

The Union of Myanmar
The State Peace and Development Council

The Amyotha Hluttaw Election Law

(The State Peace and Development Council Law No. 4 / 2010)

The 9th Waning Day of Taboung, 1371 M.E.

(8th March, 2010)

The State Peace and Development Council, in order to elect Amyotha Hluttaw representatives by holding free and fair Multi- party Democracy General Election, hereby enacts the following law in accord with Section 443 of the Constitution of the Republic of the Union of Myanmar.

Chapter I

Title and Definition

1. This Law shall be called **the Amyotha Hluttaw Election Law**.
2. The following expressions contained in this Law shall have the meaning given hereunder:
 - (a) **Constitution** means the Constitution of the Republic of the Union of Myanmar;
 - (b) **Hluttaw** means the Amyotha Hluttaw;

- (c) **Hluttaw representative** means the person who has been elected to the Amyotha Hluttaw or Defence Services personnel Amyotha Hluttaw representative nominated by the Commander- in-Chief of the Defence Services in accord with the Constitution;
- (d) **Election** means the Amyotha Hluttaw Election;
- (e) **Constituency** means the Amyotha Hluttaw constituency;
- (f) **Region or State** means the existing respective Division or respective State ;
- (g) **Commission** means the Union Election Commission;
- (h) **Sub-commission** means the following Sub- commissions formed by the Commission:
 - (i) Nay Pyi Taw Sub- commission;
 - (ii) Region or State Sub- commission;
 - (iii) Self-Administered Division or Self-Administered Zone Sub-commission;
 - (iv) District Sub- commission;
 - (v) Township Sub-commission;
 - (vi) Ward or Village-tract Sub-commission;

- (i) **Member of religious order** means the following persons:
 - (i) in the case of Buddhists, monks, novices, religious laymen, nuns serving the Buddhist religious order;
Explanation: The expression, member of religious order, applies to a religious monk or a member of the religious order while he or she is serving temporarily as such;
 - (ii) in the case of Christians, persons who have been recognized and ordained or assigned duties by the relevant Churches as persons who have dedicated themselves mainly to serve the Christian religious order, and persons included in a group of persons or organization which of their own volition have submitted to the control of the respective head according to the religion professed as organized by religious discipline or vow;
 - (iii) in the case of Hindus, Sanyazi , Mahant or Hindu priests;
- (j) **Voting Roll** means the roll of eligible voters prepared for prescribed constituencies for purpose of election;
- (k) **Convict** means the person serving prison term under sentence passed by any court. The said expression also includes the person

who is serving prison term by the order of the court and pending appeal or revision against the sentence of imprisonment of the relevant court ;

- (l) **Polling Booth Team** means a team which is assigned by the Township Sub- commission concerned the duty of taking collective responsibilities in connection with voting at a polling booth within a constituency;
- (m) **Polling Booth Officer** means the person who is in charge of the Polling Booth Team;
- (n) **Electoral Right** means the right of a person to stand or not to stand as a Hluttaw candidate, or to withdraw from the list of Hluttaw candidates or to vote or refrain from voting at the election;
- (o) **Malpractice** means any practice mentioned in Chapter XIV of this Law;
- (p) **Rules** mean the rules made under this Law.

Chapter II

Formation of the Amyotha Hluttaw

- 3. The Amyotha Hluttaw shall be formed with a maximum of 224 Hluttaw representatives as follows:
 - (a) 168 Amyotha Hluttaw representatives elected on 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 which will be constituted in accord with Section 56 of the Constitution;

- (b) 56 Amyotha Hluttaw representatives who are the Defence Services personnel nominated by the Commander- in - Chief of the Defence Services, four representatives from each Region or State inclusive of relevant Union territories in accord with Sub-section (b) of Section 141 of the Constitution.

Chapter III

Designation of Constituencies

- 4. In designating Hluttaw constituencies, the Commission :
 - (a) shall designate only 12 Hluttaw constituencies in each Region or State;
 - (b) shall , if the number of townships included in the Region or State is less than 12, designate as follows;
 - (i) shall designate one constituency in a township;
 - (ii) shall designate by adding one constituency into the required township starting from the most densely populated township till the required number of constituencies have been filled after preparing a list in order of population

in the Region or State in the case of the number of constituency designated under clause (i) is less than 12;

(c) in the case of the number of townships included in the Region or State which have no Self-Administered Division or Self-Administered Zone is more than 12 , it shall be performed as follows:

(i) the number of constituency shall be designated on the basis of population in districts;

(ii) in the case of designation of constituencies based on the number of constituency obtained for a district, it shall be performed as follows:

(aa) in the case of the number of constituencies obtained for a district is equal to the number of townships situated in the said district, each constituency shall be designated for a township;

(bb) in the case of the number of constituencies obtained for a district is more than the number of townships situated in the said district, each constituency shall be designated for a township; each constituency, from the rest of the number of constituencies after such designation, shall be

added into the townships starting from the most densely populated township after preparing the list of population in order;

(cc) in the case of the number of constituencies obtained for a district is less than the number of townships situated in the said district, it may be amalgamated with a contiguous township or townships possibly reach the ratio of the population so as the disparity of the population may not be high;

(dd) in so designating, a part of a township shall not be amalgamated with another township;

