

The Union of Myanmar

The State Peace and Development Council

The Region or State Government Law

(The State Peace and Development Council Law No. 16 / 2010)

The 13th Waxing Day of Thadingyut ,1372 M.E.

(21st October , 2010)

Preamble

Since it is provided in section 443 of the Constitution of the Republic of the Union of Myanmar that the State Peace and Development Council shall carry out the necessary preparatory works to implement the Constitution, it has become necessary to enact the relevant laws to enable performance of the legislative, administrative and judicial functions of the Union smoothly, to enable performance of works that are to be carried out when the various Hluttaws come into existence and to enable performance of the preparatory works in accord with law.

As such, the State Peace and Development Council hereby enacts this Law in accord with section 443 of the Constitution of the Republic of the Union of Myanmar, in order to implement the administrative works by the Region or State Government smoothly under the Constitution of the Republic of the Union of Myanmar.

Chapter I

Title, Enforcement and Definition

1. (a) This Law shall be called **the Region or State Government Law**.
- (b) This Law shall come into force commencing from the day on which the Constitution comes into force.
2. The following expressions contained in this Law shall have the meanings given hereunder: -
 - (a) **Constitution** means the Constitution of the Republic of the Union of Myanmar;
 - (b) **Region or State Government** means the Region or State Government formed under the Constitution and this Law;
 - (c) **Self-Administered Area** means the Self-Administered Division or Self-Administered Zone;
 - (d) **Hluttaw** means the relevant Region or State Hluttaw;
 - (e) **Chief Minister** means the Chief Minister of the relevant Region or State;
 - (f) **Minister** means the Minister of the relevant Region or State;
 - (g) **Advocate-General** means the Advocate-General of the relevant Region or State.

Chapter II

Formation, Appointment and Assigning Duty

Formation of the Region or State Government

3. (a) The Region or State Government shall be formed with the following persons:
 - (i) Chief Minister;
 - (ii) Ministers;
 - (iii) Advocate-General.
- (b) The Head of the General Administration Department of the Region or State is the ex-officio Secretary of the relevant Region or State Government.

Determining the Number of Ministries and Ministers

4. The President, with the approval of the relevant Region or State Hluttaw:
 - (a) shall determine the number of Ministries of Region or State with a minimum of five to a maximum of ten in number. It may make changes and additions to the Ministries within such stipulated number;
 - (b) shall determine and assign duty to the number of Ministers of Region or State with a minimum of five to a maximum of ten in

number. It may increase and decrease the number of Ministers within such stipulated number. In determining and assigning duty to the Ministers, it shall assign duty to one Minister each as a Mayor for Yangon Region and Mandalay Region.

- (c) In the number of Ministers of the Region or State stipulated under sub-section (b), the Region or State Ministers of the National Races and the Chairpersons of the Leading Body of the Self-Administered Division or the Self-Administered Area who are the ex-officio Ministers of the Region or State shall not be included.

5. The President shall determine specifically the departments and organizations which shall be included in the Ministry of Region or State on the submission of the Government of the Region or State.

Appointment of and Assigning Duty to the Chief Minister

- 6. (a) The President shall elect a suitable Hluttaw representative from among the representatives of the relevant Region or State Hluttaw who fulfils the qualifications contained in sub-section (a) of section 261 of the Constitution and submit his nomination list to the Hluttaw, obtain its approval, appoint and assign duty to him as the Chief Minister of the relevant Region or State.

- (b) If it cannot be clearly proved that the relevant person does not fulfil the qualifications prescribed for the Chief Minister, the relevant Hluttaw shall not have the right to refuse the appointment of and assigning duty to a Hluttaw representative nominated by the President as the Chief Minister.
- (c) The President has the right to submit again the new nomination list in place of the person who has not obtained the approval of the relevant Hluttaw for the appointment of and assigning duty to the Chief Minister.

