

Translation

[Emblem of the Royal Command]

Organic Act

On the Election of Members of the House of Representatives (No. 2)

B.E. 2566 (2023)

HIS MAJESTY KING MAHA VAJIRALONGKORN PHRA

VAJIRAKLAOCHAORYUHUA;

Given on the 28th Day of January B.E. 2564 (2023);

Being the 8th Year of the Present Reign.

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

Whereas it is expedient to amend the organic law on the election of members of the House of Representatives;

Whereas this Organic Act contains certain provisions relating to the restriction of personal rights and liberties, which is permitted under the provision of Section 26 together with Section 27, Section 34, and Section 37 of the Constitution of the Kingdom of Thailand, provided that such is proceeded by virtue of the relevant provisions of law;

The justification and necessity for the restriction of personal rights and liberties under this Organic Act are to ensure the honest and fair election of the members of the House of Representatives. As such, the enactment of this Organic Act is consistent with the conditions prescribed under Section 26 of the Constitution of the Kingdom of Thailand.

Be it, therefore, enacted by the King, by and with the advice and consent of the Parliament, as follows:

Section 1. This Organic Act is called the “Organic Act on the Election of Members of the House of Representatives (No. 2) B.E. 2566 (2023)”.

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

Remark:

This translation has been prepared by the Office of the Election Commission of Thailand for information purposes only. Whilst the Office of the Election Commission of Thailand has made efforts to ensure the accuracy and correctness of the translation, the original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

Section 3. The provision of Section 11 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 11. When the Royal Decree Announcing the General Election becomes effective, the Commission shall procure that there is an Election, as follows:

(1) An Election of four hundred members of the House of Representatives under the Constituency system, being a vote-casting for a Candidate in accordance with the determined Constituency division and where there shall be one Candidate per Constituency;

(2) An Election of one hundred members of the House of Representatives under the party-list system, being a vote-casting for the party-list of Candidates produced by the political parties and where a vote shall be cast only for one party for the entire country.”

Section 4. The provision of (4) of Section 12 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“(4) To determine the date and places where political parties shall submit their party-list of Candidates.”

Section 5. The provision of (1) of Section 19 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“(1) Nine members of the Polling Station committee, with duties relating to the vote-casting at each Polling Place and the vote-counting at each Polling Station. In case of necessity at any Polling Station, additional members may be appointed to the Polling Station committee in accordance with the rules and up to the number prescribed by the Commission;

Section 6. The provision of Section 26 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 26. The determination of the number of members of the House of Representatives each Province shall have and the division of the Constituencies shall be carried out using the following methods:

(1) Reference shall be made to the total number of citizens throughout the country as evidenced by the census announced in the year preceding the year of the Election, divided by the four hundred for the number of members of the House of Representatives. The resulting number shall be deemed the number of citizens per member.

(2) For any Province whose number of citizens is below the number of citizens per one member under (1), there shall be one member of the House of Representatives in such a Province and it shall be deemed a Constituency;

(3) For any Province with more citizens than the number of citizens per one member, there shall be, in such Province, an additional member of the House of Representatives for every number of citizens representing the number of citizens per one member;

(4) When the number of members of the House of Representatives of each Province under (2) and (3) has been obtained, if the number of members of the House of Representatives fails to reach four hundred, any Province with the largest fraction from the calculation under (3) shall have an additional member of the House of Representatives and the addition of members of the House of Representatives in accordance with such procedure shall be made in favour of any Province with the fraction from the calculation in next respective order until the number of four hundred is obtained;

(5) For any Province where more than one member of the House of Representatives shall be elected, the area of that Province shall be divided into Constituencies at the number equal to that of members of the House of Representatives it shall have, provided that the division shall be made in the manner that the boundary of each Constituency shall be adjoining and the number of citizens in each Constituency shall be closely apportioned.”

Section 7. The provision of Section 53 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 53. Prior to the announcement of the result of the Election, if a director of a Constituency, after examination, views that a Candidate has no right to Candidacy on the grounds of a lack of qualification or possessing a disqualification from exercising the right to Candidacy, provided the Candidate has obtained the votes in an order where they will be Elected, the matter shall be referred to the Commission for decision. In a case where the Commission decides that the matter is the case, it shall order an annulment of the Election in such a Constituency and order a new Election to be held.

In the case of the first paragraph, if such a Candidate knew that they were a person who has no right to Candidacy, the Commission shall order a temporary suspension of their right to Candidacy and shall take steps in accordance with Section 138.”

