

Constitution of the Kingdom of Thailand (Interim), 2006

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Somdet Phra Pararamintharamaha Bhumibol Adulyadej Sayammintharathirat Borommanatthabophit, on the 1st Day of October B.E. 2549, being the 61st Year of the Present Reign.

Phrabat Somdet Paramintharamaha Bhumibol Adulyadej Mahidalathibet Ramathibodi Chakrinarubodin Sayammintharathirat Borommanatthabophit gave a Royal Command to be promulgated as follows.

The head of the Council for Democratic Reform under Constitutional Monarchy which seized power successfully on 19 September 2006, informed the king that the reasons for seizing power and abrogating the Constitution of the Kingdom of Thailand were to correct the deterioration in the government of the realm, and inefficiency in managing the administration of the realm and monitoring the use of state power, which caused widespread corruption and malfeasance, for which those responsible could not be brought to account. This brought about a serious crisis of politics and government, and problems of conflict among the mass of the people who were aroused to such divisive partisanship that the unity and harmony among the people of the nation collapsed into a severe social crisis.

The efforts of many sections of society to overcome this crisis have been of no avail. Instead, the trend indicated the likelihood of more violence with the use of force resulting in loss of life and shedding of blood, amounting to a major threat to the government, economy, peace and order of the nation. Hence it is necessary to provide an interim mechanism suitable for governing the country, taking account of the legal principles in the custom of governing Thailand as a democracy under the Constitutional Monarchy; the revival of the harmony, economy, peace and order of the country; the creation of robust systems for monitoring corruption and promoting ethical practice; the maintenance and protection of the rights and freedoms of the people; compliance with the conventions of the UN, obligations under international treaties and agreements, and

the promotion of international relations with various countries; and the conduct of life according to the principles of the Sufficiency Economy; and at the same time to hasten the process of drafting a new constitution with wide participation from people at each stage. In order to realize what the Council for Democratic Reform under Constitutional Monarchy informed the King, there is a Royal Command to implement the following Act as the Constitution of the Kingdom of Thailand (Interim) until the promulgation of a constitution to be drafted and submitted to the King.

Clause 1. Thailand is a unitary and indivisible Kingdom. The King as Head of State and Head of the Thai Armed Forces 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.

Clause 2. The sovereign power belongs to the Thai people. The King as Head of State shall exercise such power through the National Legislative Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

Clause 3. Under the provisions of this constitution, the human dignity, rights, freedoms and equality of the Thai people which formerly were upheld according to the custom of the government of Thailand as a democracy under Constitutional Monarchy and according to Thailand's international obligations, shall be upheld by this constitution.

Clause 4. The King selects and appoints a person to be the President of the Privy Council and not more than eighteen Privy Councillors to constitute the Privy Council.

The selection and appointment or removal of a Privy Councillor shall depend entirely upon the King's pleasure.

The President of the National Legislative Assembly shall countersign the Royal Command appointing the President of the Privy Council, and the President of the Privy Council shall countersign the Royal Command appointing other members of the Privy Council.

Clause 5. The National Legislative Assembly consists of no more than 250 members appointed by the King from those being of Thai nationality from birth and being not less

than 35 years of age.

The National Legislative Assembly carries out the duties of the House of Representatives, Senate, and parliament.

In identifying those to be appointed members of the National Legislative Assembly, suitable consideration will be given to persons from various groups in the public sector, private sector, social sector, and academic sector from various regions.

In any case where there is a law prohibiting a person from holding political office, that law shall not apply to appointment of members of the National Legislative Assembly.

Clause 6. Membership of the National Legislative Assembly terminates upon: (1) death; (2) resignation; (3) being disqualified under Clause 5; (4) being appointed as a member of the Council of Ministers; (5) when the National Legislative Assembly passes a resolution to terminate membership under Clause 8.

Clause 7. The King appoints one President of the National Legislative Assembly, and one or more Vice-Presidents from among members of the National Legislative Assembly according to the resolution of the National Legislative Assembly.

The provisions of Clause 6 shall apply to the termination of the President and Vice-President(s) of the National Legislative Assembly *mutatis mutandis*.

The President of the Council for National Security shall countersign the Royal Command appointing members of the National Legislative Assembly, and the President and Vice-President(s) of the National Legislative Assembly.

