

## **Amyotha Hluttaw Election Law**

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

The 9th Waning Moon of Tabaung, 1371 [Burmese Era]

(8 March 2010)

Exercising its rights under Article 443 of the Constitution of the Republic of the Union of Myanmar [Burma], the State Peace and Development Council Union hereby enacts the following Law so that free and fair multiparty democracy general elections can be held to elect the Amyotha Hluttaw [Upper House -- National Parliament].

### **CHAPTER 1**

#### **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 meanings 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 a representative elected to the Amyotha Hluttaw or a Defense Services representative nominated to the Amyotha Hluttaw by the Commander-in-Chief of the Defense Services in accordance with this Law.
  - D. **Constituency** means the Amyotha Hluttaw constituency.
  - E. **Region** or **State** means the existing division or state.
  - F. **Commission** means the Union Election Commission
  - G. **Election Sub-commissions** mean the following sub-commissions formed by the Commission at different levels:
    - (1) Nay Pyi Taw Election Sub-commission
    - (2) Region or State Election Sub-commission
    - (3) Self-Administered Division or Self-Administered Zone Election Sub-commission
    - (4) District Election Sub-commission
    - (5) Township Election Sub-commission
    - (6) Ward or Village Tract Election Sub-commission

H. **Members of religious order** mean the following individuals:

(1) In the case of Buddhists, monks, novices, religious laymen, and 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 is serving temporarily as such.

(2) In the case of Christians, persons who have been recognized and ordained or assigned duties by the relevant Churches as an individual who has dedicated himself mainly to serving the Christian religious order, persons included in the group of individuals 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.

(3) In the case of Hindus, Sanvazi, Mahant or Hindu priests.

I. **Electoral Roll** means the list of eligible voters compiled for a constituency for the purpose of holding elections.

J. **Convicts** mean persons serving terms of imprisonment under sentence passed by any court. The expression also includes persons who are serving prison terms by the order of the court and pending appeal against the sentence of imprisonment of the Court concerned.

K. **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.

L. **Polling Booth Officer** means the person who is in charge of the Polling Booth Team.

M. **Electoral Right** means the right of a person to stand or not to stand as a Hluttaw candidate or to withdraw from being a Hluttaw candidate or to vote or refrain from voting at the election.

N. **Corrupt Practice** means any practice mentioned in CHAPTER 14 of this Law.

O. **Rules** means rules proclaimed under this Law

## CHAPTER 2

### Formation of the Amyotha Hluttaw

3. The Amyotha Hluttaw shall be formed with a maximum of 224 Hluttaw representatives as follows:

(A) 168 Hluttaw representatives elected in an equal number of 12 representatives from each Region or State inclusive of relevant Union territories and including one

representative from each Self-Administered Division or Self-Administered Zone which are to be formed in accordance with Article 56 of the Constitution.

(B) 56 Hluttaw representatives who are the Defense Services personnel nominated by the Commander-in-Chief of the Defense Services four from each Region or State inclusive of relevant Union territories in accordance with Article 141, Sub-article (b) of the Constitution.

### **CHAPTER 3**

#### **Demarcation of Constituencies**

4. In demarcating constituencies, the Commission shall:

A. Delineate only 12 Hluttaw constituencies for each of the Region or State.

B. Should a Region or a State have less than 12 townships, the following action shall be taken:

(1) Each Township shall be designated as one constituency

(2) Should the number of constituencies be less than 12 when constituencies are delineated according to Paragraph (1), townships in such a Region or a State shall be tabulated according to the size of their population, and adjustments made beginning with the most populous township until the required number of constituencies is met.

C. Should the number of townships in a Region or a State, which contains no Self-Administered Region or Self Administered Zone, exceeds 12, the procedure below shall be followed:

(1) The number of constituencies shall be designated on the basis of population in the districts.

(2) In designating constituencies based on the number of constituencies existing within each district, the procedure below shall be followed:

(aa) Should the number of constituencies be equal to the number of townships in a district, each township shall be designated as constituency.

(bb) Should the number of constituencies in a district exceed the number of townships in that district, each township shall be designated a constituency. The excess number of Constituencies shall then be tabulated according to the size of the population, and adjustments made beginning with the most populous township until the required number of constituencies is met.

(cc) Should the number of constituencies in a district be less than the number of townships, constituencies can be delineated by combining two adjacent townships or a number of townships while maintaining a similar proportion of township population and avoiding a huge difference in sizes of population.

(dd) An area belonging to a township shall not be merged with another township to delineate a constituency.

(ee) When delineating constituencies in districts with sparse population, adjacent districts may be merged to form a constituency so that proportionality of population can be maintained.

D. In delineating constituencies in a Region or a State which contains a Self-Administered Division or Self-Administered Zone, the procedure below shall be followed:

(1) Each Self-Administered Division or a Self-Administered Zone shall be delineated as a Hluttaw constituency.