7. The Chief Minister shall be responsible to the President.

Appointment of and Assigning Duty to the Ministers

- 8. (a) The Chief Minister shall:
 - (i) select suitable persons who fulfil the qualifications contained in sub-section (a) of section 261 of the Constitution, from among the Hluttaw representatives or from among persons who are not Hluttaw representatives;
 - (ii) request for a list of suitable members of the Defence Services from the Commander-in-Chief of the Defence Services to enable assignment of duties for the security and border affairs;

- (iii) obtain a list of Chairperson from the Leading Body of the Self-Administered Division or Leading Body of the Self-Administered Zone situated in the relevant Region or State;
 - (iv) obtain from the relevant Election Commission the list of Hluttaw representatives elected to carry out the affairs of National races in the relevant Region or State.
- (b) The Chief Minister shall compile the list of persons selected by him under clause (i) of sub-section (a) and the list of the members of the Defence Services obtained from the Commander-in-Chief of the Defence Services under clause (ii) of sub-section (a) and submit them to the Hluttaw for its approval.
- (c) If it cannot be clearly proved that the qualifications stipulated for the Ministers are not fulfilled the relevant Hluttaw shall not have the right to refuse the appointment of and assigning duty to the persons nominated by the Chief Minister as the Ministers.
- (d) The Chief Minister has the right to submit again to the relevant Hluttaw the new nomination list in place of the person who has not obtained the approval of the relevant Hluttaw for the appointment and assigning duty as a Minister.
- (e) The Chief Minister shall, if he desires to assign duty to the members of the Defence Services as Ministers for duties other than duties for the security and border affairs, request the

nomination list from the Commander-in-Chief of the Defence Services and submit it to the President, with the approval of the relevant Hluttaw.

- (f) The Chief Minister shall submit to the President to enable appointment and assignment of duty to the persons who have been approved by the Hluttaw and the persons contained in the list of Chairpersons of the Leading Body of the Self-Administered Division or Self-Administered Zone and the list of representatives elected to carry out the affairs of National races as the Ministers.
 - (g) The President shall appoint and assign duty to the persons submitted by the Chief Minister as Ministers. In doing so, the Ministry or Ministries for which each Minister shall be responsible, shall be determined in coordination with the relevant Chief Minister.
- 9. The President shall intimate to the Hluttaw and Pyidaungsu Hluttaw whenever the appointments of the Chief Minister and Ministers are made by mentioning the Ministries assigned to them.
- 10. (a) The President:
 - (i) shall assign duty to the Chairpersons of the Self-Administered Division Leading Body and the Self-Administered Zone Leading Body who are the Ministers to carry out the affairs of the relevant Self-Administered Division or Self-Administered Zone;

(ii) shall assign duty to the Hluttaw representatives elected in order to carry out the national races affairs and who are the Ministers to carry out the affairs of relevant national races;

(b) may assign duty to the Ministers of national races affairs and the Chairpersons of the Self-Administered Division or the Self-Administered Zone Leading Bodies for the duties of other Ministries in the Region or State Government jointly after coordinating with the Chief Minister;

(c) shall assign duties of other Ministries in the Region or State Government to the Chairperson of the Self-Administered Division or Self-Administered Zone Leading Body only if his consent is obtained. In so assigning separate duties, he shall resign from the office of the Chairperson of Self-Administered Division or Self-Administered Zone Leading Body to enable carrying out of the duties of the Region or State Ministry efficiently.

11. The President shall, in assigning duty as a Minister, reduce the limit of age prescribed in the Constitution for the following persons:

(a) Chairperson of the relevant Self-Administered Division Leading Body or Self-Administered Zone Leading Body;

(b) Hluttaw representative elected to carry out the National Races affairs within the relevant Region or State.

12. The Ministers shall be responsible to the Chief Minister and to the President through the Chief Minister.

13. The Minister:

(a) shall be deemed to have retired from office in accord with the existing Civil Services rules and regulations from the day of appointment and assigning duty as a Minister, if he is a Civil Services personnel;

(b) It shall not be necessary to retire or resign from the Defence Services if he is a member of the Defence Services appointed and assigned duty as a Minister for the security and border affairs Ministries of the Region or State Governments.