Clause 8. In the case that any member of the National Legislative Assembly acts in any way which prejudices the dignity of membership of the National Legislative Assembly or behaves in a manner obstructive to the work of the members of the National Legislative Assembly, no less than 20 members of the National Legislative Assembly have the right to submit signatures requesting the President of the National Legislative Assembly to terminate that member.

A resolution of the National Legislative Assembly to terminate a member under

paragraph 1 must have the support of not less than two-thirds of all members on the day of voting.

Clause 9. At a sitting of the National Legislative Assembly, the presence of not less than one-half of the total number of the existing members is required to constitute a quorum.

The National Legislative Assembly has power to set rules about the selection and duties of the President, Vice-President(s) and committee members of the National Legislative Assembly, procedures for meetings, the proposal and scrutiny of draft legislation, submission of motions, debates, passage of resolutions, presentation of questions, maintenance of rules and order, and other matters for the performance of its duties.

Clause 10. The King enacts legislation on the advice and consent of the National Legislative Assembly.

Under Clause 30, paragraph 1, bills may be proposed only by not less than 25 members of the National Legislative Assembly, or by the Cabinet, but money bills may be proposed only by the Cabinet.

A money bill referred to in paragraph two 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; (4) currency.

In case of doubt as to whether a bill proposed by a member of the National Legislative Assembly is or is not a money bill, the power to make a decision rests with the President of the National Legislative Assembly.

Clause 11. At a sitting of the National Legislative Assembly, any member has the right to question any minister on any matter which is related to their duties as minister, but that minister has the right not to answer when it is deemed that the matter should remain confidential on grounds it relates to the security and interests of the realm, or when it is deemed that the question is impermissible under regulations.

In case of a major problem, not less than 100 members of the National Legislative

Assembly may present signatures to submit a motion for a debate in order to request facts from the Cabinet, but may not enter a resolution of confidence or no confidence.

Clause 12. In case of a major problem concerning the government of the realm on which the Council of Ministers deems it appropriate to receive opinions from members of the National Legislative Assembly, the Prime Minister may approach the President of the National Legislative Assembly to submit a motion for a general debate in a sitting of the National Legislative Assembly. In such a case, the National Legislative Assembly may not pass a resolution on the matter under debate.

Clause 13. In sittings of the National Legislative 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 right specified in paragraph 1 extends to committees of the National Legislative Assembly; printers and publishers of the minutes of sittings with the permission of the National Legislative Assembly or its committees; as well as to persons who broadcast the sitting through radio or television with the permission of the President of the National Legislative Assembly; but does not extend to a member of the National Legislative Assembly who expresses words at a sitting which is broadcast through radio or television if such words appear out of the precinct of the National Legislative 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 the National Legislative Assembly.

In case a member of the National Legislative Assembly is arrested, detained or jailed, the member may be released on request by the President of the National Legislative Assembly. In case a criminal charge is brought against a member of the National Legislative Assembly, the court may proceed with the case unless the President of the National Legislative Assembly requests the hearing of the case be stopped.

Clause 14. The King appoints a Prime Minister and not more than 35 other Ministers on the recommendation of the Prime Minister to constitute the Council of Ministers having the duties to carry out the administration of State affairs.

The King has the power to terminate the Prime Minister on the recommendation of the President of the Council for National Security, and to terminate Ministers on the recommendation of the Prime Minister.

The President of the Council for National Security countersigns the Royal Command for the appointment and termination of a Prime Minister.

The Prime Minister and Ministers shall not simultaneously hold any of the following positions: member of the National Legislative Assembly, member of the Constitution Drafting Assembly, or member of the Constitution Drafting Committee.

The Prime Minister and Ministers have the right to attend sittings of the National Legislative Assembly to present explanations and opinions, but have no right to vote.

Clause 15. For the purpose of maintaining national security, the safety of the country, and national economic security, or averting public calamity, or when it is necessary to have a law on taxes, duties or currency, which requires an urgent and confidential consideration, the King has the power to issue an Emergency Decree which shall have the force as an Act.

When such an Emergency Decree has been issued, the Council of Ministers shall submit the Emergency Decree to the National Legislative Assembly without delay. If the National Legislative Assembly approves, that Decree comes into force as an Act. If the National Legislative Assembly disapproves, the Decree shall lapse, provided that it shall not affect any act done during the enforcement of such Emergency Decree, except when the Decree has the effect of amending or repealing any provisions of any Act, 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.

