superior organs of State administration; to create favourable conditions for the People's Councils to fulfil their duties and exercise their powers as laid down by law, to train, foster, dispose and use State officials and employees;
2. To ensure the implementation of the Constitution and the law in State organs, economic bodies, social organizations, units of the armed forces, and among the citizens; to organise and direct propaganda and educational work among the people concerning the Constitution and the law;
3. To present draft laws, decree-laws and other projects to the National Assembly and its Standing Committee;
4. To ensure the overall management of the building and development of the national economy; to carry into effect national financial and monetary policies; to manage and ensure the effective use of property in the ownership of the entire people; to promote the

development of culture, education, health care, science and technology; to carry out the plan for socio-economic development and to give effect to the State budget;

5. To take measures to protect the rights and legitimate interests of the citizen, to create conditions for him to exercise his rights and fulfil his duties, to protect the property and interests of the State and society; to protect the environment;
6. To consolidate and strengthen national defence by the entire people and the people's security; to ensure national security and social order; to build the people's armed forces; to carry into effect general mobilisation, to proclaim the state of emergency and all other necessary measures to defend the country;
7. To organise and direct the conduct of State inventories and statistics; State inspection and control; to fight bureaucratism and corruption in the State machinery; to settle complaints and denunciations by citizens;
8. To ensure the overall management of the State's external relations; to negotiate and conclude international agreements in the name of the State of the Socialist Republic of Vietnam, except for cases prescribed in Clause 10 of Article 103; to negotiate, sign, ratify and accede to international agreements in the name of the Government; to direct the implementation of international agreements which the Socialist Republic of Vietnam has concluded or acceded to; to protect the interests of the State, the legitimate interests of Vietnamese organizations and citizens in foreign countries;
9. To implement social policies, nationalities policies, policies on religion;
10. To take decisions in the adjustment of the boundaries of administrative units below the level of the province and the city under direct central control;
11. To coordinate its efforts with those of the Vietnam Front and all mass organizations in the fulfilment of their duties and exercise of their rights; to create conditions for their effective functioning.

Article 113 [Tenure]

The tenure of the Government is the same as that of the National Assembly. When the latter's tenure ends the Government shall continue in office until the new legislature establishes a new Government.

Article 114 [Duties and Powers of the Prime Ministers]

The Prime Minister has the following duties and powers:

1. To direct the work of the Government, the Government members, the People's Councils

- at all levels; to chair Cabinet meetings;
2. To propose the National Assembly to establish or dissolve ministries and ministerial-level agencies; to submit to the National Assembly for approval proposals on appointment, release from duty or dismissal of Deputy Prime Ministers, Ministers and other members of the Government;
 3. To appoint, release from duty, or dismiss Vice-Ministers and officials of equal rank; approve the election, release from duty, secondment, and dismissal of Chairmen and Deputy Chairmen of People's Committees of provinces and cities under direct central rule;
 4. To suspend or annul decisions, directives and circulars of Cabinet Ministers and other Government members, decisions and directives of People's Councils and Chairmen of People's Committees of provinces and cities under direct central rule that contravene the Constitution, the law, and other formal written documents of superior State organs;
 5. To suspend the execution of resolutions of People's Councils of provinces and cities under direct central rule that contravene the Constitution, the law, and formal written orders of superior State organs; at the same time to propose to the Standing Committee of the National Assembly to annul them;
 6. To make regular reports to the people through the mass media on major issues to be settled by the Government.

Article 115 [Law Making Power]

- (1) On the basis of the Constitution, the law, and the resolutions of the National Assembly, the decree-laws and resolutions of the latter's Standing Committee, the orders and decisions of the State President, the Government shall issue resolutions and decrees, the Prime Minister shall issue decisions and directives and shall supervise the execution of those formal written orders.
- (2) Important issues falling within the competence of the Government must be discussed collectively and decisions thereon adopted by majority.

Article 116 [Duties and Powers of Government Members]

- (1) Cabinet Ministers and other Government members shall be responsible for State administration in the fields and branches under their respective authority throughout the country; they shall ensure the autonomy of grassroots units in production and trading according to the provisions of the law.
- (2) On the basis of the Constitution, the law, and the resolutions of the National Assembly, the decree-laws and resolutions of the latter's Standing Committee, the orders and decisions

of the country's President, the written orders of the Government and the Prime Minister, the Cabinet Ministers and the other Government members shall issue decisions, directives and circulars and shall control the execution of these formal written instructions by all branches, regions and grass roots units.

Article 117 [Responsibility of the Government Members]

Cabinet Ministers and the other Government members shall be responsible to the Prime Minister and the National Assembly for the fields and branches under their respective authority.

Chapter IX The People's Councils and the People's Committees

Article 118 [Administrative Units]

- (1) The administrative units of the Socialist Republic of Vietnam are distributed as follows:
- (2) The country is divided into provinces and cities under direct central rule.
- (3) The province is divided into districts, provincial cities, and towns; the city under direct central rule is divided into urban districts, rural districts, and towns.
- (4) The district is divided into communes and townlets; the provincial city and the town are divided into wards and communes; the urban district is divided into wards.
- (5) The establishment of People's Councils and People's Committees in administrative units is determined by law.

Article 119 [The People's Council]

The People's Council is the local organ of State power; it represents the will, aspirations, and mastery of the people; it is elected by the local people and is accountable to them and to the superior State organs.