Section 8. The provision of the second paragraph of Section 54 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“In the case under paragraph one, if such a Candidate knew that they do not have the right to Candidacy and has concealed or failed to disclose such a fact, it shall be deemed that the election in that constituency has not proceeded in an honest and fair manner and the Constitutional Court shall order revocation of their right to Candidacy.”

Section 9. The provision of the first paragraph of Section 56 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 56. A political party which has sent its Candidates under the Constituency system shall have the right to send one list of Candidates under the party-list system per party, which contains no more than one hundred names, in accordance with the following rules:

(1) The party-list Candidates shall be selected in accordance with the procedure determined in the Organic Act on Political Parties;

(2) A political party may nominate any person upon such person’s written consent, provided that such person shall be a member only of the political party which makes the nomination;

(3) A party-list shall be prepared in accordance with the form prescribed by the Commission, whereby names of candidates shall be listed in numerical order;

(4) Names in the party-list of a political party shall not be a duplicate of those nominated by any other political party and shall not be a duplicate of those of Candidates under the Constituency system.”

Section 10. The following provision shall be included as the fifth paragraph of Section 57 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018):

“The provision of Section 48 shall apply *mutatis mutandis* to the identification number for Candidates under the party-list system.”

Section 11. The provision of Section 62 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“The Commission shall, by way of a notification, determine the amount of expense to be incurred for the following:

(1) Expenses to be incurred in an Election by the Candidates under the Constituency system

(2) Expenses to be incurred in an Election by the political parties under the party-list system. In a case where any party-list Candidate of a political party incurs an expense in an Election, such an amount shall be included in the political party’s expense.

The determination of the amount under (2) shall not be carried out by way of using the number of members of a political party individually sent for Candidacy in an Election as a basis for the calculation. The Commission shall discuss the matter with leaders of the political parties. And the determination of the amount shall be reviewed at least every four years to ensure consistency with needs and economic circumstances.”

Section 12. The provision of the first paragraph of Section 73 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 73. No Candidate or person shall carry out any act to induce a Person with the Right to Vote to cast their vote for themselves, another Candidate, or for the party-list of any political party, or to abstain from casting the vote for any Candidate or for the party-list of any political party, or to encourage the act of casting the vote for none of the Candidates for a member of the House of Representatives, by way of the following:

- (1) Procuring, giving, offering to give, promising to give, or preparing to give property or any other benefit which can be calculated into monetary value to any person;
- (2) Giving, offering to give, or promising to give money, property, or any other benefit, whether directly or indirectly, to a community, association, foundation, temple, educational institution, support centre, or any other institution;
- (3) Conducting a campaign by organising performances or entertainment events;
- (4) Giving a treat or agreeing to give a party for any person;
- (5) Deceiving, coercing, threatening, or using influence to harass, slandering with a false statement, or enticing a misunderstanding in the popularity of a Candidate or political party.”

Section 13. The provision of Section 84 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 84. Vote-casting shall be carried out by means of using one ballot card for each system of membership, whose features shall be clearly different and distinguishable from each other.

The ballot card for the Constituency system shall have a number of boxes and ordinal numbers no fewer than the number of Candidates in the relevant Constituency.

The ballot card for the party-list system shall have a box, the party-list number, together with the name and logo of every political party running for the Election under the party-list system.

Both ballot cards under the second and the third paragraph shall also have a box for abstention from voting for any Candidate or party-list, as the case may be.

Vote-casting shall proceed in accordance with the methods determined by the Commission.”

Section 14. The provision of Section 91 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 91. For vote-casting, a cross shall be affixed in the box provided for a Candidate number or a party-list number on a ballot card and, in the case where a Person with the Right to Vote decides not to vote for any Candidate or any party-list, a cross shall be affixed in the box marked “Voting for None of the Candidates” or “Voting for None of the Party-Lists.””

Section 15. The provision of Section 93 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 93. Subject to Section 92, when the Person with the Right to Vote has affixed a cross on a ballot, they shall fold the ballot in order not to allow others to know how they vote. Then, they shall drop the ballot into the ballot box by themselves in front of a member of the Polling Unit committee.”

Section 16. The provision of Section 99 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 99. No Person with the Right to Vote shall show to the other person a ballot on which a vote has been affixed so that they know how such a person has voted.”

Section 17. The provision of the second paragraph of Section 113 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“For the casting of the vote carried out outside the Kingdom, the Commission with the approval of the Ministry of Foreign Affairs may determine that the votes shall be counted outside of the Kingdom if such an undertaking shall be more convenient, quicker, and incur less expense than the undertaking under the first paragraph, provided that it shall be subject to the criteria and methods determined by the Commission, whereas such criteria may be determined differently from (1) and (2) of the first paragraph of Section 19, as may be necessary and appropriate.”