The approval or disapproval of an Emergency Decree shall be announced in the Government Gazette. In case of disapproval, it shall be effective as from the day of its publication in the Government Gazette.

Clause 16. The King has the power to issue a Royal Decree which is not contrary to the law.

Clause 17. All laws, Royal Decrees and Royal Commands relating to State affairs must be countersigned by the Prime Minister or a Minister unless otherwise provided in this Constitution.

Clause 18. Judges have independence in the trial and adjudication of cases in the name of the King with fairness according to the law and this constitution.

Clause 19. The Constitution Drafting Assembly to organize the drafting of a constitution will consist of 100 members appointed by the King according to procedures provided under this constitution.

The King appoints one member of the Constitution Drafting Assembly as President, and one or two Vice-Presidents, according to the resolution of the Constitution Drafting Assembly.

The President of the Council for National Security shall countersign the Royal Command appointing the President and Vice President(s) of the Constitution Drafting Assembly

Members of the Constitution Drafting Assembly must not be or have been members of political parties, or held any position in any political party within two years of the day of selection as member of the Constitution Drafting Assembly, and must not simultaneously be members of the National Legislative Assembly.

Members of the Constitution Drafting Assembly, members of committee of the National Legislative Assembly, printers and publishers of the minutes of sittings with the permission of the Constitution Drafting Assembly or its committees, persons given permission by chairpersons of committees to give statements of fact or opinions in sittings of the Constitution Drafting Assembly, and persons who broadcast the sitting through radio or television with the permission of the President of the Constitution Drafting Assembly, are absolutely privileged as provided in Clause 13 for members of the National Legislative Assembly.

Clause 9 paragraph 1 shall be applied to sittings of the Constitution Drafting Assembly, and the regulations of the National Legislative Assembly shall be applied to sittings of the Constitution Drafting Assembly *mutatis mutandis*.

Clause 20. The National Council consists of 2,000 members appointed by the King from those being of Thai nationality from birth and being not less than 18 years of age.

The President of the Council for National Security shall countersign the Royal Command appointing members of National Council under paragraph one.

The provisions of Clause 5 paragraphs 3 and 4 shall apply to the identification and appointment of members of the National Council *mutatis mutandis*.

Clause 21. In sittings of the National Council, the President of the National Legislative Assembly shall act as President of the National Council, and the Vice President(s) of the National Legislative Assembly shall act as Vice President(s) of the National Council.

Sittings of the National Council and methods of selecting members of the Constitution Drafting Assembly will follow the specifications of the President of the National Council.

Clause 22. The National Council has the duty to select from among its members a list of two hundred names for royal appointment as members of the Constitution Drafting Assembly, within 7 days from the date of the first meeting of the National Council. When the members of the Constitution Drafting Assembly are selected, or when this time expires without the full number selected, the National Council terminates.

For the selection in paragraph 1, a member of the National Council has the right to choose not more than three names, and the 200 who receive the highest votes will be selected. In the case that persons at any ranking receive equal marks, lots will be drawn.

Clause 23. After obtaining the list of names selected from the National Council, the Council for National Security shall select 100 from the list to present to the King for royal appointment as members of the Constitution Drafting Assembly.

In the case that the National Council does not complete its duties in the time specified in Clause 22 paragraph 1, the Council for National Security will select 100 members of the National Council to form the Constitution Drafting Assembly, and present them to the King for royal appointment.

The President of the Council for National Security countersigns the Royal Command appointing the members of the Constitution Drafting Assembly.

The provisions of Clause 5 paragraph 4 will apply to the appointment of members of the Constitution Drafting Assembly and its committees, subject to clause 25 *mutatis mutandis*.

Clause 24. While the Constitution Drafting Assembly is still carrying out its duties under this constitution, should any member of the Constitution Drafting Assembly vacate the position for any reason, the President of the Council for National Security shall, within thirty days of the vacancy, select a person remaining on the list under clause 22, or a person who used to be a member of the National Council, as suitable, to submit to the King for appointment as a member of the Constitution Drafting Assembly in lieu of the vacant membership.

During the time no new member has been appointed to the Constitution Drafting Assembly to fill the vacancy, the Constitution Drafting Assembly will consist of the remaining members.