Article 120 [Powers of the People's Council]

On the basis of the Constitution, the law, and the formal written orders of superior State organs the People's Council shall pass resolutions on measures for the serious implementation of the Constitution and the law at local level; on the plan for socio-economic development and the execution of the budget; on national defence and security at local level; on measures for stabilising and improving the people's living conditions, fulfilling all duties entrusted by the superior authorities and all obligations to the country as a whole.

Article 121 [Representatives to the People's Council]

- (1) The deputy to the People's Council represents the will and aspirations of the local people; he must maintain close ties with the electors, submit himself to their control, keep regular contact with them, regularly report to them on his activities and those of the People's Council,

answer their requests and proposals; look into and activate the settlement of the people's complaints and denunciations.

- (2) It is the duty of the deputy to the People's Council to urge the people to abide by the law and State policies, the resolutions of the People's Council, and to encourage them to join in State administration.

Article 122 [Rights of the Representatives]

- (1) The deputy to the People's Council has the right to interpellate the Chairman of the People's Council, the Chairman and other members of the People's Committee, the President of the People's Court, the Head of the People's Office of Supervision and Control, and the heads of organs under the People's Committee. The interpellated officials must answer this interpellation within the time determined by law.
- (2) The deputy to the People's Council has the right to make proposals to local State organs. The officials in charge of these organs have the responsibility to receive him, and to examine and settle the issues raised in his proposals.

Article 123 [The People's Committee]

The People's Committee elected by the People's Council is the latter's executive organ, the organ of local State administration. It is its responsibility to implement the Constitution, the law, the formal written orders of superior State organs and the resolutions of the People's Council.

Article 124 [Powers of the People's Committee and its Chairman]

- (1) Within the bounds of its duties and powers the People's Committee shall issue decisions and directives and supervise their execution.
- (2) The Chairman of the People's Committee shall give leadership and operational guidance to the activities of the People's Committee.
- (3) When deciding major local matters, the People's Committee shall undertake collegial discussion and its decisions must conform to the will of the majority.
- (5) The Chairman of the People's Committee can suspend or annul the wrong decisions of organs under the People's Committees and People's Councils of a lower rank; it can suspend wrong resolutions of People's Councils of a lower rank and at the same time propose to the People's Council at his own level to annul such resolutions.

Article 125 [Attendance Rights]

- (1) The Chairmen of the Vietnam Fatherland Front committee and the heads of mass organizations in the locality shall be invited to attend sessions of the People's Council and to attend meetings of the People's Committee at the same level when relevant problems are discussed.

- (2) The People's Council and the People's Committee shall make regular reports on the local situation in all fields to the Front and the mass organizations; shall listen to their opinions and proposals on local power building and socio-economic development; shall cooperate with them in urging the people to work together with the State for the implementation of socio-economic, national-defence, and security tasks in the locality.

CHAPTER X THE PEOPLE'S COURT AND THE PEOPLE'S OFFICE OF SUPERVISION AND CONTROL

Article 126 [Duty of the Institutions]

It is the duty of the People's Court and the People's Office of Supervision and Control to, within the bounds of their functions, safeguard socialist legality, the socialist regime and the people's mastery, the property of the State and the collectives, the lives, property, freedom, honour and dignity of the citizen.

The People's Court

Article 127 [Establishment of the Courts]

- (1) The Supreme People's Court, the local People's Courts, the Military Tribunals and the other tribunals established by law are the judicial organs of the Socialist Republic of Vietnam.
- (2) Under special circumstances, the National Assembly may decide to set up a Special Tribunal.
- (3) At the grassroots appropriate popular organizations shall be set up to deal with minor offences and disputes among the people according to the provisions of the law.

Article 128 [Tenure]

- (1) The tenure of the President of the Supreme People's Court shall be the same as that of the National Assembly.
- (2) The regime of the appointment, release from duty, dismissal, and the tenure of office of the judges; the system of election and the tenure of office of people's assessors in People's Courts at every level shall be determined by law.

Article 129 [Trials]

Trials before People's Courts with the participation of people's assessors and before Military Tribunals with the participation of military assessors shall be conducted in conformity with the provisions of the law. During a trial the assessors shall be on an equal footing with the judges.

Article 130 [Independence of the Judges]

During a trial the judges and assessors are independent and shall only obey the law.

Article 131 [Public Hearings, Majority Principle]

- (1) The People's Courts shall hold their hearings in public, except in cases determined by law.
- (2) The People's Courts shall try their cases collegially and their decisions shall be in conformity with the will of the majority.

Article 132 [Rights of the Defendant]

- (1) The right of the defendant to be defended is guaranteed. The defendant can either conduct his own defence or ask someone else to do it.
- (2) An organization of barristers shall be set up to help the defendant and other parties in a law case to defend their rights and legitimate interests and contribute to the safeguarding of socialist legality.

Article 133 [Free Choice of Language]

The People's Courts shall guarantee that citizens of the Socialist Republic of Vietnam who are members of various nationalities can use their own respective languages and systems of writing in court.

Article 134 [The Supreme People's Court]

- (1) The Supreme People's Court is the highest judicial organ of the Socialist Republic of Vietnam.
- (2) It supervises and directs the judicial work of Special People's Courts and Military Tribunals.
- (3) It supervises and directs the judicial work of Special Tribunals and other tribunals, unless otherwise prescribed by the National Assembly at the establishment of such Tribunals.