(ee) in order that the population may be fair, in designating constituencies, the districts which have few population may be designated as one constituency after amalgamating them with another contiguous district;

(d) In designating the constituencies for the Regions or States having the Self-Administered Division or Self-Administered Zone shall be performed as follows:

- (i) each Hluttaw constituency shall be designated for each Self-Administered Division or Self-Administered Zone;
 - (ii) it shall be designated for the rest of the constituencies after such designation in accord with the provisions contained in Sub- section (c) of Section 4;
 - (e) in the case of designation of an area which is situated in a Hluttaw constituency designated for a term of Hluttaw as Union territory , the said area shall be deemed to be included only in the original Hluttaw constituency.
5. (a) The Hluttaw constituenies designated by the Commission shall be valid only for a term of Hluttaw.
- (b) In the case of formation of a new township after designating constituencies for a regular term by the Commission, such township shall be deemed to be included in the constituency designated for the said regular term.
- (c) The Commission shall designate the constituencies for the next term at least 60 days in advance prior to the expiry of the term of the Hluttaw.

Chapter IV

Eligible Voters

6. Persons possessing the following qualifications shall be eligible to vote at the election irrespective of sex and religion:
- (a) citizen, associate citizen, naturalized citizen or holder of temporary certificate who has completed the age of 18 years on the day of commencement of election and who does not contravene the provisions of this Law;
 - (b) person whose name has been included in the voting roll of the respective constituency.
7. The following persons shall not be eligible to vote at the election :
- (a) member of religious order;
 - (b) convict;
 - (c) person adjudged to be of unsound mind as provided for in the relevant law;
 - (d) person who has not yet been discharged as an insolvent;
 - (e) person prohibited by Election law;
 - (f) foreigner or person who has assumed foreign citizenship.

Chapter V

Persons Eligible to Stand for Election and Persons not Eligible to Subsist

8. Citizens possessing the following qualifications shall be eligible to stand for election irrespective of sex and religion:

- (a) at the time of filing the nomination paper for the purpose of election:
 - (i) person who has completed the age of 30 years and who does not contravene the provisions of this Law;
 - (ii) person who has resided in the Union of Myanmar at least 10 consecutive years up to the time of his election as Hluttaw representative;
Proviso: The official period of stay in a foreign country with the permission of the State shall be counted as a residing period in the State;
 - (iii) person included in the voting roll;
- (b) citizen who was born of parents who are citizens;
- (c) person who possesses qualifications prescribed in this Law.

9. A person having the right to stand for election is eligible to contest in the election either individually or representing a political party.

10. The following persons shall not be eligible to stand for election:

- (a) convict;
- (b) person not eligible to stand for election as a Hluttaw representative due to conviction for an offence causing disqualification of Hluttaw representative, or having committed a malpractice relating to election or failing to act in accord with the Election Law before or after the Constitution comes into operation and the period designated by the authority for him has not expired;
- (c) person adjudged to be of unsound mind as provided in the relevant law;
- (d) person who has not been discharged from being an insolvent as declared by the relevant court;
- (e) citizen who was born of parents, both or one of whom was not citizen at the time of his birth;
- (f) person who owes allegiance to a foreign government or person under the influence of a foreign government or subject of a foreign government or a citizen of a foreign country;
- (g) person who is entitled to enjoy the rights and privileges of a subject of a foreign government or a citizen of a foreign country;

- (h) person who obtains and utilizes directly or indirectly the support of money, land, house, building, vehicle, property, etc., from government or religious organization or any other organization or any individual of a foreign country or is a member of an organization which obtains and utilizes the said aids;
- (i) person who uses religion for political purpose and utters, delivers speech and makes or issues declaration to vote or not to vote and who encourage and incite such acts or is a member of an organization which carries out such acts;
- (j) member of a religious order;
- (k) civil services personnel;

Proviso: The said expression shall not apply to the Defence Services personnel Hluttaw representatives selected and appointed in the Hluttaws and civil services personnel selected and appointed in the organizations of Hluttaws formed under the Constitution;

- (l) person who obtains and utilizes directly or indirectly the State-owned money, land, housing, building, vehicle, property, etc. or is a member of an organization which carries out such acts;

Proviso: (i) The expression, State-owned money, does not include pension, and emoluments or salary, and emoluments officially granted by the Union for services rendered in the interest of the Union;

(ii) The expression, State-owned land, housing, building, vehicles and property, does not include State-owned land, house, building and apartments, other buildings and apartments, State-owned aircraft trains, vessels and motor vehicles and property etc., 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;

(m) associate citizen, naturalized citizen, foreigner or person who has assumed foreign citizenship;

(n) person against whom there is credible evidence of contacting with an organization declared as an unlawful association under any existing law, organization and persons designated by the State to have committed terrorist acts, insurgent organization or its members in revolt with arms against the State.