(2) Upon completing that delineation, procedures mentioned in the provisions of Article 4, Sub-Article (C) shall be followed.

E. Should a territory within an area delineated as Hluttaw constituency for a term of a Hluttaw be designated as a Union Territory, that territory shall remain a part of the originally delineated Hluttaw constituency.

5. A. Hluttaw constituencies designated as such by the Commission shall remain so for one term of a Hluttaw.

B. Should a new township be formed after constituencies are delineated for a regular term by the Commission, such a township shall remain part of the delineated constituency for the regular term.

C. The Commission shall delineate constituencies for the new term of a Hluttaw at least 60 days before the term of a Hluttaw ends.

## **CHAPTER 4**

### **Persons Entitled to Vote**

6. Persons with the following qualifications are entitled to vote in the election irrespective of sex and religion:

(A) Citizen, guest citizen, naturalized citizen, and person holding temporary identity card 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 on the electoral roll of the respective constituency

7. The following persons shall not be entitled to vote at the election:

(A) Member of a religious order.

(B) Person serving prison terms.

- (C) Person who has been adjudged to be of unsound mind as provided for in the relevant law.
- (D) Person who is an insolvent and yet to be discharged from his obligations
- (E) Person prohibited from voting under electoral laws
- (F) Foreigner or naturalized citizen of a foreign country

## **CHAPTER 5**

### **Persons Entitled to Stand for Election and Ineligible Persons**

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

- (A) At the time of filing the nomination paper for the purpose of election:
  - (1) Person who has completed the age of 30 and who is not contrary to the provisions of this Law.
  - (2) Person, who at the time of election as Hluttaw representative, has consecutively resided in the Union of Myanmar for at least 10 years.

**Exception:** Periods of stay overseas with official permission from the State shall be counted as having resided in the State

- (3) Person included in the electoral roll.
- (B) Citizen both of whose parents are citizens
- (C) Person whose qualifications meet the requirements under this Law.

9. A person having the right to stand for election is eligible to contest the election individually or as a member of a political party.

10. The following persons shall not be entitled to be Hluttaw representatives

- (A) A person serving a prison term.
- (B) Before the Constitution comes into force or after it has, any person who is disqualified from being a Hluttaw representative for committing an offense or a corrupt practice under the electoral law, or for failing to act according to the electoral law for which the disqualification period specified by the authority for him has not expired.
- (C) Person who is of unsound mind as adjudged by the relevant law.
- (D) Person who is an insolvent and yet to be discharged from his obligations.

(E) Persons who are citizens but whose parents -- either one or both of them -- were not citizens at time of birth

(F) Person who owes allegiance to a foreign government, or subject to 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 himself or is of a member of an organization who obtains and utilizes directly or indirectly the support of money, land, housing, building, vehicle, property, so forth, from government or religious organization or other organizations of a foreign country.

(I) Person himself or is of a member of an organization who abets the act of inciting, giving speech, conversing or issuing declaration to vote or not to vote based on religion for political purpose.

(J) Member of a religious order.

(K) Civil Services personnel

**Proviso:** The expression shall not be applied to Civil Services personnel including the Defense Services personnel selected and appointed in the Hluttaws and organizations formed under the Constitution.

(L) Person himself or is of a member of an organization who obtains and utilizes directly or indirectly the State-owned money, land, housing, building, vehicle, property, so forth.

**Proviso:** (1) The expression "State-owned money" does not include pension, allowance, money or salary, allowances, money officially granted by the Union for services rendered for the benefit of the Union.

(2) The expression "State-owned land, housing, building, vehicles and property" does not include State-owned land, housing, building and apartments, other building and apartments, State-owned aircraft, trains, vessels and motor vehicles and property, so forth, which have been permitted by the Union to be used under an existing law or as required by duty, or leased from the Union on payment.

(M) Person who is a guest citizen, or a naturalized citizen, a foreigner, or a naturalized citizen of a foreign country.

(N) Member of an organization declared as an unlawful association under an existing law, or organizations designated as terrorist by the State, or an organization in armed revolt against the State, or is an individual against whom there is sufficient ground of having links with said organizations.<sup>11</sup> A Hluttaw representative who infringes any of the following after being elected shall lose the Hluttaw representative status.