Article 135 [The President of the Supreme People's Court]

- (1) The President of the Supreme People's Court is responsible and makes his reports to the National Assembly and, when the latter is not in session, to its Standing Committee and to the State President.
- (2) The President of the local People's Court is responsible to and makes his reports to the People's Council.

Article 136 [Binding Effect of the Sentences and Decisions]

The sentences and decisions of the People's Court which have acquired legal effect must be respected by State organs, economic bodies, social organizations, people's armed units and all citizens; they must be seriously implemented by the individuals and organs concerned.

The People's Office of Supervision and Control**Article 137 [Duties]**

- (1) The Supreme People's Office of Supervision and Control shall exercise the right to

prosecution and control judicial activities, thus contributing to ensuring that laws are strictly and uniformly observed.

- (2) The local Offices of Supervision and Control and the Military Offices of Supervision and Control shall exercise the right to prosecution and control judiciary activities within the scope of their responsibilities prescribed by law.

Article 138 [The Heads of the Offices, Majority Principle, Tenure]

- (1) A People's Office of Supervision and Control is directed by its Head. The Heads of inferior Offices are subject to the leadership of the Heads of superior Offices. The Heads of local Offices of Supervision and Control and the Heads of Military Offices of Supervision and Control are subject to the overall leadership of the Head of the Supreme People's Office of Supervision and Control.
- (2) The setting up of the Committee of Supervision and Control, the problems to be settled by the Head of the People's Office of Supervision and Control, the major issues to be discussed and settled by the Committee of Supervision and Control in conformity with the will of the majority, are to be prescribed by law.
- (3) The tenure of the Head of the Supreme People's Office of Supervision and Control is the same as that of the National Assembly.
- (4) The Heads, Deputy Heads and members of the local People's Offices of Supervision and Control and of Military Offices of Supervision and Control in military zones and areas shall be appointed, released from duty, or dismissed by the Head of the Supreme People's Office of Supervision and Control.

Article 139 [Reports to the National Assembly]

The Head of the Supreme People's Office of Supervision and Control shall be responsible and shall make his reports to the National Assembly and, when the latter is not in session, to its Standing Committee and to the State President.

Article 140 [Responsibility of the Local Heads]

The Heads of the local People's Offices of Supervision and Control are responsible for reporting to the People's Councils on the observance of the law in their localities, and answer the questions raised by the deputies to the People's Councils.

Chapter XI The National Flag, National Emblem, National Anthem, National Capital, National Day**Article 141 [The National Flag]**

The national flag is rectangular in shape, its width being equal to two-thirds of its length; in the middle of a red background is a five-pointed gold star.

Article 142 [The National Emblem]

The National Emblem is circular in shape; in the middle of a red background is a five-pointed gold star framed by rice ears below which is half a cog wheel and the inscription "Socialist Republic of Vietnam".

Article 143 [The National Anthem]

The national anthem of the Socialist Republic of Vietnam is the music and words of the "March to the Front".

Article 144 [The Capital]

The capital of the Socialist Republic of Vietnam is Hanoi.

Article 145 [The National Day]

The day of the Declaration of Independence, the Second of September 1945, is the National Day.

Chapter XII Effect of the Constitution and Amendments to the Constitution

Article 146 [Legal Effect of the Constitution]

- (1) The Constitution of the Socialist Republic of Vietnam is the fundamental law of the State and has the highest legal effect.
- (2) All other legal documents must conform to the Constitution.

Article 147 [Amendments to the Constitution]

The National Assembly alone shall have the right to amend the Constitution. An amendment to the Constitution must be approved by at least two-thirds of its total membership.

Source: <http://www.asianlii.org/resources/269.html>

ASEAN CHARTER



CHARTER OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS

PREAMBLE

WE, THE PEOPLES of the Member States of the Association of Southeast Asian Nations (ASEAN), as represented by the Heads of State or Government of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam:

NOTING with satisfaction the significant achievements and expansion of ASEAN since its establishment in Bangkok through the promulgation of The ASEAN Declaration;

RECALLING the decisions to establish an ASEAN Charter in the Vientiane Action Programme, the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter and the Cebu Declaration on the Blueprint of the ASEAN Charter;

MINDFUL of the existence of mutual interests and interdependence among the peoples and Member States of ASEAN which are bound by geography, common objectives and shared destiny;

INSPIRED by and united under One Vision, One Identity and One Caring and Sharing Community;

UNITED by a common desire and collective will to live in a region of lasting peace, security and stability, sustained economic growth, shared prosperity and social progress, and to promote our vital interests, ideals and aspirations;

RESPECTING the fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity;

ADHERING to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms;

RESOLVED to ensure sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the centre of the ASEAN community building process;

CONVINCED of the need to strengthen existing bonds of regional solidarity to realise an

ASEAN Community that is politically cohesive, economically integrated and socially responsible in order to effectively respond to current and future challenges and opportunities;

COMMITTED to intensifying community building through enhanced regional cooperation and integration, in particular by establishing an ASEAN Community comprising the ASEAN Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community, as provided for in the Bali Declaration of ASEAN Concord II;

HEREBY DECIDE to establish, through this Charter, the legal and institutional framework for ASEAN,

AND TO THIS END, the Heads of State or Government of the Member States of ASEAN, assembled in Singapore on the historic occasion of the 40th anniversary of the founding of ASEAN, have agreed to this Charter.