11. After being elected, a Hluttaw representative shall have no right to subsist as a Hluttaw representative on involvement of any of the following:

- (a) converting into a member of a religious order permanently;
- (b) being adjudged to be of unsound mind as provided for in the relevant law;
- (c) being declared an insolvent by the relevant court;
- (d) being sentenced to imprisonment under any existing law, after being elected as a Hluttaw representative;
- (e) being designated to cease to be a citizen under the relevant law;
- (f) being designated by the authority concerned as a person born of either parent or both parents who were not citizens at the time of his birth;
- (g) being decided by the Election Tribunal to be a person under allegiance to a foreign government or person under the influence of a foreign government or a subject of a foreign government or a citizen of a foreign country;
- (h) being decided by the Election Tribunal to be a person entitled to the rights and privileges of a subject of a foreign government or a citizen of a foreign country;

- (i) being permitted by the Commission to resign as a Hluttaw representative;
- (j) being adjudged by the relevant court as having credible evidence that the person contacts with an organization declared as an unlawful association under any existing law, an organization and persons designated by the State to have committed terrorist acts, the insurgent organization or its members in revolt with arms against the State;
- (k) being decided by the Election Tribunal to be a person or a member of an organization as provided for in Sub-sections (h), (i) or (l) of Section 10;
- (l) being informed by the respective head of the Civil Services Body to be a civil services personnel as provided for in Sub-section (k) of Section 10.

12. If the Commission receives a complaint that an elected person is involved with any provision contained in Sections 8 and 10, it may form an Election Tribunal and have the complaint inquired and decided as to whether or not, the elected person is eligible to subsist as the Hluttaw representative.

Chapter VI
Preparation of Voting Roll

13. The Township Sub-commissions and Ward or Village-tract Sub-commissions shall prepare the voting rolls for those who are eligible to vote in the election of Hluttaw representatives in various constituencies according to the stipulation.

14. (a) The Ward or Village-tract Sub-commission shall include in the relevant voting roll every citizen, associate citizen, naturalized citizen and holder of temporary certificate who do not contravene the provisions of this Law and are residents in a constituency and have completed the age of 18 years on the day of commencement of election.

(b) The Ward or Village-tract Sub-commission shall, as prescribed, include in the relevant voting roll the Defence Services personnel, the diplomats of the Union of Myanmar and members of their household, diplomatic staff and members of their household, State scholars and members of their household, delegates and members of their household who are outside the country and persons who are outside the country with the permission of the Union government and members of their household.

15. (a) Every citizen, associate citizen, naturalized citizen and holder of temporary certificate, whose name is included in the voting roll of a constituency shall have the right to vote only in the said constituency.

(b) A person, who has the right to vote and who wishes to transfer from the voting roll of one constituency to the voting roll of another constituency, showing sufficient grounds, may apply to the relevant Sub-commission as prescribed.

(c) Whoever has the right to vote in any constituency shall not be included in the voting roll of any constituency other than that of the constituency concerned at the same time.

16. The relevant Sub-commission shall declare the list of eligible voters according to the constituency in advance before the election is held as prescribed.

17. (a) If the name of a person, who is eligible to vote is not included in the relevant voting roll, he may submit a request to the relevant Ward or Village-tract Sub-commission as prescribed for his name to be inserted.

(b) If the Ward or Village-tract Sub-commission concerned does not insert the name, there is a right of appeal to the Township Sub-

commission as prescribed. The decision of the said Sub-commission, with the exception of the provision of Section 53, shall be final and conclusive.

18. (a) If any person whose name is included in the voting roll of a Ward or Village-tract, desires to object to the inclusion of any person who is not entitled to vote in such voting roll, the objection may be submitted to the relevant Ward or Village-tract Sub-commission in the manner prescribed.
- (b) If the said name is not deleted from the voting roll by the relevant Ward or Village-tract Sub-commission, there is a right of appeal to the Township Sub-commission as prescribed. The decision of such Sub-commission, with the exception of the provision of Section 53, shall be final and conclusive.
- (c) A person whose name is already included in the voting roll shall not be debarred from voting during the pendency of the appeal at the Township Sub-commission. A vote cast under such a right shall be valid.
19. In preparing the voting roll, the Commission and the respective Sub-commissions shall, if it is found that:
- (a) the names, although eligible are not included in the voting roll, insert such names in the supplementary voting roll;

- (b) the names not eligible are included in the voting roll, delete such names from the voting roll.

20. The voting rolls shall be kept by the designated department, organization or person as prescribed.

21. If there is a by-election to be held in a constituency during a term of the Hluttaw for any reason, the declaration, addition, deletion and amendment based on the original voting roll shall be carried out as prescribed in Sections 14, 15 and 16.

Chapter VII

Nomination of Hluttaw Candidates, Declaration, and Appointment of Election Agent

22. A person desirous of contesting in the election as a Hluttaw candidate shall submit nomination to the Nay Pyi Taw Sub-commission, relevant Self-Administered Division Sub-commission, Self-administered Zone Sub-commission or District Sub-commission in the manner prescribed.

23. A Hluttaw candidate shall not have the right to file a nomination for the candidature in more than one constituency simultaneously.

24. The Nay Pyi Taw Sub-commission, the relevant Self-Administered Division Sub-commission, Self-Administered Zone Sub-commission or

District Sub-commission shall scrutinize in the manner prescribed the nomination of a person for the Hluttaw candidature as to whether it is in conformity with the stipulations or not, and whether it should be accepted or not.