Appointment of and Assigning Duty to the Advocate General

14. (a) The Chief Minister shall submit to the President, with the approval of the Hluttaw, for enabling to assign duty to any person who fulfils the qualifications contained in sub-section (a) of section 266 of the Constitution from among the Hluttaw representatives or from those who are not the Hluttaw representatives as Advocate General to obtain legal advice and to assign duty on legal matters. The President shall appoint and assign duty as Advocate General to a person submitted with the approval of the Hluttaw.

- (b) If it cannot be clearly proved that the qualifications stipulated for the Advocate-General are not fulfilled, the relevant Hluttaw shall not have the right to refuse the appointment of and assigning duty to a person nominated by the relevant Chief Minister as the Advocate-General.
- (c) The Chief Minister has the right to submit again to the relevant Hluttaw the new nomination list in place of the person who has not obtained approval of the relevant Hluttaw for the appointment of and assigning duty as the Advocate-General.

15. The Advocate-General shall:

- (a) be responsible to the President through the Chief Minister;
- (b) be responsible to the Union Attorney General and the Chief Minister.

16. If the Advocate-General is a Civil Services personnel, it shall be deemed that he has retired from civil service in accord with the existing Civil Services rules and regulations from the day of assigning duty as Advocate-General.

Appointment and Assigning Duty to the Chief Justice of the High Court of the Region or State

17. (a) The President shall, in co-ordination with the Chief Justice of the Union and the relevant Chief Minister, prepare the nomination list for the appointment of the Chief Justice of the relevant High Court of the Region or State and the said nomination list shall be sent to the relevant Hluttaw.

- (b) If it cannot be clearly proved that the qualifications prescribed in section 310 of the Constitution for the Chief Justice of the High Court of the Region or State are not fulfilled, the relevant Hluttaw shall not have the right to refuse the person nominated by the President, in co-ordination with the Chief Justice of the Union and the relevant Chief Minister for the appointment of the Chief Justice of the High Court of the relevant Region or State.
- (c) The President shall have the right to submit again a new nomination list to the relevant Hluttaw in place of the person who is not approved by the relevant Hluttaw for the appointment of the Chief Justice of the High Court of the Region or State.
- (d) The President shall appoint and assign duty to the persons approved by the relevant Hluttaw as the Chief Justice of the High Court of the relevant Region or State.

Appointment and Assigning Duty to the Judges of the High Court of the Region or State

18. (a) The Chief Minister shall, in co-ordination with the Chief Justice of the Union, prepare the nomination list for the appointment of the Judges of the High Court of the relevant Region or State and the said nomination lists shall be sent to the relevant Hluttaw.
- (b) If it cannot be clearly proved that the qualifications prescribed in section 310 of the Constitution for the Judges of the High Court

of the Region or State are not fulfilled, the relevant Hluttaw shall not have the right to refuse the persons nominated by the Chief Minister, in co-ordination with the Chief Justice of the Union for the appointment of the Judges of the High Court of the relevant Region or State.

- (c) The Chief Minister shall have the right to submit again a new nomination list to the relevant Hluttaw in place of the person who is not approved by the relevant Hluttaw for the appointment of the Judges of the High Court of the Region or State.
- (d) The President shall appoint and assign duty to the persons approved by the relevant Hluttaw as the Judges of the High Court of the relevant Region or State.

19. The Chief Justice of the High Court of the Region or State and the Judges of the High Court of the Region or State:

- (a) shall be free from party politics:
- (b) shall be deemed to have retired in accord with the existing Civil Services Regulations commencing from the day of the appointment as the Chief Justice of the High Court of the Region or State or Judge of the High Court of the Region or State if they are Civil Services personnel.

Appointment and Assigning Duty to the Auditor-General of the Region or State

20. (a) The Chief Minister shall submit to the President for appointment and assigning duty to a person from among Hluttaw representatives or from among those who are not Hluttaw representatives who fulfils the qualifications contained in sub section (a) of Section 271 of the Constitution, with the approval of the Hluttaw of the relevant Region or State as the Auditor-General of the Region or State so as to audit the accounts of receipt and expenditure of the Region or State and report to the Hluttaw. The President shall appoint and assign duty to the person submitted with the approval of the Hluttaw as Auditor General of the Region or State.
- (b) If it cannot be clearly proved that the qualifications stipulated for the Auditor-General of the Region or State are not fulfilled, the relevant Hluttaw shall not have the right to refuse the appointment of and assigning duty to the person nominated by the Chief Minister of the relevant Region or State as the Auditor-General of the Region or State.
- (c) The Chief Minister has the right to submit again a new nomination list to the relevant Hluttaw in place of the person who is not approved by the relevant Hluttaw for the appointment of and assigning duty to a person as the Auditor-General of the Region or State.