CHAPTER I PURPOSES AND PRINCIPLES

Article 1 Purposes

The Purposes of ASEAN are:

1. To maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region;
2. To enhance regional resilience by promoting greater political, security, economic and socio-cultural cooperation;
3. To preserve Southeast Asia as a Nuclear Weapon-Free Zone and free of all other weapons of mass destruction;
4. To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment;
5. To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital;
6. To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation;

7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;
 8. To respond effectively, in accordance with the principle of comprehensive security, to all forms of threats, transnational crimes and transboundary challenges;
 9. To promote sustainable development so as to ensure the protection of the region's environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples;
 10. To develop human resources through closer cooperation in education and life-long learning, and in science and technology, for the empowerment of the peoples of ASEAN and for the strengthening of the ASEAN Community;
 11. To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice;
 12. To strengthen cooperation in building a safe, secure and drug-free environment for the peoples of ASEAN;
 13. To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building;
 14. To promote an ASEAN identity through the fostering of greater awareness of the diverse culture and heritage of the region; and
 15. To maintain the centrality and proactive role of ASEAN as the primary driving force in its relations and cooperation with its external partners in a regional architecture that is open, transparent and inclusive.
- (d) reliance on peaceful settlement of disputes;
 - (e) non-interference in the internal affairs of ASEAN Member States;
 - (f) respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion;
 - (g) enhanced consultations on matters seriously affecting the common interest of ASEAN;
 - (h) adherence to the rule of law, good governance, the principles of democracy and constitutional government;
 - (i) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;
 - (j) upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States;
 - (k) Abstention from participation in any policy or activity, including the use of its territory, pursued by any ASEAN Member State or non-ASEAN State or any non-State actor, which threatens the sovereignty, territorial integrity or political and economic stability of ASEAN Member States;
 - (l) Respect for the different cultures, languages and religions of the peoples of ASEAN, while emphasising their common values in the spirit of unity in diversity;
 - (m) The centrality of ASEAN in external political, economic, social and cultural relations while remaining actively engaged, outward-looking, inclusive and nondiscriminatory; and
 - (n) Adherence to multilateral trade rules and ASEAN's rules-based regimes for effective implementation of economic commitments and progressive reduction towards elimination of all barriers to regional economic integration, in a market-driven economy.

Article 2 Principles

1. In pursuit of the Purposes stated in Article 1, ASEAN and its Member States reaffirm and adhere to the fundamental principles contained in the declarations, agreements, conventions, concords, treaties and other instruments of ASEAN.
2. ASEAN and its Member States shall act in accordance with the following Principles:
 - (a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;
 - (b) shared commitment and collective responsibility in enhancing regional peace, security and prosperity;
 - (c) renunciation of aggression and of the threat or use of force or other actions in any manner inconsistent with international law;

CHAPTER II LEGAL PERSONALITY

Article 3 Legal Personality Of Asean

ASEAN, as an inter-governmental organisation, is hereby conferred legal personality.

CHAPTER III MEMBERSHIP

Article 4 Member States

The Member States of ASEAN are Brunei DarussaIam, the Kingdom of Cambodia, the

Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam.

Article 5 Rights And Obligations

1. Member States shall have equal rights and obligations under this Charter
2. Member States shall take all necessary measures, including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligations of membership.
3. In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to Article 20.

Article 6 Admission Of New Members

1. The procedure for application and admission to ASEAN shall be prescribed by the ASEAN Coordinating Council.
2. Admission shall be based on the following criteria:
 - (a) location in the recognised geographical region of Southeast Asia;
 - (b) recognition by all ASEAN Member States;
 - (c) agreement to be bound and to abide by the Charter; and
 - (d) ability and willingness to carry out the obligations of Membership.
3. Admission shall be decided by consensus by the ASEAN Summit, upon the recommendation of the ASEAN Coordinating Council,
4. An applicant State shall be admitted to ASEAN upon signing an Instrument of Accession to the Charter.

CHAPTER IV ORGANS

Article 7 Asean Summit

1. The ASEAN Summit shall comprise the Heads of State or Government of the Member States.
2. The ASEAN Summit shall:
 - (a) be the supreme policy-making body of ASEAN;
 - (b) deliberate, provide policy guidance and take decisions on key issues pertaining to the realisation of the objectives of ASEAN, important matters of interest to Member States and all issues referred to it by the ASEAN Coordinating Council, the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies;
 - (c) instruct the relevant Ministers in each of the Councils concerned to hold ad hoc inter-Ministerial meetings, and address

important issues concerning ASEAN that cut across the Community Councils. Rules of procedure for such meetings shall be adopted by the ASEAN Coordinating Council;

- (d) address emergency situations affecting ASEAN by taking appropriate actions;
 - (e) decide on matters referred to it under Chapters VII and VIII;
 - (f) authorise the establishment and the dissolution of Sectoral Ministerial Bodies and other ASEAN institutions; and
 - (g) appoint the Secretary-General of ASEAN; with the rank and status of Minister, who will serve with the confidence and at the pleasure of the Heads of State or Government upon the recommendation of the ASEAN Foreign Ministers Meeting.
3. ASEAN Summit Meetings shall be:
 - (a) held twice annually, and be hosted by the Member State holding the ASEAN Chairmanship; and
 - (b) convened, whenever necessary, as special or ad hoc meetings to be chaired by the Member State holding the ASEAN Chairmanship, at venues to be agreed upon by ASEAN Member States.