25. At the time of scrutiny by the Nay Pyi Taw Sub-commission, Self-Administered Division Sub-commission, Self-Administered Zone Sub-commission or District Sub-commission under Section 24:

- (a) the person concerned having filed nomination for Hluttaw candidature shall have the right to produce supporting evidence as desired by him;
- (b) any challenging candidate of the constituency in which the said candidate will stand for election may, after producing sufficient evidence, object in the prescribed manner that the person concerned who has filed his nomination for Hluttaw candidature is not eligible or qualified for the election.

26. The Nay Pyi Taw Sub-commission, Self-Administered Division Sub-commission, Self-Administered Zone Sub-commission or District Sub-commission may, after scrutiny as prescribed under Section 24, pass any of the following orders :

- (a) declaring that the person who has filed his nomination for relevant Hluttaw candidature is eligible to be elected as a Hluttaw candidate if he conforms to the stipulations;

- (b) declaring that the person who has filed his nomination for relevant Hluttaw candidature is not eligible to be elected as a Hluttaw candidate if he does not conform to the stipulations.

27. (a) A person dissatisfied with the order passed under Section 26 has the right to appeal to the relevant Region or State Sub-commission in the manner prescribed.

- (b) The decision of the relevant Region or State Sub-commission shall be final and conclusive with the exception of the provision of Section 53.

28. A person who has filed the nomination for the Hluttaw candidature has the right to revoke his nomination in the prescribed manner.

29. A person having filed nomination for the election as Hluttaw candidate shall appoint himself or another person as his election agent in the prescribed manner.

30. (a) Only a person who is qualified to be elected as a Hluttaw representative under this Law shall be appointed as an election agent. Such appointment shall be made only with the consent of the said person.

- (b) In the event of resignation or death or revocation of the election agent appointed under Sub-section (a), the Hluttaw candidate may appoint another person as his election agent.

Chapter VIII

Defence Services Personnel Hluttaw Representatives

31. When the Commander-in-Chief of the Defence Services sends the nomination of Defence Services personnel Hluttaw representatives who do not contravene the provisions of this Law, and who possess the qualifications to be elected as Hluttaw representatives to the Commission, the Commission shall scrutinize the said nomination and notify it to the public.

32. If the Commission finds that a Defence Services personnel Hluttaw representative has involved with any provision of this Law, the Commission shall coordinate with the Commander-in-Chief of the Defence Services to substitute and send the nomination of any other Defence Services personnel Hluttaw representative in place of the said Hluttaw representative.

33. When the Commander-in-Chief of the Defence Services informs the Commission that he wishes to substitute a Defence Services personnel Hluttaw representative nominated by him, the Commission shall notify the nomination of the Defence Services personnel Hluttaw representative to be substituted to the public. The original Hluttaw representative who is substituted shall be deemed to have been terminated as Hluttaw representative from the day of such notification.

Chapter IX

Holding Election

34. The Commission shall :

- (a) hold the elections simultaneously on the same day as far as possible;
- (b) hold the elections on public holiday as far as possible;
- (c) designate and declare the date of election in advance.

35. The Hluttaw representatives, except the Hluttaw representatives included in Chapter VIII, shall be elected by the eligible voters residing in the respective constituencies directly by secret ballot.

36. The Commission may :

- (a) allocate the number of the polling booths for Wards and Village-tracts on the basis of number of eligible voters and situation of the locality or may assign duty also to the relevant Sub-commissions at various levels;
- (b) may assign duty to the Township Sub-commissions to designate the venues for the polling booths.

37. If it is to hold the elections not only for one Hluttaw but also for other Hluttaws simultaneously and to vote at the same time, the Township Sub-commissions may in so allocating the polling booths, have the polling booths designated for each Hluttaw accommodated in separate rooms in a single polling booth in accord with the directive of the Commission .

38. In building polling booths, arrangements shall be made to build the polling booths at the places easily accessible to the public to be secure and not detrimental to the secret ballot. The venue of the polling booths shall be notified to the public in advance.

39. In order to supervise the polling booths at various constituencies, the Township Sub-commission concerned shall form polling booth teams in the prescribed manner. In so forming, it shall :

- (a) appoint suitable persons from amongst the civil services personnel as polling booth officers;
- (b) form polling booth teams consisting of civil services personnel, and citizens, associate citizens or naturalized citizens who are trusted and respected by the local public and are included in any voting roll as far as possible, and assign duties as prescribed;
- (c) prescribe the duties and powers of polling booth officer and members of polling booth team in accord with this Law and Rules.

40. On the day of election, each Hluttaw candidate may, in the prescribed manner, appoint a polling booth agent and an assistant agent who are to act on his behalf at the respective polling booth in the constituency where he is contesting. Such agent and assistant agent shall be included in any voting roll and shall be eligible voters.

41. (a) If there is only a single Hluttaw candidate in a constituency, election for such constituency shall not be held, and the relevant Region or State Sub-commission shall declare such candidate to be the Hluttaw representative.

(b) If there are more than one Hluttaw candidate in a constituency, voting shall be arranged with the ballot boxes and ballot papers as prescribed by Rules.

42. (a) On the day of election, polling booths shall be kept open from 6 a.m. to 4 p.m. However, polling booths may be closed earlier than 4 p.m. if all eligible voters have cast their votes.

(b) When the polling booth is closed at 4 p.m. exactly, if out of those who have arrived on the premises of the said polling booth before it is closed, there are persons who have not cast votes as yet, a list of them shall be prepared and only the persons who are included in that list shall be permitted to cast vote although the polling hours are over.