- (A) Permanently becoming a member of a religious order.
  - (B) Being adjudged to be of unsound mind as provided for in the relevant law.
  - (C) Being declared as an insolvent by a court of law.
  - (D) Getting imprisoned under any existing law after being elected as Hluttaw representative.
  - (E) Getting citizenship revoked under law.
  - (F) Being declared by the authorities that one or both of the parents of the Hluttaw representative were not citizens
  - (G) Being declared by an Election Tribunal that the Hluttaw representative owes allegiance to a foreign government, or subject to a foreign government or a citizen of a foreign country.
  - (H) The Commission permitting the representative to resign.
  - (I) Being declared by a court concerned that the Hluttaw representative is a member of an organization declared as an unlawful association under an existing law or is an individual or a member of an organization designated as terrorist by the State, or a member in an organization in armed revolt against the State, or is an individual against whom there is sufficient ground of having links with said organizations.
  - (J) Being declared by a Election Tribunal that the Hluttaw Representative is an individual or a member of an organization described in Articles 10 (H), 10 (I) or 10 (L).
  - (K) Being informed by the respective official in charge of a public services body that the Hluttaw Representative is a public servant as stated in Article 10 (K).
12. Should a complaint be received that a Hluttaw Representative is contravening the provisions of Articles 8 and 10 then the Commission shall form an Election Tribunal to investigate and make decision on whether the said person shall or not continue to be a Hluttaw Representative.

## **CHAPTER 6**

### **Preparation of Electoral Rolls**

13. Township, Ward, and Village Tract Election Sub-commissions shall prepare the electoral rolls for those who are entitled to vote in the election of Hluttaw representatives in various constituencies.

14. (A) Ward and Village Tract Sub-commissions shall include in the electoral roll every citizen, guest citizen, naturalized citizen, and those holding temporary identity cards who are not contrary to the provisions of this Law, and residing in the constituency and having completed the age of 18 years on the day, commencement of election.

(B) Ward and Village Tract Sub-commissions shall, as prescribed, include in the electoral roll all Defense Services personnel, Union of Myanmar diplomatic staff members serving overseas and their families, state scholars and their families, delegation members and their families, people who are overseas with permission from the Union Government and their families.

15. (A) Citizens, guest citizens, naturalized citizens, and those holding temporary identity cards who are on the electoral roll of a constituency shall only vote in the said constituency.

(B) An eligible voter listed in the electoral roll of a constituency may transfer his name to another electoral roll, if he so wishes, by applying to the sub-commission concerned, showing sufficient grounds.

C. Whoever has the right to vote in any Hluttaw constituency shall not be on the electoral roll of any constituency other than that of the constituency concerned at the same time.

16. The Sub-commission concerned shall declare in advance as prescribed the list of names of eligible voters before the election is held in the respective constituency.

17. (A) A person who has the right to vote under this law, but is not included in the respective electoral roll may apply to the respective Ward or Village Tract Sub-commission in the manner prescribed to be included in the electoral roll.

(B) Should the Ward or Village Tract Sub-commission fail to include his name, he shall appeal to the Township Sub-commission concerned in the manner prescribed. The decision on the appeal by that Sub-commission, subject to the provisions of Article 53, shall be final and conclusive.

18. (A) If any person whose name is in the electoral roll objects to the inclusion of any person who is not entitled to vote in the electoral roll of the constituency, objection may be submitted to the Ward or Village Tract Sub-commission in the manner prescribed.

(B) If that name is not cancelled from the electoral roll by the respective Ward or Village Tract Sub-commission, there is a right of appeal to the Township Sub-commission in the manner prescribed. The decision of such Sub-commission shall be final and conclusive, subject to the provisions of Section 53.

(C) A person whose name is already included in the electoral roll shall not be debarred from voting during the appeal process with the Township Sub-commission. A vote cast under such a right shall be valid.

19. In preparing electoral rolls, the Commission and the Sub-commissions at different levels shall:

(A) Add, in the supplementary electoral roll, the names of eligible voters which have not been included in the roll yet.



(B) Cancel the names ineligible voters from the electoral roll.

20. Electoral rolls shall be retained and in a prescribed manner by a department, or an organization, or an individual assigned for that task.

21. If a need for the holding of a by-election emerges in a certain constituency during the term of a Hluttaw, the original electoral roll shall be announced after necessary additions, cancellations, and revisions are made as prescribed by Articles 14, 15, and 16.

## **CHAPTER 7**

### **Nominating and Announcing Hluttaw Candidates and Appointing Election Agents**

22. A person desirous of contesting the election shall submit his application in the manner prescribed to the Nay Pyi Taw Election Sub-commission, or the Self-Administered Division Sub-commission, or the Self-Administered Zone Sub-commission, or the District Sub-commission.

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

24. The Nay Pyi Taw Election Sub-commission, or the Self-Administered Division Sub-commission, or the Self-Administered Zone Sub-commission, or the District Sub-commission shall scrutinize in the manner prescribed nomination of a person for the Hluttaw candidature as to whether it is in conformity with the provisions or not, and whether it should be accepted or not.