21. The Auditor-General of the Region or State shall:
- (a) be responsible to the President through the Chief Minister;
 - (b) be responsible to the Auditor-General of the Union and to the Chief Minister.
22. If the Auditor-General of the Region or State is a Civil Services personnel, it shall be deemed that he has retired from civil service according to the existing Civil Services rules and regulations from the day of assigning duty as the Auditor-General of the Region or State.

Chapter III

Duties and Powers of the Chief Minister

Matters Relating to the Promulgation as Law

23. (a) The Chief Minister shall sign the Bills approved by the Region or State Hluttaw within seven days from the day next to the day of receipt in accord with the stipulated manners and promulgate it as law.
- (b) The Chief Minister shall sign the Bills approved by the Leading Body of the Self-Administered Division or Self-Administered Zone within 14 days from the day next to the day of receipt and promulgate it as law.
- (c) If the Chief Minister does not sign and promulgate the Bill as law within the prescribed period contained in sub-sections (a) and (b)

to sign and promulgate as law by him, the Bill shall become a law as if the Chief Minister had signed it on the day of the completion of the stipulated period.

- (d) The laws signed by the Chief Minister and the laws which are deemed to have been signed by him, shall be published in the Gazette. Unless a specific provision is contained in such law, the law shall come into force on the day of such promulgation.

Matters Relating to Territorial Boundary

- 24 If a cause arises to alter or form the territorial boundary or change the name of a village, village-tract, ward, town, township or district of a relevant Region, State, Self-Administered Division or Self-Administered Zone, the Chief Minister shall submit it with recommendation to the President.

Other Matters

25. The Chief Minister who is a member of the Financial Commission shall prepare the estimate budget or estimate for supplementary appropriation of his Region or Stat for the relevant financial year within the stipulated period and submit to the Financial Commission.
26. The Chief Minister shall have the right to submit matters to the Constitutional Tribunal of the Union in accord with the stipulated manners to obtain the interpretation, decision and opinion of the Constitutional Tribunal of the Union.

27. The Chief Minister may:
- (a) intimate to the Speaker of the Hluttaw to summon an emergency session or a special session of the Hluttaw.
 - (b) may address the session of Hluttaw.

Chapter IV

**Duties and Powers of the Members of the Government of the
Region or State**

Executive Power of the Region or State Government

28. Subject to the provisions of the Constitution, the executive power of the Region or State Government extends to the matters on which the Region or state Hluttaw has power to make laws. Moreover, it also extends to the matters on which the Region or State Government is permitted to carry out in accord with any Union Law.
29. The Region or State Government shall have the responsibility to assist the Union Government in the preservation of the stability of the Union, community peace and tranquillity and prevalence of law and order.
30. The Region or State Governments and the Leading Bodies of Self-Administered Division or Self-Administered Zone shall abide by the cooperation and co-ordination of the Union Government to carry out effectively and successfully the works that are to be carried out by them.

31. The Region or State Government:
- (a) shall manage, guide, supervise and inspect the work performances of the Ministries of the Region or State and their subordinate Government departments and organizations in accord with the provisions of the Constitution and the existing law;
 - (b) may supervise, inspect, cooperate and coordinate the work performances of the civil service organizations discharging duties in their Region or State in accord with law.
32. The Region or State Government:
- (a) shall comply with the cooperation, coordination, settlement and decisions made when necessary by the Union Government relating to disputes on administration arising between the Region and State, among Regions, among States, between the Region or State and Self-Administered Area;
 - (b) shall comply with the cooperation, coordination, settlement and decisions made, when necessary by the Union Government relating to disputes on administration arising between the Region or State and the Union Territory.