43. Eligible voters, except the voters who cast with advance ballot paper, shall proceed to the respective polling booth and draw the ballot paper personally, express their wish secretly on it and cast it into the respective ballot box and not by proxy.

44. An eligible voter in an election shall have the right to vote only by a single vote for a Hluttaw candidate whom he wishes out of the Hluttaw candidates to the Hluttaw and shall not have the right to vote more than once.

45. (a) The respective Township Sub-commission shall arrange for the Defence Services personnel, students, trainees, detainees, in-patients at the hospitals and persons on duty who are away from the respective constituency to enable them to vote with advance ballot paper for their respective constituency.

(b) The respective Ward or Village-tract Sub-commission shall arrange for an eligible voter who is included in the voting roll and who will be away from his constituency on the day of election to vote with advance ballot paper.

(c) If persons residing in the constituency who are unable to come to the polling booth to vote in person due to any of the following reasons desire to vote, the Ward or Village-tract Sub-commission concerned shall arrange for them to vote with advance ballot papers as prescribed:

(i) having contracted leprosy;

(ii) being seriously ill;

(iii) being of old age;

(iv) giving birth;

(v) being detained in a police custody or in prison;

(vi) taking medical treatment as an in-patient in hospital;

(vii) being civil services personnel, Defence Services personnel or members of the Police Force who are on temporary duty, away from the area in which they have their voting roll.

(d) Rules shall be made regarding the manner of voting by persons having difficulties in making entries on the advance ballot paper or ballot paper on their own.

46. For obtaining the right to vote, other voters including civil services personnel who are out of the relevant area on duty in any projects, industries, agricultures, livestock breedings and other businesses in other places and voters who are out of the constituency for any matters except the voters contained in sub-section (b) and clause (7) of sub-section (c) of Section 45:

(a) if such voters are desirous to vote for Hluttaw candidates in those respective constituencies by voting roll of permanent place of residence shall perform as follows:

(i) going to their permanent place of residence and voting by

advance ballot paper at the Ward or Village-tract Sub-commission within the stipulated day before holding election;

(ii) voting with the ballot paper in person at the stipulated polling booth in their permanent place of residence on election day;

(b) if such voters are not desirous to vote at their place of permanent residences, it shall be performed in the stipulated manner for enrolling in the voting roll, voting by advance ballot paper and voting by ballot at the polling booth for enabling to vote for the Hluttaw candidates contesting in the constituencies where they exist.

47. (a) The Commission shall make arrangements to enable the diplomats of the Union of Myanmar and members of their household, diplomatic staff and members of their household, State scholars and members of their household, delegates and members of their household, who are outside the country at the time of holding election and those who are outside the country with the permission of the Union government and members of their household at the time of holding election to vote in advance for their respective constituency.

(b) The Ministry of Foreign Affairs shall take the responsibility of communicating with those who are outside the country and who have the right to vote so as to enable them to vote in advance.

Chapter X

Counting of Vote and Declaring Confirmation

48. (a) The Ward or Village-tract Sub-commission shall hand over the advance ballot papers already casted under Sub-sections (b) and (c) of Section 45 and Section 46 and the list of those who have voted with advance ballot papers in connection with the various polling booths to the respective polling booth officer before the opening of the polling booths on election day.

(b) Immediately after the ballot papers are casted in the relevant polling booth, the polling booth officer himself or a member of the polling booth team assigned by him shall count the votes in the polling booth in the presence of the members of the polling booth team, the polling booth agents and the public. In counting, valid votes and invalid votes are to be differentiated in accord with the Rules. The polling booth officer shall prepare the list of number of votes counted and compiled voting list schedules as prescribed and send them to the Ward or Village-tract Sub-commission. A copy shall be sent to the Township Sub-commission.

- (c) The Ward or Village-tract Sub-commission shall supervise the dispatch of the voting list schedules compiled by the polling booth officers in its area in the prescribed manner to the Township Sub-commission as soon as possible to reach it in time.
 - (d) The Township Sub-commissions shall count the advance ballot papers already casted under Sub-section (a) of Section 45 and Section 47 which they have received before 4 p.m. in the presence of Hluttaw candidates or their election agents and the public and shall combine the respective voting list schedules for each Hluttaw constituency in the manner prescribed.
49. (a) If there are more than one Hluttaw candidate in a constituency, the Township Sub-commission shall declare the number of valid votes each Hluttaw candidate has received. To enable determination and declaration of the candidate with the highest number of valid votes as the elected representative and to enable the election to be held again in the case of an equality of valid votes, the Township Sub-commission shall submit it to the Region or State Sub-commission soonest. A copy shall be sent to the Nay Pyi Taw Sub-commission, relevant Self-Administered Division Sub-commission, relevant Self-Administered Zone Sub-commission or District Sub-commission.

- (b) The Region or State Sub-commission shall declare the elected Hluttaw candidate according to the lists submitted under Sub-section (a).
- (c) The Region or State Sub-commission shall scrutinize the submission under Sub-section (a) that the highest number of valid votes is equal at the election contested by more than one Hluttaw candidate, and submit it to the Commission with its remark. If the Commission directs to hold the election again, it shall again be held by Sub-commissions at various levels in accord with this Law. Only the candidates whose votes are so equal are eligible to stand for the election held afresh.