Clause 25. To prepare the constitution, the Constitution Drafting Assembly appoints a Constitution Drafting Committee consisting of 25 qualified persons who may or may not be members of the Constitution Drafting Assembly, selected by resolution of the Constitution Drafting Assembly, and another ten qualified persons who may or may not be members of the Constitution Drafting Assembly, selected on the recommendation of the President of the Council for National Security, all conducted according to rules and procedures specified in a Royal Decree.

Clause 26. When the Constitution Drafting Committee completes its draft, the Constitution Drafting Committee shall prepare explanation of the differences between this new draft constitution and the Constitution of the Kingdom of Thailand 1997 along with the reasons for the changes to allow scrutiny and submission of opinions from members of the Constitution Drafting Assembly and the following organizations and persons: (1) the Council for National Security; (2) the National Legislative Assembly; (3) the Council of Ministers; (4) the Supreme Court; (5) the Supreme Administrative Court; (6) the Election Commission of Thailand; (7) the National Counter Corruption

Commission; (8) the Auditor-General; (9) the Ombudsman; (10) the National Human Rights Commission; (11) the National Economic and Social Advisory Council; (12) institutions of higher education.

The Constitution Drafting Committee will disseminate the draft constitution and explanatory documents under paragraph 1 to the general public, and arrange to hear their opinions.

Clause 27. After receiving the draft constitution and documents under Clause 26, members of the Constitution Drafting Assembly who so wish may propose corrections and additions supported by signatures of not less than one tenth of total existing members of the Constitution Drafting Assembly. Such proposals for amendment must be submitted along with rationale before the time appointed for the meeting of the Constitution Drafting Assembly according to clause 28.

A member of the Constitution Drafting Assembly who submits a proposal for amendment or endorses the proposal of another member cannot also submit or endorse any other proposal for amendment.

Clause 28. Within thirty days after the day when the documents in clause 26 are sent, the Constitution Drafting Committee must consider the opinions received under Clause 26, and the submissions for amendment under Clause 27, prepare a report whether or not any amendments and additions are required with rationale, disseminate the report for general information, and submit the draft constitution for scrutiny by the Constitution Drafting Assembly.

In the scrutiny under paragraph 1, the Constitution Drafting Assembly may approve or disapprove the whole draft constitution, and specific clauses on which members of the Constitution Drafting Assembly have submitted amendments under Clause 27, or which the Constitution Drafting Committee has proposed. Members of the Constitution Drafting Assembly may not submit amendments in addition to those provided in Clause 27 unless the members of the Constitution Drafting Committee give approval, or not less than three-fifths of the members of the Constitution Drafting Assembly give approval to the additional amendments.

Clause 29. The Constitution Drafting Assembly must complete arrangements for

drafting the constitution under Clause 28 within 180 days from the day of the first sitting of the Constitution Drafting Assembly.

When completed, the draft constitution will be disseminated to the public, and a referendum held to approve or disapprove the constitution as a whole, not earlier than 15 days and not later than 30 days from the day when the draft constitution is disseminated, all according to rules and procedures determined by the Constitution Drafting Assembly.

The referendum shall be held on one day throughout the Kingdom.

Clause 30. Within 45 days from the day the draft constitution is completed according to Clause 29 paragraph 1, the Constitution Drafting Committee shall proceed to draft supplementary laws necessary for the purpose of election and submit them to the National Legislative Assembly for further action. The National Legislative Assembly must complete its scrutiny within 15 days of receiving the draft from the Constitution Drafting Committee.

To eliminate vested interests, a member of the Constitution Drafting Committee is prohibited from standing for election as a Member of Parliament or holding the position of a Senator for two years from the day of vacating membership of the Constitution Drafting Committee.

Clause 31. If in the referendum a majority of those with the right to vote approve the constitution, the President of the National Legislative Assembly shall submit the draft constitution to the King for His Royal Signature and promulgation in the Government Gazette. When the constitution has been promulgated and the Constitution Drafting Assembly has completed the organic laws under Clause 30, or when time expires under clause 30, whichever is soonest, the Constitution Drafting Assembly will terminate.

Clause 32. In the case the drafting of the constitution is not completed within the time specified under Clause 29 paragraph one, or the Constitution Drafting Assembly does not approve the draft constitution according to Clause 28 paragraph two, or a majority of people disapproves the draft constitution in the referendum under Clause 31, the Constitution Drafting Assembly terminates. The Council for National Security shall then meet jointly with the Council of Ministers to scrutinize and amend any draft

constitution of the Kingdom of Thailand formerly promulgated and enacted, and within 30 days from the date of rejection by referendum submit it to the King for his Royal Signature to promulgate as the constitution.

