

## THE SENATE

### NUMBER AND ORIGIN

According to the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), the Senate consists of one hundred and fifty members obtained from elections in each *Changwat*, one senator for each *Changwat*, and from selection equal to the total number of senators deducted by the number of elected senators from the election.

#### Elected Senators

In an election of senators, the area of *Changwat* is regarded as one constituency and the number of senator of each *Changwat* is one. A voter may cast a vote for one candidate and the election will be by direct suffrage and secret ballot.

The first general election of senators under the 2007 Constitution was held on March 2, 2008. At present, there are seventy-six elected senators in the Senate.

#### Senators Obtained from Selection

Under the current Constitution, a Senators Selection Committee is vested with the duty of selecting suitable persons from those nominated by academic institution, the public sector, the private sector, professional organizations and other sectors which are beneficial to the performance of Senate functions to be senators in the number prescribed by the Constitution. That is seventy-four in number.

In the selection of persons to be senators, the Committee will have to regard to knowledge, skills or experience which will be beneficial to the performance of Senate functions as well as the composition of persons possessing interdisciplinary knowledge and experiences, gender opportunity and equality, the close apportionment of persons from each sector, including the conferment of opportunities to the socially underprivileged.

The selection process must be completed within thirty days as from the date of receiving the name list from the Election Commission.

According to the 2007 Constitution, a Senators Selection Committee consists of seven members as follows :

1. President of the Constitutional Court;
2. Chairperson of the Election Commission;
3. President of the Ombudsmen;
4. Chairperson of the National Counter Corruption Commission;
5. Chairperson of the State Audit Commission;
6. a judge of the Supreme Court of Justice holding the position of not lower than judge of the Supreme Court of Justice as entrusted by the general meeting of the Supreme Court of Justice;

7. a judge of the Supreme Administrative Court as entrusted by the general meeting of the Supreme Administrative Court.

Membership of the senators obtained from selection commenced on February 19, 2008. It was the day the Election Commission published the result of the selection.

#### **TERM OF OFFICE**

The term of membership of senators is six years as from the election date or the date the Election Commission publishes the result of the selection, as the case may be, and no senator shall hold office more than one term.

#### **QUALIFICATION**

A person having the qualifications and not having any of the prohibitions as mentioned below has the right to be a candidate in an election and selection of senators:

- (1) being of Thai nationality by birth;
- (2) being of not less than forty years of age on the election day or the date of nomination;
- (3) having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) a candidate in an election of senators shall also possess any one of the following

qualifications:

(a) having his name listed on the housing register in the *Changwat* where he stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;

(b) being born in *Changwat* where he stands for election;

(c) having studied in an educational institution situated in the *Changwat* where he stands for election for a consecutive period of not less than five academic years;

(d) having served in the official service or having had his name listed on the housing register in the *Changwat* where he stands for election for a consecutive period of not less than five years;

(5) not being an ascendant, spouse or child of a member of the House of Representatives or a person holding a political position;

(6) not being a member or a person holding any position in a political party, or having been a member or having held a position in a political party and his membership has terminated or he vacates office in the political party for a period of not more than five years up to the date of applying for candidacy or the date of nomination;

(7) not being a member of the House of Representatives or having been a member of the House of Representatives and his membership has terminated for a period of not more than five years up to the date of applying for candidacy or the date of nomination;

(8) being a person having no right to be a candidate in an election :

(a) being addicted to narcotics;

(b) being bankrupt or having been dishonestly bankrupt;

(c) being disfranchised:

1. being a Buddhist priest, novice, monk or clergy;
2. being under suspension of the right to vote;
3. being of unsound mind or of mental infirmity.