Chapter XI

Powers of Commission

50. The Commission may :
- (a) postpone the election in the constituencies in which elections could not be held due to any natural disaster till such a time as such disaster is over;
 - (b) postpone the election in a constituency where preparation of the voting roll or balloting is not possible due to lack of security situation;

- (c) decide to hold election in some areas within a constituency where the situation permits, decide not to hold election in some areas therein where the situation does not permit or decide to transfer the polling booths to secure places. However, if 51 percent of all voters have casted the votes, it may be designated as completed election. Should it be the opinion of the Commission that free and fair election cannot be held, it may postpone the election in the entire constituency.

51. The Commission may delegate to Sub-commissions the power to postpone elections and to transfer the venue of polling booths to secure places as appropriate.

52. In a constituency where there is only a single Hluttaw candidate, before the election is held, if the candidate passes away or is found that he is not eligible to stand for election, the election for such constituency shall start afresh from the stage of the nomination of the candidate.

53. The Commission has the power to call for the proceedings and documents of each Sub-commission relating to election matters *suo motu* as it deems fit, study and decide as may be necessary. Such decision shall be final and conclusive.

54. The Commission may take measures as may be necessary for the successful holding of free and fair election.

Chapter XII

Election Expenses

55. The election agent shall keep accounts of the expenses for the relevant election systematically as prescribed. He shall submit the accounts of such expenses in the manner prescribed to the Nay Pyi Taw Sub-commission, relevant Self-Administered Division Sub-commission, Self-Administered Zone Sub-commission or District Sub-commission .

56. The maximum expenses entitled to be used for the election and the number of persons or property which is entitled to be employed by payment for the Hluttaw candidate shall be as prescribed.

Chapter XIII

Election Offences and Penalties

57. Whoever is found guilty of violence, threat, undue influence, cheating, taking or giving of bribes to prevent a person from exercising the right of voting and the right to stand for election shall , on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both.

58. Whoever is found guilty of or abetting one of the following acts shall, on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both:

- (a) giving and taking bribes by way of money, goods, foodstuff, position or service transfer or by using any other right in order to obtain the electoral right by unlawful means or as gratitude for obtaining such right;
- (b) threatening a Hluttaw candidate or a voter to prevent him from freely exercising his electoral right;
- (c) uttering, making speeches, making declarations and instigating to vote or not to vote on grounds of race or religion or by abetment of such acts;
- (d) giving speeches at meetings, instigation, writing, distributing, using posters or attempting by other means to the voting or election.

59. Whoever is found guilty of or abet one of the following acts shall, on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both:

- (a) intentionally making illegible or destroying list, notices or other electoral documents published by the Commission and Sub-commissions;
- (b) intentionally destroying voting roll or ballot paper or advance battot paper, the envelope or pouch used in sending them or making illegible the entries made therein;

- (c) giving the ballot paper or advance ballot paper to some other person in a malicious manner;
- (d) inserting into the ballot box any article other than a ballot paper;
- (e) opening , without authorization, the ballot box which is being used or destroying the ballot paper or advance ballot paper;
- (f) voting in any election at more than one Hluttaw constituency;
- (g) voting more than once in any election for a Hluttaw constituency in which he has the right to vote;
- (h) obtaining or casting ballot paper or advance ballot paper by impersonating another person;
- (i) entering the polling booth without permission while the election is in progress;
- (j) putting any counterfeit ballot paper or more into the ballot box.

60. Whoever is found guilty of disturbing any eligible voter so as to prevent him from casting the vote on the election day or whoever is found guilty of abetting such act shall, on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both.

61. Whoever is found guilty of committing one of the following acts inside the polling booth or within the radius of 500 yards from the polling booth on the election day shall, on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both:

- (a) canvassing ;
- (b) soliciting a voter to vote or exhorting and inducing him not to vote for a Hluttaw candidate ;
- (c) exhorting and inducing to vote or not to vote in the election.

Explanation: For the purpose of this section affixing and hanging campaign posters etc. regarding the election in other places are not included.

62. Whoever is found guilty of causing disturbance to the voters or the polling booth officer and members of the polling booth team on duty by using loudspeakers or by such equipment which amplify the voice or by other indisiplined acts, inside the polling booth or within 500 yards radius from the polling booth shall , on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both.

63. Whoever is found guilty of re-entering the polling booth without permission of the polling booth officer after being evicted from the polling

booth by a member of the Police Force on duty, or by other security personnel on duty under the order by the polling booth officer or by the member of the polling booth team authorized by the polling booth officer for disobedience of the lawful order of the polling booth officer or acting in an indecorous manner inside the polling booth, during polling hours shall, on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one hundred thousand kyats or with both.

64. Whoever is found guilty of dishonestly and fraudulently lodging any criminal proceedings against any person regarding offences relating to election shall, on conviction, be punishable with imprisonment for a term not exceeding three years or with fine not exceeding three hundred thousand kyats or with both.

65. (a) The offences contained in this Chapter are designated as cognizable offences.
- (b) Regarding offences relating to elections, any person having the right to vote of the constituency concerned, or any Hluttaw candidate or any election agent or a member of a Sub-commission concerned or any member of the polling booth team having credible evidence may file a complaint in accord with law before or during the election or within 15 days from the election day.