Matters Relating to Planning and Finance

33. The Region or State Government shall, subject to the policies laid down by the Union Government and Union laws, implement the plans on works that are to be carried out within the Region or State with the approval of the Hluttaw.

34. The Region or State Government shall submit the estimate budget of the Region or State drawn by the Region or State Budget Department within the framework laid down by the Financial Commission according to the relevant financial year to the Hluttaw for enabling to discuss.

35. The Region or State Government shall, with the recommendation of the Chief Minister, submit to and obtain the approval of the Hluttaw on the estimate budget of the Region or State including the fund received from the Union Fund for its Region or State under the Union Budget Law or the Supplementary Appropriation Law after submitting and coordinating the estimate budget of the Region or State, which has been discussed in the Hluttaw to the Financial Commission.

36. The Region or State Government shall, in accord with the provisions of the Constitution, submit to the Hluttaw for enabling to promulgate the Region or State Budget Bill for the next financial year based on the annual Union Budget.

37. The Region or State Government shall, if the Region or State Budget Bill for the next financial year submitted under section 36 is unable to be promulgated by the Hluttaw before the end of the current financial year, have the right to expend only the general expenditure among the expenditure of the next budget year within the allotted framework of the general expenditure contained in the last enacted Budget law of the Region or State enacted.

Matters Relating to Taxes and Revenues

38. The Region or State Government shall;
- (a) collect the taxes and revenues contained in Schedule 5 of the Constitution in accord with law and deposit them to the Region or State fund;
 - (b) deposit the fund supplemented from the Union fund, granted as a special matter and permitted as loan for the Regions or States under the Union Budget Law as the receipt to the Region or State fund.

39. The Region or State Government has the right to expend the funds of the Region or State obtained under section 38 in accord with law.

Other Matters

40. The Region or State Government may, with the approval of the Union Government, carry out any business stipulated only to be carried out by the Union Government jointly with the Union Government or in accord with the terms and conditions.

41. The Region or State Government may submit the necessary Bills relating to the matters contained in the Region or State Legislative List, Schedule 2 of the Constitution, in accord with the provisions of the Constitution to the Hluttaw.

42. The Region or State shall:
- (a) implement the administrative decisions passed by the Hluttaw from time to time. The actions taken shall be reported back to the Hluttaw;
 - (b) submit the report relating to the various situation of its region to the Union Government and the Hluttaw.
43. The Region or State Government may, for enabling to implement the works to be carried out by itself in accord with the Union law for Civil Services and in co-ordination with the Union Government in advance:
- (a) form Civil Services Organizations relating to the Region or State as may be necessary;
 - (b) appoint the necessary Civil Services personnel.
44. The Region or State Government shall, if any of the following situations arise, submit to the President as soon as possible:
- (a) there arising a state of emergency under which it is unable to carry out the administrative functions in its Region or State, or in a Self-administered Area in its Region or State in accord with the provisions of the Constitution;
 - (b) there arising or there is sufficient cause to so arise a state of emergency endangering the lives, shelter and property of the public in its Region or State, in Self-Administered Area in its Region or State, or in any part thereof.

45. The Region or State Government shall:
- (a) carry out the functions and duties assigned by the Union Government from time to time.
 - (b) carry out the functions and duties assigned by any existing law.

Sessions of the Region or State Government

46. The regular session of the Region or State Government shall be convened generally at least twice per month. The special session may be convened if it is necessary.
47. The Chief Minister shall act as the Chairperson in the sessions of Government meetings.
48. The Chairpersons of the Leading Bodies of the Self-Administered Divisions Self-Administered Zones and the Ministers of National Races have the right to attend the session of Government meeting only when they are invited.
49. A member of the Region or State Government shall not fail to attend the meeting without reasonable cause. If he is unable to attend the meeting, he shall ask permission from the Chief Minister in advance with valid ground.
50. (a) The minutes of the meeting shall be recorded by the Office of the Region or State Government.
- (b) The minutes of the meeting shall be submitted to and approved by the next meeting.