Article 8 Asean Coordinating Council

1. The ASEAN Coordinating Council shall comprise the ASEAN Foreign Ministers and meet at least twice a year.
2. The ASEAN Coordinating Council shall:
 - (a) prepare the meetings of the ASEAN Summit;
 - (b) coordinate the implementation of agreements and decisions of the ASEAN Summit;
 - (c) coordinate with the ASEAN Community Councils to enhance policy coherence, efficiency and cooperation among them;
 - (d) coordinate the reports of the ASEAN Community Councils to the ASEAN Summit;
 - (e) consider the annual report of the Secretary-General on the work of ASEAN;
 - (f) consider the report of the Secretary-General on the functions and operations of the ASEAN Secretariat and other relevant bodies;
 - (g) approve the appointment and termination of the Deputy Secretaries-General upon the recommendation of the Secretary-General; and
 - (h) undertake other tasks provided for in this Charter or such other functions as may be assigned by the ASEAN Summit.
3. The ASEAN Coordinating Council shall be supported by the relevant senior officials.

Article 9

Asean Community Councils

1. The ASEAN Community Councils shall comprise the ASEAN Political-Security Community Council, ASEAN Economic Community Council, and ASEAN Socio-Cultural Community Council.
2. Each ASEAN Community Council shall have under its purview the relevant ASEAN Sectoral Ministerial Bodies.
3. Each Member State shall designate its national representation for each ASEAN Community Council meeting.
4. In order to realise the objectives of each of the three pillars of the ASEAN Community, each ASEAN Community Council shall:
 - (a) ensure the implementation of the relevant decisions of the ASEAN Summit;
 - (b) coordinate the work of the different sectors under its purview, and on issues which cut across the other Community Councils; and
 - (c) submit reports and recommendations to the ASEAN Summit on matters under its purview.
5. Each ASEAN Community Council shall meet at least twice a year and shall be chaired by the appropriate Minister from the Member State holding the ASEAN Chairmanship.
6. Each ASEAN Community Council shall be supported by the relevant senior officials.

Article 10

Asean Sectoral Ministerial Bodies

1. ASEAN Sectoral Ministerial Bodies shall:
 - (a) function in accordance with their respective established mandates;
 - (b) implement the agreements and decisions of the ASEAN Summit under their respective purview;
 - (c) strengthen cooperation in their respective fields in support of ASEAN integration and communitybuilding; and
 - (d) submit reports and recommendations to their respective Community Councils.
2. Each ASEAN Sectoral Ministerial Body may have under its purview the relevant senior officials and subsidiary bodies to undertake its functions as contained in Annex 1. The Annex may be updated by the Secretary-General of ASEAN upon the recommendation of the Committee of Permanent Representatives without recourse to the provision on Amendments under this Charter.

Article 11

Secretary-general Of Asean And Asean Secretariat

1. The Secretary-General of ASEAN shall be appointed by the ASEAN Summit for a non-renewable term of office of five years, selected from among nationals of the ASEAN Member

States based on alphabetical rotation, with due consideration to integrity, capability and professional experience, and gender equality.

2. The Secretary-General shall:
 - (a) carry out the duties and responsibilities of this high office in accordance with the provisions of this Charter and relevant ASEAN instruments, protocols and established practices;
 - (b) facilitate and monitor progress in the implementation of ASEAN agreements and decisions, and submit an annual report on the work of ASEAN to the ASEAN Summit;
 - (c) participate in meetings of the ASEAN Summit, the ASEAN Community Councils, the ASEAN Coordinating Council, and ASEAN Sectoral Ministerial Bodies and other relevant ASEAN meetings;
 - (d) present the views of ASEAN and participate in meetings with external parties in accordance with approved policy guidelines and mandate given to the Secretary-General; and
 - (e) recommend the appointment and termination of the Deputy Secretaries-General to the ASEAN Coordinating Council for approval.
3. The Secretary-General shall also be the Chief Administrative Officer of ASEAN.
4. The Secretary-General shall be assisted by four Deputy Secretaries-General with the rank and status of Deputy Ministers. The Deputy Secretaries-General shall be accountable to the Secretary-General in carrying out their functions.
5. The four Deputy Secretaries-General shall be of different nationalities from the Secretary-General and shall come from four different ASEAN Member States.
6. The four Deputy Secretaries-General shall comprise:
 - (a) two Deputy Secretaries-General who will serve a non-renewable term of three years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, qualifications, competence, experience and gender equality; and
 - (b) two Deputy Secretaries-General who will serve a term of three years, which may be renewed for another three years. These two Deputy Secretaries-General shall be openly recruited based on merit.
7. The ASEAN Secretariat shall comprise the Secretary-General and such staff as may be required.
8. The Secretary-General and the staff shall:
 - (a) uphold the highest standards of integrity, efficiency, and competence in the performance of their duties;

- (b) not seek or receive instructions from any government or external party outside of ASEAN; and
 - (c) refrain from any action which might reflect on their position as ASEAN Secretariat officials responsible only to ASEAN.
9. Each ASEAN Member State undertakes to respect the exclusively ASEAN character of the responsibilities of the Secretary-General and the staff, and not to seek to influence them in the discharge of their responsibilities.