Chapter XIV
Malpractices

66. The followings are malpractices:

- (a) committing the following offences by Hluttaw candidate himself or his election agent or any person with the approval of one of them:
 - (i) giving or taking bribes ;
 - (ii) interfering with the electoral right ;
 - (iii) impersonation ;
 - (iv) making false verbal or written declaration ;
 - (v) admitting and false signing of statement ;
- (b) casting of vote more than once in one constituency or in more than one constituency when elections are simultaneously held, which is of advantage to a Hluttaw candidate he favours;
- (c) incurring election expenditure not in conformity with the stipulations or giving consent to incur such expenditure by a Hluttaw candidate or his election agent;
- (d) failure of the election agent to keep account for the election expenses as prescribed ;

- (e) with the prompting or consent of the Hluttaw candidate or his election agent:
 - (i) accepting bribe or agreeing to accept bribe by a person or in gratitude, with the intention of participating or not as a Hluttaw candidate or resigning from being a Hluttaw representative;
 - (ii) agreeing to accept bribe by a person for himself or for other person with the intention of inducing or attempting to induce a voter to vote or to abstain from voting;
- (f) submitting false accounts made of the election expenses or declaring the false accounts to be true or failure to submit the election expenses as prescribed;
- (g) any other person who is not a Hluttaw candidate or an election agent of a Hluttaw candidate, without permission of such candidate with a view to electing him or abets him to be elected as a Hluttaw candidate, incur expenses or permits to incur expenses by means of convening meeting or distributes paper or documents or any other way;
- (h) gaining advantage for the Hluttaw candidate whom he favours by means of publishing and distributing announcements, papers and

posters relating to the election without mentioning names and addresses of printers and publishers;

- (i) taking away his ballot paper by the voter from the polling booth during time of voting, with the prompting or consent of the Hluttaw candidate or his election agent;
- (j) obtaining, abetting or attempting to obtain the help of any service personnel for being elected as Hluttaw candidate by the Hluttaw candidate or his election agent or any other person with the consent of any of them;
- (k) using religious symbols or instigating with plans to vote or not to vote based on race or religion for being elected as Hluttaw candidate;
- (l) creating violence, making false accusation, writing, creating public unrest to a party or person for the purpose of electing a Hluttaw candidate.

Chapter XV

Decision on Objection of Having Elected

67. If objection is desired to be made as regards having elected, it shall be made by paying the stipulated fee with the submission of an electoral objection in accord with the provisions of this Chapter.

- 68. (a) Objection to an elected Hluttaw representative may be made to the Commission as prescribed by any challenging Hluttaw candidate or any voter by giving appropriate reason relating to the election other than matters which have been decided by the Commission under Section 53.
- (b) If a Hluttaw candidate, in his objection against an elected Hluttaw representative, intends to seek a declaration that he only has obtained the majority votes and that he should be elected, he is to base his objections on one of the following:
 - (i) the reason that only the applicant has in fact obtained the maximum valid votes;
 - (ii) the reason that, only the applicant could obtain the maximum valid votes, if votes obtained by the elected Hluttaw representative did not include votes obtained by malpractice.
- 69. (a) The Commission may form the following Election Tribunals to examine the electoral objections :
 - (i) the Election Tribunal consisting of a Commission member as Chairman and other two commission members;

- (ii) the Election Tribunal consisting of a Commission member as Chairman and two suitable citizens who are experts in law.
- (b) Election Tribunal members shall not be members of any political party.
- (c) Remuneration for members of the Election Tribunal, who are not members of the Commission shall be determined by the Commission.
- (d) All matters concerning electoral objections shall be administered by the Election Tribunals.
- (e) In respect of the election held for one constituency, if more than one electoral objection are submitted, the Commission shall assign the objections to only one Election Tribunal formed for that constituency. Such tribunal may examine the objections separately or jointly at its discretion.
- (f) If an appointed member of the Election Tribunal cannot carry out his duties as a member of the tribunal or is unable to continue carrying them out during an examination, the Commission shall appoint a substitute member. The reconstituted Election Tribunal may make fresh examination of the pending objections, if it so desires.

70. In hearing the electoral objections, the tribunal may, if necessary, invite the Attorney General as *amicus curiae* and seek legal advice. If the Attorney General is unable to attend the tribunal in person he may depute a suitable person not below the rank of Law Officer Grade (1) from the Office of the Attorney General to act on his behalf.

71. The Election Tribunal may decide the election of the Hluttaw representative to be invalidated, if it finds that the elected Hluttaw representative has been involved with any of the following:

- (a) that it is apparent the elected Hluttaw representative obtained the majority votes by malpractices, or by inducement in the said manner, or the success or failure of the election is due only to malpractices;
- (b) that it is apparent malpractice has been committed in the interest of the elected Hluttaw representative;
- (c) that it is apparent the election is not free and fair;
- (d) that it is apparent the election is not free and fair because of bribery and interference in the exercise of electoral rights, or that the success in the election is due to such acts;

- (e) that it is apparent he is an individual or a member of any organization contained in Sub-sections (f), (g), (h) ,(i) or (l) of Section 10.