25. While the Nay Pyi Taw Election Sub-commission, or the Self-Administered Division Sub-commission, or the Self-Administered Zone Sub-commission, or the District Sub-commission is scrutinizing application forms in accordance with Article 24:

A. A person who has applied for Hluttaw candidature has the right to produce any documentary evidence if he so desires.

(B) Any eligible voter who has sufficient evidence may object in a prescribed manner about a person who has filed for Hluttaw candidature as not being eligible or qualified for the election.

26. After scrutiny is completed in accord with Article 24, the Nay Pyi Taw Election Sub-commission, or the Self-Administered Division Sub-commission, or the Self-Administered Zone Sub-commission, or the District Sub-commission may make the following decisions:

(A) Declaring the respective person having filed his nomination for Hluttaw candidature as eligible,

(B) Declaring the person who has filed the nomination for Hluttaw candidature as not eligible

27. (A) A person who has a dissenting view about the ruling made under Section 26 has the right to appeal to the respective Region or State Election Sub-commission in the manner prescribed.

(B) The decision of that Region or State Election Sub-commission is final and conclusive subject to the provisions of Article 53.

28. A person who has filed the nomination for Hluttaw candidature for the election shall have the right to withdraw his nomination in the manner prescribed.

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

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

(B) In the event that the election agent appointed as per Sub-Article (A) resigns or dies or has his status as election agent revoked, the candidate may appoint another person as his election agent.

## **CHAPTER 8**

### **Defense Services Personnel Who are Hluttaw Representatives**

31. When the Commander-in-Chief of the Defense Services submits to the Commission the designated number of Defense Services personnel, who meet the qualifications to be elected as Hluttaw representatives and who do not contravene the provisions of this Law, the Commission shall scrutinize that list and announce it to the public.

32. If the Commission discovers that a certain Defense Services candidate nominated by the Commander-in-Chief of the Defense Services contravenes the provisions of this Law, the Commission shall coordinate with the Commander-in-Chief of the Defense Services to replace the said candidate with another Defense Services Hluttaw candidate.

33. If the Commander-in-Chief of the Defense Services informs the Commission that he wishes to change one of the Defense Services candidates for Hluttaw, the name of the new nominee shall be announced publicly. The original nominee shall be considered as automatically removed from the list of Defense Services Hluttaw candidates on the date the public announcement was made.

## **CHAPTER 9**

### **Holding Elections**

34. The Commission shall:

(A) To the extent possible, hold the elections simultaneously on the same day.

(B) To the extent possible, hold the elections on public holidays.

(C) Declare the date of election in advance.

35. With the exception of Hluttaw representatives mentioned under Chapter 8, all other Hluttaw representatives shall be elected directly by secret ballot by eligible voters residing in the respective constituencies.

36. The Commission shall:

(A) Allocate the number of the polling booths for Wards and Village Tracts based on the number of eligible voters and conditions of the locality or shall delegate such authority to different levels of Sub-commissions concerned.

(B) Township Sub-commissions may be assigned the duty of locating the venue for the polling booths.

37. In designating polling booths, Township Sub-commissions, in accordance with the directive from the Commission, shall construct or partition separate polling rooms for different Hluttaw elections if elections are held simultaneously for more than one Hluttaw.

38. Construction of polling booths shall be in areas which are easily accessible for the public and arrangements shall be made to secure the polling booths in a way which is not detrimental to the casting of secret ballots. The public shall be notified in advance about the location of the polling booths.

39. Township Sub-commissions concerned shall, in accordance with instructions, form polling booth teams to supervise the polling booths at various Hluttaw constituencies. In doing so, they shall:

(A) Appoint suitable persons from amongst the public servants as polling booth officers.

(B) Form polling booth teams consisting of public servants to the extent possible and with citizens, guest citizens and naturalized citizens who are on the electoral rolls and who are trusted and respected by the local public.

(C) Duties and powers of the polling booth officers and polling booth teams shall be prescribed in accord with this Law and rules.

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

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

(B) If a Hluttaw constituency were to have more than one candidate, voting shall be arranged with ballot boxes and ballot papers as prescribed by the rules.

42. (A) On the day of the election, polling booths shall remain open from 0600 to 1600. However, polling booths may be closed earlier than 1600 if all eligible voters have cast their votes.

(B) When a polling booth closes exactly at 1600 and eligible voters are still in the vicinity of the polling booth but have not cast their votes yet, a list shall be compiled, and only those on the list of eligible voters shall be permitted to vote.

43. With the exception of people who voted with advance ballots, all eligible voters shall show up at their respective polling booths in person to get their ballot papers and personally cast their votes through secret balloting. Vote casting by proxy is prohibited.

44. An eligible voter in an election shall cast only one vote for the Hluttaw representative of his choice among the Hluttaw representatives contesting in an election. He shall not vote more than once.