Section 18. The provision of the second paragraph of Section 117 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Vote-counting shall be under the criteria and methods determined by the Commission, provided that the votes shall also be counted for those cast by the Persons with the Right to Vote who have affixed a mark in the box marked “Voting for None of the Candidates” or “Voting for None of the Party-Lists.””

Section 19. The provision of (4), (5), and (6) of Section 118 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“(4) A ballot card on which a voting mark(s) have been made for more than one Candidate or more than one party-list;

(5) A ballot card on which it is incapable of ascertainment as to the Candidate for whom or the party-list the vote is cast, except that it is the “Voting for None of the Candidates” or “Voting for None of the Party-Lists.” option;

(6) A Ballot card on which it is affixed with a mark for the purpose of casting a vote for a candidate and also affixed with a mark in the box captioned “Voting for None of the Candidates” or “Voting for None of the Party-Lists.””

Section 20. The provision of Section 122 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 122. In a case where the result of a count of the votes reveals that the number of persons present to exercise the right to vote does not correspond to that of the ballot cards used for vote-casting, the Polling Station committee shall examine the accuracy thereof. If the discrepancy persists, the Polling Station committee shall report it and give the reasons thereof to the Commission as well as informing the Constituency committee thereof and shall deliver the ballot boxes and equipment to the Constituency committee or a person assigned thereby.

When the Commission receives the report under the first paragraph, it shall order a new vote-counting or a new vote-casting at the Polling Station in question, unless the Commission views that the discrepancy is not a result of foul play and will not change the result of the Election in the Constituency, in which case it may order the case closed.”

Section 21. The provision of Section 123 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 123. When the vote-counting results of all Polling Stations in the Constituency in question are gathered, including the votes obtained from vote-casting conducted prior to the Election Date and votes obtained from vote-casting conducted outside the Kingdom, the Constituency committee shall carry out as follows:

(1) Announcing the vote-counting results in respect of the votes cast for members of the House of Representatives under the Constituency system and the votes cast to abstain from voting for any Candidate;

(2) Announcing the vote-counting results in respect of the votes cast for each political parties in the Election under the party-list system and the votes cast to abstain from voting for any party-list.”

Section 22. The provision of the first paragraph of Section 126 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 126. For a Constituency where no Candidate receives more votes cast for them than the votes cast to abstain from voting for any Candidate in the Constituency, the Commission shall hold a new Election. In a case such as this, the Commission shall hold recruitment for new Candidates. All the previous Candidates shall have no right to Candidacy therein.”

Section 23. The provision of Section 128 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 128. Once the Commission has received the total vote-counting results under the party-list system from the Provincial Director of Elections, the number of party-list members of the House of Representatives shall be calculated as follows:

(1) Total the votes throughout the country as obtained by all political parties from the Election under the party-list system;

(2) The total votes under (1) shall be divided by one hundred, the result of which shall be deemed an average number of votes per one member of the House of Representatives under the party-list system;

(3) In the calculation of the number of party-list members of the House of Representatives eligible by each political party, the total votes obtained by each political party shall be divided by the average under (2), the result of which, in round numbers, shall be the number of party-list members of the House of Representatives allocated to the political party;

(4) In a case where the total number of party-list members eligible by all political parties fails to make up one hundred, the political party whose results yields a fraction without a round number, or the political parties whose calculation under (3) yields a result that contains a fraction, with the largest number of fraction shall be eligible to one more party-list member of the House of Representatives, in such an respective order, until a total of one hundred party-list members of the House of Representatives is achieved.

(5) In carrying out the undertaking under (4), if there is an equality of the fractional number between political parties which would result in the number of members of the House of Representatives exceeding one hundred, representatives of the political parties with the equal

fraction shall draw lots on the date and time determined by the Commission in order to achieve the number of party-list members of the House of Representatives.

The party-list Candidates shall in respective order of the sequence numbers in the party-list, until the number of members allocated the political party is achieved, be deemed elected as members of the House of Representatives, provided that it does not exceed the number of party-list Candidates as has been submitted for Candidacy by each political party. Any missing number of members shall be proceeded under the fourth paragraph of Section 83 of the Constitution of the Kingdom of Thailand.”

Section 24. The provision of Section 129 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 129. When the Commission has calculated the proportion of the party-list members of the House of Representatives between each party under Section 128, if the Commission has a reasonable evidence that the Election has been carried out in an honest and fair manner, the Commission shall promptly announce the result of the Election and which Candidates are elected as party-list members of the House of Representatives, provided that it shall be no later than sixty days from the Election Date.”