Article 12

Committee Of Permanent Representatives To Asean

1. Each ASEAN Member State shall appoint a Permanent Representative to ASEAN with the rank of Ambassador based in Jakarta.
2. The Permanent Representatives collectively constitute a Committee of Permanent Representatives, which shall:
 - (a) support the work of the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies;
 - (b) coordinate with ASEAN National Secretariats and other ASEAN Sectoral Ministerial Bodies;
 - (c) liaise with the Secretary-General of ASEAN and the ASEAN Secretariat on all subjects relevant to its work;
 - (d) facilitate ASEAN cooperation with external partners; and
 - (e) perform such other functions as may be determined by the ASEAN Coordinating Council.

Article 13

Asean National Secretariats

Each ASEAN Member State shall establish an ASEAN National Secretariat which shall:

- (a) serve as the national focal point;
- (b) be the repository of information on all ASEAN matters at the national level;
- (c) coordinate the implementation of ASEAN decisions at the national level;
- (d) coordinate and support the national preparations of ASEAN meetings;
- (e) promote ASEAN identity and awareness at the national level; and
- (f) contribute to ASEAN community building.

Article 14

Asean Human Rights Body

1. In conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body.
2. This ASEAN human rights body shall operate in accordance with the terms of reference to

be determined by the ASEAN Foreign Ministers Meeting.

Article 15

Asean Foundation

1. The ASEAN Foundation shall support the Secretary-General of ASEAN and collaborate with the relevant ASEAN bodies to support ASEAN communitybuilding by promoting greater awareness of the ASEAN identity, people-to-people interaction, and close collaboration among the business sector, civil society, academia and other stakeholders in ASEAN.
2. The ASEAN Foundation shall be accountable to the Secretary-General of ASEAN, who shall submit its report to the ASEAN Summit through the ASEAN Coordinating Council.

CHAPTER V

ENTITIES ASSOCIATED WITH ASEAN

Article 16

Entities Associated With Asean

1. ASEAN may engage with entities which support the ASEAN Charter, in particular its purposes and principles. These associated entities are listed in Annex 2.
2. Rules of procedure and criteria for engagement shall be prescribed by the Committee of Permanent Representatives upon the recommendation of the Secretary-General of ASEAN.
3. Annex 2 may be updated by the Secretary-General of ASEAN upon the recommendation of the Committee of Permanent Representatives without recourse to the provision on Amendments under this Charter.

CHAPTER VI

IMMUNITIES AND PRIVILEGES

Article 17

Immunities And Privileges Of Asean

1. ASEAN shall enjoy in the territories of the Member States such immunities and privileges as are necessary for the fulfilment of its purposes.
2. The immunities and privileges shall be laid down in separate agreements between ASEAN and the host Member State.

Article 18

Immunities And Privileges Of Thesecretary-general Of Asean And Staff Of Theasean Secretariat

1. The Secretary-General of ASEAN and staff of the ASEAN Secretariat participating in official ASEAN activities or representing ASEAN in the Member States shall enjoy such immunities and

privileges as are necessary for the independent exercise of their functions.

2. The immunities and privileges under this Article shall be laid down in a separate ASEAN agreement.

Article 19

Immunities And Privileges Of The Permanent Representatives And Officials On Asean Duties

1. The Permanent Representatives of the Member States to ASEAN and officials of the Member States participating in official ASEAN activities or representing ASEAN in the Member States shall enjoy such immunities and privileges as are necessary for the exercise of their functions.
2. The immunities and privileges of the Permanent Representatives and officials on ASEAN duties shall be governed by the 1961 Vienna Convention on Diplomatic Relations or in accordance with the national law of the ASEAN Member State concerned.

CHAPTER VII DECISION-MAKING

Article 20

Consultation And Consensus

1. As a basic principle, decision-making in ASEAN shall be based on consultation and consensus.
2. Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made.
3. Nothing in paragraphs 1 and 2 of this Article shall affect the modes of decision-making as contained in the relevant ASEAN legal instruments.
4. In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to the ASEAN Summit for decision.

Article 21

Implementation and Procedure

1. Each ASEAN Community Council shall prescribe its own rules of procedure.
2. In the implementation of economic commitments, a formula for flexible participation, including the ASEAN Minus X formula, may be applied where there is a consensus to do so.

CHAPTER VIII SETTLEMENT OF DISPUTES

Article 22

General Principles

1. Member States shall endeavour to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation.

2. ASEAN shall maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation.

Article 23

Good Offices, Conciliation And Mediation

1. Member States which are parties to a dispute may at any time agree to resort to good offices, conciliation or mediation in order to resolve the dispute within an agreed time limit.
2. Parties to the dispute may request the Chairman of ASEAN or the Secretary-General of ASEAN, acting in an ex-officio capacity, to provide good offices, conciliation or mediation.

Article 24

Dispute Settlement Mechanisms In Specific Instruments

1. Disputes relating to specific ASEAN instruments shall be settled through the mechanisms and procedures provided for in such instruments.
2. Disputes which do not concern the interpretation or application of any ASEAN instrument shall be resolved peacefully in accordance with the Treaty of Amity and Cooperation in Southeast Asia and its rules of procedure.
3. Where not otherwise specifically provided, disputes which concern the interpretation or application of ASEAN economic agreements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism.