(d) having been sentenced by a judgement to imprisonment and being detained by a warrant of the Court;

(e) having been discharged for a period of less than five years on the election day after being sentenced by a judgement to imprisonment except for an offence committed through negligence or a petty offence;

(f) having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the grounds of dishonest performance of duties or deemed as having committed dishonest acts and malfeasance in the official service;

(g) having been ordered by as judgement or an order of the Court that his assets shall vest in the State on the grounds of unusual wealthiness or an unusual increase of assets;

(h) being a government official holding a permanent position or receiving salary except a political official;

(i) being a member of a local assembly or a local administrator;

(j) being an official or employee of a government agency, State agency or State enterprise or other State official;

(k) being a judge of the Constitutional Court, an Election Commissioner, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Rights Commission;

(l) being under the prohibition from holding a political position;

(m) having been removed from office by a resolution of the Senate;

(9) not being a Minister or a person holding a political position other than a member of a local assembly or a local administrator or having vacated office for a period of not more than five years.

#### **TERMINATION OF MEMBERSHIP**

Membership of the Senate terminates upon:

- (1) expiration of term;
- (2) death;
- (3) resignation;
- (4) being disqualified and being under any of the prohibitions;
- (5) acting in contravention of any of the prohibitions : being a Minister or a person holding any political position or a person holding position in an independent constitutional organ; holding any position or having any duty in a government agency; receiving, interfering or intervening in any concession from the State; receiving any special money or benefit from a government agency; interfering or intervening,

through the status or position of senator, directly or indirectly, for benefit of his own or other persons or of political party;

(6) the Senate passing a resolution removing him from office or the Constitutional Court having a decision terminating his membership or the Supreme Court of Justice having a decision in such cases, membership shall be deemed to have terminated as from the date of the resolution of the Senate or the decision of the Court, as the case may be;

(7) having been absent for more than one-fourth of the number of days in a session scheduled for not less than one hundred and twenty days without permission of the President of the Senate;

(8) being sentenced by a judgement to imprisonment notwithstanding the suspension of the sentence, except for an offence committed through negligence, a petty offence or a defamation offence.

## **POWERS AND DUTIES OF THE SENATE**

The powers and duties of the Senate as prescribed by the present Constitution may be summarized as follows :

### **(1) Legislation**

(a) to introduce an organic law bill, together with members of the House of Representatives (section 139 (2));

(b) to scrutinize an organic law bill or a bill passed a resolution of approval by the House of Representatives (section 146);

(c) to approve an annual appropriations bill (section 168);

(d) to consider whether to approve or disapprove the Emergency Decree (section 184);

(e) to amend the Constitution by proposing a motion for amendment, together with members of the House of Representatives (section 291).

### **(2) Control the Administration of State Affairs**

(a) to acknowledge the policy statement of the Council of Ministers (section 176);

(b) to appoint standing committees or *ad hoc* committees to perform any act, inquire into or study any matter within the powers and duties of the Senate (section 135);

(c) to interpellate (section 156);

(d) to submit a motion for the general debate in the Senate without passing a resolution (section 161 paragraph one).

### **(3) Approval, Recommendation or Selection of Persons to Hold Positions as Prescribed by the Constitution**

(1) *Passing an Approval Resolution and Giving the King advice for His Appointment*

• judges of the Constitutional Court (section 206 (2))

- Election Commissioners (section 231 (4) and (5))
- Ombudsmen (section 243)
- members of the National Counter Corruption Commission (section 246 paragraph three)
- members of the State Audit Commission and the Auditor-General (section 252 paragraph three)
- members of the National Human Rights Commission (section 256 paragraph five)

*(2) Passing an Approval Resolution, together with Other Organization*

In the case where there has been an approval of the Judicial Commission of the Administrative Courts

- approving the appointment of qualified persons in the field of or the administration of State affairs to be judges of the Supreme Administrative Court. Such appointment is made in the member of not less than one-third of the total number of judges of the Supreme Administrative Court (section 224 paragraph two)

- approving the appointment of an administrative judge as President of the Supreme Administrative Court (section 225)

In the case where there shall be by the resolution of the State Attorney Committee

- the appointment and removal from office of the Attorney-General (section 255 paragraph three)

In the case where there has been an approval of the National Counter Corruption Commission

- the appointment of the Secretary-General of the National Counter Corruption Commission (section 251 paragraph two)

*(3) Selection*

- two qualified persons in the Judicial Commission of the Courts of Justice (section 221 (3))

- two qualified persons in the Judicial Commission of the Administrative Courts (section 226 (3))

In considering the selection of a person to hold any position under this Constitution, the Senate will appoint a committee for examining past records, behaviours and ethics of the person nominated for holding such position as well as for gathering necessary facts and evidences to be reported to the Senate for its further consideration (section 121).