- (c) The decisions of the Region or State Government which have not been published and the minutes of the meeting are the confidential of the Union.

Chapter (V)

Term of Office, Resignation from Office, Termination from Office, Impeachment, Filling up and Appointing at the Vacant Office

Term of Office of the Members of the Region or State Government

51. The term of office of the Chief Minister, the Ministers and the Advocate General are the same as that of the President.

Resignation from Office and Termination from Office of the Members of the Region or State Government

- 52. (a) If the Chief Minister desires to resign from office on his own volition due to a certain cause before the expiry of the term of office, he may do so by submitting his written resignation to the President.
- (b) If the Minister or the Advocate General desires to resign from office as contained in sub-section (a), he may do so by submitting his written resignation to the President through the relevant Chief Minister.
- 53. (a) If any of the Chief Minister, the Minister and the Advocate General cannot discharge his functions and duties efficiently, the President

may direct him to resign from office. If he fails to comply with the directive of the President, he shall be terminated from office.

- (b) The President shall coordinate with the Commander-in-Chief of the Defence Services if it is concerned with the Minister who is a member of the Defence Services and who is to be resigned or terminated from office.

Impeachment against the Members of the Region or State Government

54. If any of the following persons is impeached due to any cause contained in sub-section (a) of section 263 of the Constitution, it shall be carried out in accord with provisions contained in sub-sections (b), (c),(d) and (e) of section 263 of the Constitution:

- (a) Chief Minister;
- (b) Minister;
- (c) Advocate General.

55. If the Hluttaw submits to the President the decision that the Chief Minister, the Minister, and the Advocate General who are impeached for any cause contained in sub-section (a) of section 263 of the Constitution is unfit to continue in office after carrying out the inquiry in accord with the provisions contained in sub-sections (b),(c) and (d) of section 263 of the Constitution, such person shall be terminated from office.

Filling up and Appointing at the Vacant Office of the Members of the Region or State Government

56. If the office of any of the following persons becomes vacant due to resignation, termination from office, death or any other cause, the President may fill up, appoint and assign duties at such vacant office in accord with the provisions of the Constitution. The term of office of the persons so appointed and assigned duties shall be for the remaining term of office of the President:

- (a) Chief Minister and Ministers;
- (b) Advocate General;
- (c) Chairperson of the Leading Body of the Self-Administered Division or Self-Administered Zone.

Performing Duties in the State of Emergency Period

57. It shall be deemed that the members of the organization appointed and assigned duties with the approval of the relevant Hluttaw have been suspended from duty from the day of transferring of legislative, executive and judicial powers of the Union to the Commander-in-Chief of the Defence Services by the President under section 418 of the Constitution as the state of emergency arises according to section 417 of the Constitution.

58. If the President revokes the temporary suspension of the legislative functions of the relevant Hluttaw under section 418 of the Constitution, the new executive and judicial bodies of the relevant Region or State contained in the

Constitution shall be formed and assigned duties in accord with section 423 of the Constitution and this Law. Such bodies shall carry out their duties only for the remaining term of the Hluttaw.

Chapter VI

Miscellaneous

59. The preparatory works carried out by the State Peace and Development Council to implement this law before this Law comes into force shall be deemed to have been carried out in accord with the Constitution.

60. In carrying out for the relevant cities development by the Yangon City Development Committee and the Mandalay City Development Committee, if they submit to enable assistance to be given by the Union as their own fund is not sufficient and more funds are required the relevant Region Government shall proceed to submit to the Union Government.

61. The General Administration Department of the Region or State is the Office of the relevant Region or State Government.

62. This Law may be amended, inserted or repealed by the Pyidaungsu Hluttaw formed in accord with the Constitution of the Republic of the Union of Myanmar. This Law shall remain in force in so far they are not repealed by the Pyidaungsu Hluttaw.

63. In implementing the provisions contained in this law:
- (a) the Union Government may issue rules, regulations and bye-laws as may be necessary;
 - (b) the relevant Region or State Government and the relevant Ministries of the Region or State may issue notifications, orders, directives and procedures as may be necessary.

(Sd)Than Shwe

Senior General

Chairman

The State Peace and Development Council