Article 25

Establishment Of Dispute Settlement Mechanisms

Where not otherwise specifically provided, appropriate dispute settlement mechanisms, including arbitration, shall be established for disputes which concern the interpretation or application of this Charter and other ASEAN instruments.

Article 26

Unresolved Disputes

When a dispute remains unresolved, after the application of the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.

Article 27

Compliance

1. The Secretary-General of ASEAN, assisted by the ASEAN Secretariat or any other designated ASEAN body, shall monitor the compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, and submit a report to the ASEAN Summit.
2. Any Member State affected by non-compliance

with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.

Article 28
United Nations Charter
Provisions And Other Relevant
International Procedures

Unless otherwise provided for in this Charter, Member States have the right of recourse to the modes of peaceful settlement contained in Article 33(1) of the Charter of the United Nations or any other international legal instruments to which the disputing Member States are parties.

CHAPTER IX
BUDGET AND FINANCE

Article 29
General Principles

1. ASEAN shall establish financial rules and procedures in accordance with international standards.
2. ASEAN shall observe sound financial management policies and practices and budgetary discipline.
3. Financial accounts shall be subject to internal and external audits.

Article 30
Operational Budget And Finances Of The
Asean Secretariat

1. The ASEAN Secretariat shall be provided with the necessary financial resources to perform its functions effectively.
2. The operational budget of the ASEAN Secretariat shall be met by ASEAN Member States through equal annual contributions which shall be remitted in a timely manner.
3. The Secretary-General shall prepare the annual operational budget of the ASEAN Secretariat for approval by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.
4. The ASEAN Secretariat shall operate in accordance with the financial rules and procedures determined by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.

CHAPTER X
ADMINISTRATION AND PROCEDURE

Article 31
Chairman Of Asean

1. The Chairmanship of ASEAN shall rotate annually, based on the alphabetical order of the English names of Member States.
2. ASEAN shall have, in a calendar year, a single

Chairmanship by which the Member State assuming the Chairmanship shall chair:

- (a) the ASEAN Summit and related summits;
- (b) the ASEAN Coordinating Council;
- (c) the three ASEAN Community Councils;
- (d) where appropriate, the relevant ASEAN Sectoral Ministerial Bodies and senior officials; and
- (e) the Committee of Permanent Representatives.

Article 32
Role Of The Chairman Of Asean

The Member State holding the Chairmanship of ASEAN shall:

- (a) actively promote and enhance the interests and wellbeing of ASEAN, including efforts to build an ASEAN Community through policy initiatives, coordination, consensus and cooperation;
- (b) ensure the centrality of ASEAN;
- (c) ensure an effective and timely response to urgent issues or crisis situations affecting ASEAN, including providing its good offices and such other arrangements to immediately address these concerns;
- (d) represent ASEAN in strengthening and promoting closer relations with external partners; and
- (e) carry out such other tasks and functions as may be mandated.

Article 33
Diplomatic Protocol And
Practices

ASEAN and its Member States shall adhere to existing diplomatic protocol and practices in the conduct of all activities relating to ASEAN. Any changes shall be approved by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.

Article 34
Working Language Of Asean

The working language of ASEAN shall be English.

CHAPTER XI
IDENTITY AND SYMBOLS

Article 35
Asean Identity

ASEAN shall promote its common ASEAN identity and a sense of belonging among its peoples in order to achieve its shared destiny, goals and values.

Article 36
Asean Motto

The ASEAN motto shall be: "One Vision, One Identity, One Community"

Article 37

Asean Flag

The ASEAN flag shall be as shown in Annex 3.

Article 38

Asean Emblem

The ASEAN emblem shall be as shown in Annex 4.

Article 39

Asean Day

The eighth of August shall be observed as ASEAN Day.

Article 40

Asean Anthem

ASEAN shall have an anthem.

CHAPTER XII

EXTERNAL RELATIONS

Article 41

Conduct Of External Relations

1. ASEAN shall develop friendly relations and mutually beneficial dialogue, cooperation and partnerships with countries and sub-regional, regional and international organisations and institutions.
2. The external relations of ASEAN shall adhere to the purposes and principles set forth in this Charter.
3. ASEAN shall be the primary driving force in regional arrangements that it initiates and maintain its centrality in regional cooperation and community-building.
4. In the conduct of external relations of ASEAN, Member States shall, on the basis of unity and solidarity, coordinate and endeavour to develop common positions and pursue joint actions.
5. The strategic policy directions of ASEAN's external relations shall be set by the ASEAN Summit upon the recommendation of the ASEAN Foreign Ministers Meeting.
6. The ASEAN Foreign Ministers Meeting shall ensure consistency and coherence in the conduct of ASEAN's external relations.
7. ASEAN may consider agreements with countries or sub-regional regional and international organisations and institutions. The procedures for concluding such agreements shall be prescribed by the ASEAN Coordinating Council in consultation with the ASEAN Community Councils.

Article 42

Dialogue Coordinator

1. Member States, acting as Country Coordinators, shall take turns to take overall responsibility in coordinating and promoting the interests of ASEAN in its relations with the relevant Dialogue Partners, regional and international organisations and institutions.