**(4) Removal of Key Persons from Office (section 270)**

A person holding any of the following positions, who is under the circumstances of unusual wealthiness indicative of the commission of corruption, malfeasance in office, malfeasance in

judicial office or an intentional exercise of power contrary to the provisions of the Constitution or law or serious violation or failure to comply with ethical standard, may be removed from office by the Senate.

- Prime Minister
- Minister
- member of the House of Representatives
- senator
- President of the Supreme Court of Justice
- President of the Constitutional Court
- President of the Supreme Administrative Court
- Attorney-General
- judge of the Constitutional Court
- Election Commissioner
- Ombudsman
- member of the State Audit Commission
- judge
- State attorney
- high ranking official in accordance with the Organic Act on Counter Corruption

#### **(5) Other Powers and Duties**

(1) The case that is directly powers and duties of the Senate:

- to enact the rules of procedure of the Senate (section 134);
- to give permission, during a session, to inquire a senator as the suspect in a criminal case or in the case where a senator has been arrested in *flagrante delicto*, it shall be forthwith reported to the President of the Senate and such President may order the release of the person so arrested (section 131);
- to give permission the Court to try the case during a session in a case where a criminal charge is brought against a senator whether the Senate is in session or not or it is a case concerning organic acts only as are necessary for an election (section 131);
- to present a petition to the King for issuance of a Royal Command convoking an extraordinary session of the National Assembly, together with members of the House of Representatives (section 129);
- the President of the Senate claimed the right to request of the release of the detained senator during the inquiry or trial before the being of a session when the session begins (section 131);
- the President of the Senate shall cause the voting of each senator to be recorded and disclose such record in a place where public access for its inspection is possible, except for the case of the voting by secret ballot (section 126);

- the President of the Senate may give the advice to the Prime Minister for the referendum in the issue effecting national or public interests (section 165 (1));

- the President of the Senate shall cause explanations to be published as requested by another persons, who is not a Minister or senator, being caused damage by the words expressed by the senators (section 130).

(2) The case that the Senate holds a joint sitting with the House of Representatives :

- to approve the appointment of the Regent (section 19);
- to make a solemn declaration of the Regent before the National Assembly (section 21);
- to acknowledge an amendment of the Palace Law on Succession, B.E. 2467 (section 22);
- to acknowledge or approve the succession to the Throne (section 23);
- to pass a resolution for the consideration by the National Assembly of other matters during a legislative ordinary session (section 127);
- to approve the prorogation of a session (section 127) ;
- to open the session of the National Assembly (section 128);
- to make the rules of procedure of the National Assembly (section 137);
- to approve the further consideration of an organic law bill or a bill (section 145);
- to reconsider an organic law bill or a bill (section 151);
- to approve the further consideration of a draft Constitution Amendment, an organic law bill or a bill (section 153 paragraph two);
- to acknowledge the policy statement of the Council of Ministers (section 176);
- to hold a general debate (section 179);
- to approve the declaration of war (section 189);
- to hear and give approval of a treaty (section 190);
- to amend the Constitution (section 291).

(3) The case that the Senate acts as the National Assembly during the expiration of the term or dissolutions of the House of representatives :

- to approve the appointment of the Regent (section 19);
- to make a solemn declaration of the Regent (section 21);
- to acknowledge an amendment of the Palace Law on Succession, B.E. 2467 (section 22);
- to acknowledge or approve the succession to the Throne (section 23);
- to approve the declaration of war (section 189).