45. (A) Township Sub-commissions shall make arrangements for Defense Services personnel, students, trainees, detainees, and in-patients in hospitals who are away from their constituencies, to vote with advance ballot papers in their respective constituencies.

(B) Ward or Village Tract Sub-commissions concerned shall arrange for an eligible voter who is on the electoral 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 wish to vote but are unable to come to the polling booth to vote in person due to any of the following reasons, the Ward or Village Tract Sub-commissions concerned shall arrange for them to vote with advance ballots as prescribed:

(1) Having contracted leprosy

(2) Being seriously ill

(3) Being of old age

(4) Giving birth

(5) Being detained in a police lockup or prison

(6) Taking medical treatment as an in-patient in hospital

(7) Public servants, Defense Services personnel, and members of the Police Force who are temporarily away on duty from the area in which they have their electoral roll.

(D) Rules shall be prescribed with regard to the manner of voting for people who have difficulties in making entries on the advance ballot paper or ballot paper on their own.

46. So that ballots may be cast by all eligible voters who for different reasons are away from their constituencies, including public servants who are working with projects, industries, in agriculture, livestock breeding, and economic enterprises in other regions, and not including the eligible voters described in Article 45 (B) and 45 (C) (7):

(A) The following procedures must be followed if they wish to vote on the electoral rolls of their original constituencies for Hluttaw representatives in their constituencies:

(1) Return to their permanent residential areas and cast advance ballot papers with their Ward or Village Tract Sub-commissions prior to the elections but within the specified time frame.

(2) To cast their votes in person at the designated polling booths in their permanent residential areas at election time.

(B) If these eligible voters do not wish to return to their permanent residential areas to vote, arrangements must be made so that they may vote in the constituencies they are in for the Hluttaw representatives who are contesting there by including these voters on electoral rolls and enabling them to vote through advance ballot papers or at polling booths.

47. (A) The Commission shall make arrangements to enable Union of Myanmar diplomats and families, embassy staff and families, state scholars and families, delegation members and their families, other people and their families who are overseas with the permission of the Union Government election to vote in advance in their respective constituencies.

(B) The Ministry of Foreign Affairs shall take the responsibility of communicating with eligible voters outside the country to enable them to vote in advance.

## **CHAPTER 10**

### **Counting of Votes and Confirmation**

48. (A) The Ward or Village Tract Sub-commission shall hand over the advance ballot papers already cast under Articles 45(B), 45(C), and 46 together with the list of advance voters to the respective polling booth officers before the opening of the polling booths on election day.

(B) Immediately after the ballot papers are cast at each constituency, the polling booth officer 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 public, and the polling booth agents. In counting, valid votes and invalid votes are to be differentiated in accordance with prescribed rules. The number of votes counted shall be tabulated and the tabulated list of votes shall be sent to the Ward or Village Tract Sub-commission and duplicate sent to the Township Sub-commission concerned.

(C) The Ward or Village Tract Election Sub-commission shall provide necessary supervision to send as fast as possible the tabulated list of votes compiled as prescribed by the polling booth officers in its area so that they reach the Township Election Sub-commission on time.

(D) The Township Election Sub-commission shall, before 1600 on election day, count all advance ballots cast under Articles 45 (A) and 47 in the presence of Hluttaw candidates or their agents and the public and shall combine the tabulated lists of votes for each Hluttaw constituency in the manner prescribed.

49. (A) If there are more than one candidate in a constituency, the Township Sub-commission shall announce the number of valid votes each candidate received. In order to declare the candidate with the highest number of valid votes as the elected candidate or to arrange for another election should there be a tie in the number of valid votes cast, the Township Sub-commission shall submit the lists as soon as possible to the Region or State Sub-commission. Copies of the lists shall be sent to the Nay Pyi Taw Sub-commission, the Self-Administered Division Sub-Commission or the Self-Administered Zone Sub-Commission, or the District Sub-Commission concerned.

(B) In accordance with Sub-Article (A), the Region or State Sub-commission concerned shall announce the name of the elected Hluttaw candidate as per the lists of votes it has received.

(C) In an election where more than one Hluttaw candidate contested and where there is a tie in the most number of valid votes received, and the matter was reported in accordance with Sub-Article (A), the Region or State Sub-commission shall scrutinize the lists and give its comments and submit it to the Commission. If the Commission calls for a fresh election, Sub-commissions at different levels shall do so in accordance with this Law. Only the candidates who received equal number of votes shall be eligible to stand for election when an election is held afresh.

## **CHAPTER 11**

### **Powers of Commission**

50. The Commission:

(A) May postpone the election in certain constituencies in which elections could not be held due to natural disasters till such a time as the disaster is over.

(B) May postpone the election in a constituency where preparation of an electoral roll or balloting is not possible due to lack of security.