2. In relations with the external partners, the Country Coordinators shall, inter alia:

- (a) represent ASEAN and enhance relations on the basis of mutual respect and equality, in conformity with ASEAN's principles;
- (b) co-chair relevant meetings between ASEAN and external partners; and
- (c) be supported by the relevant ASEAN Committees in Third Countries and International Organisations.

Article 43

Asean Committees In Third Countries And International Organisations

1. ASEAN Committees in Third Countries may be established in non-ASEAN countries comprising heads of diplomatic missions of ASEAN Member States. Similar Committees may be established relating to international organisations. Such Committees shall promote ASEAN's interests and identity in the host countries and international organisations.
2. The ASEAN Foreign Ministers Meeting shall determine the rules of procedure of such Committees.

Article 44

Status Of External Parties

1. In conducting ASEAN's external relations, the ASEAN Foreign Ministers Meeting may confer on an external party the formal status of Dialogue Partner, Sectoral Dialogue Partner, Development Partner, Special Observer, Guest, or other status that may be established henceforth.
2. External parties may be invited to ASEAN meetings or cooperative activities without being conferred any formal status, in accordance with the rules of procedure.

Article 45

Relations With The United Nations System And Other International Organisations And Institutions

1. ASEAN may seek an appropriate status with the United Nations system as well as with other sub-regional, regional, international organisations and institutions.
2. The ASEAN Coordinating Council shall decide on the participation of ASEAN in other sub-regional, regional, international organisations and institutions.

Article 46

Accreditation Of Non-ASEAN Member States To ASEAN

Non-ASEAN Member States and relevant intergovernmental organisations may appoint and accredit Ambassadors to ASEAN. The ASEAN

Foreign Ministers Meeting shall decide on such accreditation.

CHAPTER XIII GENERAL AND FINAL PROVISIONS

Article 47

Signature, Ratification, Depository And Entry Into Force

1. This Charter shall be signed by all ASEAN Member States.
2. This Charter shall be subject to ratification by all ASEAN Member States in accordance with their respective internal procedures,
3. Instruments of ratification shall be deposited with the Secretary-General of ASEAN who shall promptly notify all Member States of each deposit.
4. This Charter shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification with the Secretary-General of ASEAN.

Article 48

Amendments

1. Any Member State may propose amendments to the Charter.
2. Proposed amendments to the Charter shall be submitted by the ASEAN Coordinating Council by consensus to the ASEAN Summit for its decision.
3. Amendments to the Charter agreed to by consensus by the ASEAN Summit shall be ratified by all Member States in accordance with Article 17.
4. An amendment shall enter into force on the thirtieth day following the date of deposit of the last instrument of ratification with the Secretary-General of ASEAN.

Article 49

Terms Of Reference And Rules Of Procedure

Unless otherwise provided for in this Charter, the ASEAN Coordinating Council shall determine the terms of reference and rules of procedure and shall ensure their consistency.

Article 50

Review

This Charter may be reviewed five years after its entry into force or as otherwise determined by the ASEAN Summit.

Article 51

Interpretation Of The Charter

1. Upon the request of any Member State, the interpretation of the Charter shall be undertaken by the ASEAN Secretariat in accordance with the rules of procedure

determined by the ASEAN Coordinating Council.

2. Any dispute arising from the interpretation of the Charter shall be settled in accordance with the relevant provisions in Chapter VIII.
3. Headings and titles used throughout the Charter shall only be for the purpose of reference.

Article 52

Legal Continuity

1. All treaties, conventions, agreements, concords, declarations, protocols and other ASEAN instruments which have been in effect before the entry into force of this Charter shall continue to be valid.
2. In case of inconsistency between the rights and obligations of ASEAN Member States under such instruments and this Charter, the Charter shall prevail.

Article 53

Original Text

The signed original text of this Charter in English shall be deposited with the Secretary-General of ASEAN, who shall provide a certified copy to each Member State.

Article 54

Registration Of The Asean Charter

This Charter shall be registered by the Secretary-General of ASEAN with the Secretariat of the United Nations, pursuant to Article 102, paragraph 1 of the Charter of the United Nations.

Article 55

Asean Assets

The assets and funds of the Organisation shall be vested in the name of ASEAN. Done in Singapore on the Twentieth Day of November in the Year Two Thousand and Seven.

This three volume publication includes the constitutional documents of all countries in Southeast Asia as of December 2007, as well as the ASEAN Charter (Vol. I), reports on the national constitutions (Vol. II), and a collection of papers on cross-cutting issues (Vol. III) which were mostly presented at a conference at the end of March 2008. This collection of Constitutional documents and analytical papers provides the reader with a comprehensive insight into the development of Constitutionalism in Southeast Asia.

Some of the constitutions have until now not been publicly available in an up to date English language version. But apart from this, it is the first printed edition ever with ten Southeast Asian constitutions next to each other which makes comparative studies much easier. The country reports provide readers with up to date overviews on the different constitutional systems. In these reports, a common structure is used to enable comparisons in the analytical part as well. References and recommendations for further reading will facilitate additional research. Some of these reports are the first ever systematic analysis of those respective constitutions, while others draw on substantial literature on those constitutions. The contributions on selected issues highlight specific topics and cross-cutting issues in more depth. Although not all timely issues can be addressed in such publication, they indicate the range of questions facing the emerging constitutionalism within this fascinating region.