Section 25. The provision of Section 130 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“When the Commission has announced the result of the Election, it shall be published in the Government Gazette, and when the Speaker of the Parliament is elected, the party-list of Candidates of every political party shall promptly be submitted to the Speaker of the Parliament for acknowledgement.

Section 26. The provision of Section 131 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed.

Section 27. The provision of Section 132 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 132. Prior to the announcement of the result of the Election, if there is reasonable evidence that any Candidate has carried out any act resulting in the Election not being carried out in an honest and fair manner, or if there is reasonable evidence that any Candidate has procured that the other person acts, aids, or abets, or was aware that there was such an act but failed to take steps to prevent it, or carries out an act in contravention to this Organic Act, a rule or a notification of the Commission, which may result in the Election not being carried out in an honest and fair manner, the Commission shall issue an order as follows:

(1) In a case where such an act is carried out in relation to an Election under the Constituency system, the Commission shall order the annulment thereof and hold a new Election, and order a temporary suspension of the Right to Candidacy of every any Candidate who carried out the act for a term not exceeding one year from the date on which the Commission issues the order;

(2) In a case where such an act is carried out in relation to an Election under the party-list system, the ballot cards for votes cast for the party-list of the political party in question in the Polling Unit shall be deemed invalid, and the Commission shall order that such votes shall not be included in the calculation for the number of the party-list members of the House of Representatives from the political party, whereas the provision of the second paragraph of Section 118 shall not apply to the invalid ballot cards in a case where the Commission issues the order after the vote-counting has taken place.”

Section 28. The provision of Section 136 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 136. In a case where there is reasonable evidence that any person has given offered to give, promised to give, or prepared to give money, property, or any other benefit to induce a Person with the Right to Vote to cast their vote for any Candidate, or for the party-list of any political party, or not to cast the vote for any Candidate or for the party-list of any political party, or to encourage casting the vote for none of the Candidates or none of the party-lists, the Commission shall have the power to order a temporary seizure or freeze of the person’s money or property until the Court has further issued a judgment or order.”

Section 29. The provision of Section 137 of the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) shall be repealed and replaced with the following provision:

“Section 137. Prior to or on the Election Date, it is the duty of the Commission to monitor, investigate, inquire, or find facts and evidence for the purpose of verifying that the Election is carried out in an honest and fair manner. If the Commission has investigated and inquired and has a reasonable cause to suspect that the Election is not carried out in an honest and fair manner, or if a Member should witness an act, or an omission of the act, which may result in the Election not being carried out in an honest and fair manner, or not in a lawful manner, they shall have the power to order the suspension, cessation, amendment, or cancellation of the Election and order a new Election or new vote-counting for the Election under the Constituency or party-list system, wherein there is a reasonable cause for suspicion that it was not carried out in an honest and fair manner, in a certain Polling Unit or in all Polling

Units. In the case of the undertaking by a Member, it shall be carried out in accordance with the criteria, methods, and conditions determined by the Commission.”

Section 30. The division of Constituencies under the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018) effective on the date prior to the date on which this Organic Act becomes effective shall remain enforceable for potential Elections which may be carried out to replace any vacancy prior to the General Election.

Section 31. Any act carried out under the Organic Act on the Election of Members of the House of Representatives B.E. 2561 (2018), as amended by this Organic Act shall be enforceable on the General Election to be held after this Organic Act becomes effective.

Section 32. The Chairman of the Election Commission shall have charge of the execution of this Organic Act.

Countersigned by

General Prayut Chan-Ocha

Prime Minister

Office of the Election Commission of Thailand

Note :- The purpose of the enactment of this Organic Act is as follows: Whereas the provision of the Constitution of the Kingdom of Thailand, as amended (No. 1) B.E. 2564 (2021) provides that the House of Representatives shall consist of five hundred members, with four hundred members elected under the Constituency system and one hundred elected under the party-list system; that there shall be one ballot for the Election of members of the House of Representatives under each system and a calculation of the proportion of the party-list Candidates for the House of Representatives for each political party to be Elected which shall ensure the proportion which directly corresponds to the votes obtained by each political party throughout the Country; that the criteria, methods, and conditions for the application of the party-list Candidates, vote-casting, vote-counting, vote-tallying, announcement of the result of the Election, and other relevant undertakings shall be in accordance with the Organic Act on the Election of Members of the House of Representatives, it is expedient that certain provisions need to be amended in order to increase the effectiveness of the holding of Elections and auditing of the Elections to ensure that they are carried out in an honest and fair manner. As such, it is necessary that this Organic Act is enacted.

Office of the Election Commission of Thailand