(C) May decide to hold election in some areas within the constituency where the situation permits and may decide not to hold election in some areas within the constituency where the situation does not permit. It may also decide to transfer the polling booth to secure places. If 51 per cent of voters have already cast their votes, the election shall be deemed to be valid. 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, as deem appropriate, delegate authority to Sub-commissions to postpone election and to transfer the venue of polling booths to secure places.

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

53. The Commission has the authority to take its own initiative in summoning and inspecting case files and documents about activities carried out and decisions made by Sub-commissions on electoral matters and make its own decision as it deems fit. Such a decision shall be final and conclusive.

54. The Commission may undertake measures as it deems fit for the successful holding of free and fair elections.

## **CHAPTER 12**

### **Election Expenses**

55. The election agent shall keep accounts of the expenses of the elections concerned systematically as prescribed. He shall submit the accounts of the expenses as prescribed to the Nay Pyi Taw Sub-commission, the Self-Administered Division Sub-Commission or the Self-Administered Zone Sub-Commission, or the District Sub-Commission concerned.

56. The maximum amount allowed for expenses, the number of persons employed with pay or property used for the Hluttaw candidate shall be as prescribed.

## **CHAPTER 13**

### **Election Offenses and Penalties**

57. (a) A person's right to stand for election and to vote shall not be denied by force, threat, undue influence, cheating, taking or giving of bribes. Anyone convicted of such an offense shall be jailed for not more than one year, fined up to 100,000 kyats, or both.

58. Any person convicted in court of committing or abetting to commit any of the following offenses shall be imprisoned not more than one year or fined up to 100,000 kyats, or both:

(A) Securing advantage in elections through unlawful means and returning favors by taking or giving bribes in the form of cash, property, foodstuffs, jobs, job transfer or any other forms.

(B) Making threats against a Hluttaw candidate or a voter to prevent him from freely exercising his electoral right.

(C) Using race or religion as an excuse to incite, give speech, converse or issue declaration about voting or not to voting, or by abetment of such.

(D) Assembling, making speech, inciting, writing, distributing, using posters or other means to disrupt the voting process or the elections.

59. Any person found guilty and convicted of having committed or abetting others to commit any of the following offenses shall serve a prison term not exceeding one year or fined of up to 100,000 kyats or with both:

(A) Intentionally destroying or making illegible the lists, notices, or other documents published by the Commissions and Sub-commissions.

(B) Intentionally destroying or making illegible the tabulated lists of votes, or advance ballot papers, or the envelope or the pouch containing such.

(C) Maliciously giving the ballot paper or the advance ballot paper to a third party.

(D) Inserting articles other than the ballot paper into the ballot box.

(E) Unauthorized opening of the ballot box in use or destroying ballots and advance ballot papers.

(F) Voting at more than one constituency in an election.

(G) Voting more than once in an election of one constituency.

(H) Impersonating another person to obtain a ballot paper or to vote.

(I) Entering the polling booth without permission while the election is in progress.

(J) Placing one or more counterfeit ballot papers into the ballot box

60. Whoever is convicted in court of creating a disturbance or abetting to create a disturbance to stop an eligible voter from voting shall be serve a prison term not exceeding one year or fined up to 100,000 kyats or with both.

61. Whoever is convicted in court of committing any of the following offenses inside the polling booth or within the radius of 500 yards from the polling booth on election day shall serve a prison term not exceeding one year or fined up to 100,000 kyats or with both:

(A) Canvassing.



(B) Soliciting a voter to vote for, or not vote for a certain Hluttaw candidate.

(C) Urging and persuading either to vote or not to vote in the elections.

**Explanation:** This section does not apply to the sticking or fixing of campaign posters and so forth regarding the election in any places other than the polling booth.

62. Whoever is convicted in court of upsetting the voters or disturbing the polling booth officers and teams on duty by using loud speakers or by such equipment which amplify sounds or by other undisciplined acts, inside the polling booth or within the 500-yard perimeter of the polling booth shall serve a prison term not exceeding one year or fined up to 100,000 kyats or with both.

63. Whoever is convicted in court of acting improperly inside the polling booth during polling hours or who disobeys the lawful orders of the polling booth officer and returns to the polling booth after getting evicted from the polling booth by a member of the People's Police Force on duty, or by any 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 shall serve a prison term not exceeding one year or fined up to 100,000 kyats or with both.

64. Whoever dishonestly and fraudulently lodges any criminal proceedings against any person regarding offenses relating to elections, if found guilty, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to 300,000 kyats or with both.

65. (A) The following offenses in this Chapter are prescribed as cases prosecutable by the Police Force:

(B) Regarding offenses relating to elections, any voter of the constituency concerned, or any Hluttaw candidate, or any elected member of the Hluttaw or a member of a Sub-commission concerned or any member of the polling booth team having sufficient proof may file a complaint in the Township Court before the election or during the election or within fifteen days from the election.