72. (a) The Election Tribunal shall, after examining the objections, submit to the Commission whether the elected person or the applicant who applied by submitting electoral objection, that he is entitled to be declared as the elected person, is the elected person as Hluttaw representative.

- (b) All the members of the Election Tribunal shall sign the report in which their decision is included and submit to the Commission soonest.

73. In reporting the Election Tribunal that the elected Hluttaw representative is guilty of malpractice due to the acts of a person other than the election agent , and is of opinion that it is due to any of the following , the Commission may decide that the election of the said Hluttaw representative is not void:

- (a) that the malpractice has been committed without the consent of the Hluttaw candidate and his election agent;
- (b) that the Hluttaw candidate and his election agent have prevented, to their utmost, malpractices in the election;

- (c) that the malpractices are of a trivial nature and have not affected the election;

- (d) that the election has been free from malpractice of the Hluttaw candidate and his election agent.

74. (a) The petitioner who is dissatisfied with the decision of the Election Tribunal or the person who is included as a respondent may apply to amend the legal error within the prescribed period to the Commission in the prescribed manner. Only if a question of law arises there is the right to apply under this Section.

- (b) If there is no petition to the Commission within the prescribed period under Sub-section (a), the Commission shall publish the decisions of the Election Tribunal or Election Tribunals in the official Gazette.

75. (a) On receiving the petition under Section 74, the Commission may, after hearing the petitioner and the respondent or their lawyer or agent, as may be necessary , make one of the following decisions:

- (i) approving the decision of the Election Tribunal;
- (ii) setting aside the decision of the Election Tribunal.

- (b) The decision of the Commission under Sub- section (a) shall be final and conclusive and such decision shall be published in the official Gazette.

76. If there is any differed opinion among members of the Election Tribunal in submitting report or in performing any other matter relating to electoral objection, the opinion of the majority shall prevail. If there is a dissenting member, he shall have the right to mention a summary of his reasons in that report and sign the report.

77. The Election Tribunal has the right to exercise the powers vested in the Court under the Code of Civil Procedure. In addition, it may, on its own motion summon and examine any person who is considered to be able to produce material evidence.

78. In examining the electoral objections, the Election Tribunal has the right to apply the provisions of the Evidence Act.

79. Any document shall not be inadmissible as evidence on the ground that it is not duly stamped or not duly registered as prescribed.

80. In an examination, the witness shall answer the questions in respect of the relevant issues. However:

- (a) the voter shall not be questioned to reveal for whom he has voted;

- (b) no witness who is compelled to answer a question with the exception of the offence of perjury based on the statement, and such statement shall not be used as evidence in any other offence.

81. The petitioner or respondent himself or his representative or a lawyer acting on his behalf may appear before the Election Tribunal. However, if the Election Tribunal directs the petitioner or respondent to appear in person, he shall do so accordingly.

Chapter XVI

Miscellaneous

82. The person who performs the duties concerning election including Sub-commissions at various levels shall comply with the followings:

- (a) preparing and maintaining accurately the lists and records relating to the election;
- (b) assisting and safeguarding the secret balloting;
- (c) keeping the other matters except the lists and facts permitted to be published by the Commission in order to prevent leakage;
- (d) performing for any Hluttaw candidate justly in the election, abstaining from canvassing or bias for any Hluttaw candidate.

83. If a polling booth officer finds out that a person has committed or is committing an offence prescribed by this Law, he may direct a member of the

Police Force on duty or other responsible security personnel to arrest such person.

84. The Commission and Sub- commissions may obtain necessary assistance from Government departments or organizations or other organizations and individuals.

85. Carrying out the duties of a member of the Commission or Sub-commissions , or carrying out the staff duties of election in any capacity shall be deemed to be carrying out the duties of the State.

86. No Court has jurisdiction on the acts and decisions made by the Commission and Sub- commissions at various levels and the Election Tribunals under the provisions of this Law.

87. No civil or criminal action shall be taken against the Commission and members of the Commission, Sub- commissions at various levels and their members, Election Tribunals, members of the Election Tribunals, members of the polling booth teams including polling booth officers who in the exercise of the powers conferred lawfully discharge their duties according to law, in good faith and to the best of their ability.

88. The Hluttaw candidate whose election has been declared as invalidated as prescribed in Sub-section (b) of Section 74 or Sub-section (b) of Section 75 by the commission in the official Gazette, the Hluttaw representative or election agent who has been decided by the Election Tribunal and declared by the

Commission for failure to submit the election expenses as prescribed and having declared as a person of distorted qualification, the Hluttaw representative who has been declared by the Commission as having no right to subsist as a Hluttaw representative due to having punished with imprisonment under any existing law after being elected, the Hluttaw candidate or the Hluttaw representative having no right to subsist as declared by the Commission due to having convicted under any offence in Chapter XIII shall not contest in the election as a Hluttaw candidate from the date of declaration in the existing Hluttaw term and the next Hluttaw term.

89. If there is a vacancy for Hluttaw representative due to any reason in the Hluttaw, it shall be substituted by election in accord with law.

90. In implementing the provisions of this Law the Commission may make rules, procedures, notifications, orders and directives as may be necessary.

(Sd.) Than Shwe

Senior General

Chairman

The State Peace and Development Council