At joint sittings under paragraph one, the President of the Council for National Security shall act as chairperson.

The Prime Minister countersigns the Royal Command for promulgation of the constitution under this clause.

Clause 33. The emoluments and other remuneration of the President and Vice President(s) of the National Legislative Assembly and Constitution Drafting Assembly, members of the Council for National Security, National Legislative Assembly, Constitution Drafting Assembly, Constitution Drafting Committee, and Constitution Judiciary Council will be determined by a Royal Decree.

Clause 34. To maintain the peace, order and security of the nation, the Council for National Security consists of the persons indicated in Announcement no. 24 of the Council for Democratic Reform under Constitutional Monarchy dated 29 September 2006. The President of the Council for National Security may appoint additional members of the Council for National Security, not exceeding 15 in total. The head, deputy head, members, secretary-general and deputy secretary-general of the Council for Democratic Reform under Constitutional Monarchy shall be the President, Vice President, members, secretary-general and deputy secretary-general of the Council for National Security respectively. In case the President of the Council for National Security is absent or unable to fulfil the duty, the Vice President and members of the Council for National Security may carry out the duties of the President of the Council for National Security. In case the President and Vice-President of the Council for National Security are absent or unable to fulfil the duty, members of the Council for National Security may select a member of the Council for National Security to carry out the duties of the President of the Council for National Security. The President of the Council for National Security or the Prime Minister may request a joint meeting of the Council for National Security and the Council of Ministers to jointly consider any issue concerning the maintenance of the peace, order, and security of the nation, including occasional consultations on any matter whatever.

Clause 35. Any matter governed by law which fell under the power of the Constitutional Court, or any issue whether or not a law conflicts with the constitution, falls within the power of the Constitution Judiciary Council, which consists of: the President of the Supreme Court as President; President of the Supreme Administrative Court as Vice President; five judges of the Supreme Court holding position not lower than Supreme Court Judge, selected by the assembly of the Supreme Court by secret ballot as Constitutional Judges; and two judges of the Administrative Court selected by the assembly of the Administrative Court by secret ballot as Constitutional Judges.

The office of the Constitutional Court established by the Act on the Constitutional Court will undertake the administrative work and any other duties assigned by the President of the Constitution Judiciary Council.

The quorum of judges, procedures for hearing and adjudication will follow the specifications of the Constitution Judiciary Council announced in the Government Gazette.

Any cases or other matters in process of the Constitutional Court prior to 19 September 2006 are transferred into the power and responsibility of the Constitution Judiciary Council.

Clause 36. Any announcement and order by the Council for Democratic Reform under Constitutional Monarchy or order by the head of the Council for Democratic Reform under Constitutional Monarchy made between 19 September 2006 and the day of promulgating this constitution, of whatever form, and whether having effect in the legislative, executive or judicial sphere, shall remain in force, and such announcements and orders and their implementation, whether as a result of an announcement or order, whether performed before or after the date of promulgation of this constitution, shall have legal and constitutional legitimacy as announcements, orders, and implementation.

Clause 37. Any action performed in relation to the seizure and deployment of the power of governing the realm on 19 September 2006 by the head and members of the Council for Democratic Reform under Constitutional Monarchy, including actions of persons related to such aforesaid actions, or of persons assigned by the head or by the Council for Democratic Reform under Constitutional Monarchy to perform actions for the aforesaid purpose, all those actions aforesaid whether having effect in the legislative,

executive or judicial sphere, including punishment and other administrative actions, whether performed as a major actor, supporter, or agent for implementation, and whether performed on the stated day or before or after, if such actions were wrong in law, those performing the actions are absolved of any wrongdoing and any responsibility entirely.

Clause 38. Whenever no provision under this Constitution is applicable to any case, it shall be decided in accordance with the constitutional practice in the democratic regime of government with the King as Head of the State.

In the case any problem of adjudicating any matter under paragraph 1 arises in the sphere of work of the National Legislative Assembly, or when the Council of Ministers requests the National Legislative Assembly to adjudicate, the National Legislative Assembly has the final decision.

Clause 39. Until the Council of Ministers assumes its duties, the President of the Council for National Security shall carry out the duties of the Prime Minister and Council of Ministers.