## **CHAPTER 14**

### **Corrupt Practices**

66. The following practices are deemed to be corrupt practices:

(A) Hluttaw candidate either by himself or by his election agent or any person with the approval of one of them commits the following offenses:

(1) Giving or taking bribes.

(2) Interfering with the electoral right.

(3) Impersonation.

- (4) Making verbal or written false declaration.
- (5) Signing false statement.
- (B) Casting of vote more than once in one constituency or in more than one constituency when elections are simultaneously held, which will be to the advantage of a candidate that he favors.
- (C) A Hluttaw candidate or his election agent, contrary to the stipulations, has incurred or consented to incur more expenditures than the authorized amount for an election.
- (D) The election agent failing to account for the election expenses.
- (E) Committing the following with the prompting or consent of the Hluttaw candidate or his election agent:
  - (1) Whoever accepts bribe or agrees to accept bribe, with the intention of participating or not as a candidate in the Hluttaw election or resigning from the membership of Hluttaw, in return.
  - (2) Whoever accepts bribe for himself or for other person or agrees to accept such bribe, with the intention of inducing or trying to induce a voter to vote for a particular candidate or to abstain from voting.
- (F) Submission of false accounts of the election expenses or declaring the false accounts to be true or failure to submit the election expenses as prescribed.
- (G) Any person who is not a Hluttaw candidate or not an election agent of that Hluttaw candidate, without the permission of such candidate, convenes a meeting, or distributes papers and documents or incurs or consents to incur expenses in any other way, with a view to making him win election as a Hluttaw candidate or abets for such purpose.
- (H) Publishing and distributing advertisements, papers, and posters without mentioning names and addresses of printers and publishers for the benefit of a Hluttaw candidate that is favored.
- (I) A voter at the time of vote casting, taking away the ballot paper from the polling booth with the prompting or consent of the Hluttaw candidate or his election agent.
- (J) Any Hluttaw candidate, or his election agent or any person with the consent of one of them, obtains help from a public servant, or abets or attempts in obtaining help from such public servant so that a Hluttaw candidate may be elected.
- (K) Using religious emblems in the election campaign, or making use of race or religion to seek votes or to drive away votes with a view of getting a Hluttaw candidate elected.

(L) Resorting to violence, writing and hurling false accusations, and creating public disorder against an individual or a party, with a view of getting a Hluttaw candidate elected.

## **CHAPTER 15**

### **Decisions on Objections Concerning Elections**

67. Whoever desires to make an objection against an elected individual shall do so by paying dues and filing the electoral objection form prescribed in accordance with the provisions in this Chapter.

68. (A) Except for matters which have been decided by the Commission under Section 53, objections against a Hluttaw representative being elected may be made as prescribed by the Commission by citing appropriate reasons about the election by any Hluttaw candidate or any voter.

(B) When a Hluttaw candidate challenges the election of an elected Hluttaw representative and intends to be declared as the winner of the election with the most votes, he is to base his objections on one of the following:

(1) The reason that the applicant did in fact obtain the maximum valid votes.

(2) The reason that the applicant would have the maximum number valid votes if the votes received by the elected Hluttaw representative did not include votes obtained by corrupt practices.

69. (A) The Commission has the authority to form the following Election Tribunals to investigate electoral objections:

(1) One Commission member will serve as the chairman of the Election Tribunal two Commission members as members of that tribunal.

(2) One Commission member will serve as the chairman of the Election Tribunal and two appropriate citizens with legal expertise to serve as tribunal members.

(B) Members of the Election Tribunals must not be members of a political party.

(C) The Commission shall prescribe remuneration for members of the tribunal who are not commission members.

(D) All matters concerning election objections shall be taken up by the Election Tribunals.

(E) In respect of the election held for one constituency, if more than one objection are raised, the Commission shall assign the objections to only one Election Tribunal formed for that particular constituency and such tribunal may inquire into the objections separately or collectively.

(F) If an appointed member of Election Tribunal cannot carry out his duties as a member of the tribunal or is unable to carry them out during an inquiry, the Commission shall appoint a substitute member. The reconstituted Election Tribunal may make fresh inquiry of the pending objections, if it so desires.

70. While the objections in connection with elections are being heard, the tribunal, if necessary, may invite the Attorney General and seek legal advice. If the Attorney General is unable to come to the tribunal, he may depute a suitable person not below the rank of a Law Officer Grade I from the Attorney General's Office to act on his behalf.

71. The Election Tribunal may decide the election of the Hluttaw representative to be void if it finds that the elected Hluttaw representative has infringed any of the following:

(A) That it is apparent the elected Hluttaw representative received the majority votes by corrupt practice or by inducement to achieve that end, or that the result of the election was determined by corrupt practices.

(B) That it is apparent corrupt practice has been committed for the benefit 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 with 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 named in, or a member of an organization cited in Articles 10 (F), (G), H), or (I).

72. (A) After studying the objection, the Election Tribunal shall report to the Commission about whether or not the person elected as the Hluttaw representative or the person who objects and states that he himself should be declared elected, should be elected.

(B) All members of the Election Tribunal shall sign the report about their finding and send it to the Commission as soon as possible.

73. If the Election Tribunal reports that the elected representative may be guilty of corrupt practice only because of the acts of a person other than his election agent, and that the tribunal is of the 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 act was committed without the consent of the Hluttaw candidate and his election agent.

(B) That the Hluttaw candidate and his election agent prevented, to the best of their ability, corrupt practices in the election.

(C) That the corrupt practices are of trivial nature and have not affected the election.

(D) That the election has been free from corrupt practices of the Hluttaw candidate and his election agent

74. (A) Whoever wishes to object the decision of the Election Tribunal or is the subject of the objection, if he so wishes, may file the objection with the Commission within the timeframe given and in accordance with procedures prescribed, asking for a revision of the decision which was legally incorrect. This Article may be referred to only when there is a legal dispute.

(B) If the objection cited in Sub-article (A) is not filed within the given timeframe, the Commission shall publish the decisions of the Election Tribunal or Tribunals in the Union of Myanmar Gazette.

75. (A) If an objection is received as stated in Article 74, the Commission may summon the complainant himself, the subject of the complaint, or a representative or lawyer acting on his behalf for a hearing and may make one of the following decisions:

(1) To uphold the decision of the Election Tribunal.

(2) To overturn the decision of the Election Tribunal.

76. If there is any difference of opinion among members of the Election Tribunal on the report being prepared or on any other matter concerning objections in connection with the election, the opinion of the majority shall prevail. The Tribunal member with a dissenting opinion may include his observations briefly in the report and shall sign it.

77. The Election Tribunal shall have all the powers of the Court in which powers under the Code of Civil Procedure are vested. It may on its own motion summon and examine any person who is in a position to give important material evidence.

78. Not contrary to the provisions of this Law, the provisions of the Evidence Act shall be deemed to apply in all respects to all matters under inquiry.

79. Any document not duly stamped or not duly registered as prescribed shall not be inadmissible as evidence.

80. In an inquiry 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 shall be arrested or prosecuted or his statement used as evidence in any criminal proceedings except for perjury.

81. The complainant with the Election Tribunal and the subject of the complaint, or their representatives or lawyers, may appear before the tribunal to present their views. However, if the tribunal rules that the complainant or the subject of the complaint must personally appear before the tribunal, they shall do so.

## **CHAPTER 16**

### **Miscellaneous**

82. Individuals who are assuming responsibilities in the Commission and Sub-commissions at different levels shall abide by the following:

(A) To be methodical in retaining the tabulated lists and records.

(B) To render assistance to and safeguard the system of secret balloting.

(C) With the exception of data and information that the Commission has decided to make public, secrecy will be strictly maintained on all other matters.

(D) To refrain from showing biasness or avoid campaigning for any Hluttaw candidate and to treat every Hluttaw candidates in the election fairly.

83. If the polling booth officer finds any person who has committed or is committing any of the offenses under this Law, he may order a member of the People's Police Force on duty, or any security personnel on duty to arrest that person.

84. The Commission and Sub-commissions at different levels may obtain necessary assistance from government departments or other organizations, and individuals in the holding of elections.

85. Whoever carries out the duties of a member of the Commission or Sub-commissions at different levels, or carries out the said duties of the 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 discharge their duties according to law in good faith and to the best of their ability.

88. The following persons will not be eligible to contest as Hluttaw representatives from the time their statuses as Hluttaw representatives were revoked to the end of the current term of the Hluttaw, and in the following elections held for the next term of the Hluttaw:

People announced by the Commission in the Union of Myanmar Gazette as having their Hluttaw representative statuses revoked under Articles 74(B) or 75(b); Hluttaw representatives or election agents who failed to account for election expenses and were found guilty and ruled as disqualified by the Election Tribunal, and announced as such by the Commission; elected Hluttaw representatives who were jailed under an existing law and lost their statuses as elected Hluttaw representatives and announced as such by the Commission; and Hluttaw candidates and elected Hluttaw representatives who got jailed for offenses listed under Chapter 13 of this Law and announced as having lost their Hluttaw representatives statuses by the Commission.

89. If a seat in a Hluttaw becomes vacant for any given reason, by-elections will be held in accordance with the law to fill the vacant seat.

90. The Commission is empowered to make rules, introduce procedures, and issue orders, notifications, and directives for the successful implementation of the provisions of this Law.

Signed: Than Shwe, Senior General

Chairman, State Peace and Development Council