

The Union of Myanmar
The State Peace and Development Council

The Referendum Law for the Approval of the Draft Constitution of the Republic of the Union of Myanmar, 2008

(The State Peace and Development Council Law No 1/2008)

The 5th Waning Day of Tabodwe 1369ME

(26th February, 2008)

Preamble

The Commission for Drafting the State Constitution has drafted the State Constitution of the Republic of the Union of Myanmar leading to non-disintegration of the Union, non-disintegration of the national solidarity and perpetuation of sovereignty; building of the modern, developed and well-disciplined democratic State for which the entire people are longing; and for the long-term interest of all nationalities who are residing in the Union in accordance with the basic principles and detailed basic principles adopted by the National Convention.

The State Peace and Development Council hereby enacts the following Law to enable the adoption of the draft law drafted as such by the entire people through referendum.

Chapter I

Title and Definition

1. This Law shall be called the **Referendum Law for the Approval of the Draft Constitution of the Republic of the Union of Myanmar, 2008**.

2. The following expressions contained in this Law shall have the meanings given here under:

- (a) **This Law means the Referendum Law for the Approval of the Draft Constitution of the Republic of the Union of Myanmar, 2008;**
- (b) **Referendum** means the Referendum held for enabling the approval of the draft State Constitution of the Republic of the Union of Myanmar;
- (c) **Commission** means the Commission for Holding Referendum;
- (d) **State or Divisional Sub-commission** means the State or Divisional Sub-commission for Holding Referendum. The said expression also includes the Sub-commission of the Shan State(North), Shan State (East) and Bago Division (West);
- (e) **District Sub-commission** means the District Sub-commission for Holding Referendum;
- (f) **Township Sub-commission** means the Township Sub-commission for Holding Referendum;
- (g) **Ward or Village-tract Sub-commission** means Ward or Village-tract Sub-commission for Holding Referendum;
- (h) **Citizen** means the person who is already a citizen of the Union of Myanmar according to the existing law;
- (i) **Member of religious order** means:
 - (i) in the case of Buddhists, monks, novices, religious laymen and nuns;
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;
 - (ii) 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;
 - (iii) in the case of Hindus, Sanyazi, Mahant or Hindu priest;
- (j) **Referendum Area** means ward of village-tract prescribed by the Commission to vote for holding referendum;
- (k) **Voting roll** means the roll of persons who are at the prescribed referendum areas and have the right to vote;
- (l) **Polling Booth Team** means the team appointed by the relevant Sub-commission for carrying out voting in collective responsibility at a polling booth;
- (m) **Polling Booth Officer** means the leader of the polling booth team appointed by the relevant Sub-commission;
- (n) **Cancelled Vote** means:
 - (1) the ballot paper of advance ballot paper which has no prescribed mark,
 - (2) the ballot paper or advance ballot paper scrutinised and decided by the polling booth team to be a fake ballot paper or advance ballot paper, and
 - (3) the ballot paper destroyed by any means and inserted in the ballot box.

Chapter II

Convening the Referendum

3. (a) The referendum shall be held for the approval of the draft constitution of the Republic of the Union of Myanmar;
- (b) The referendum shall be held completely within the period prescribed by the Commission.
4. (a) The Commission shall declare the day on which the referendum is to be held at least 21 days advance;
- (b) The Township Sub-commission and the Ward or Village-tract Sub-commissions shall declare the list of the persons who have the right to vote according to their referendum area for holding referendum at least 7 days in advance.

Chapter III

Formation of the Commission and Sub-commissions

5. (a) The State Peace and Development Council shall form a referendum commission for holding referendum with the necessary number of suitable citizens;
- (b) The commission formed under sub-section (a) shall form or may cause to be formed the following sub-commissions:
 - (1) a State or Divisional Sub-commission in a State or Division, comprising 15 members;
 - (2) a District Sub-commission in a district, comprising 15 members;
 - (3) a Township Sub-commission in a township, comprising 15 members;
 - (4) a Ward or Village-tract Sub-commission in a ward or village-tract, comprising 5 to 20 members.

Chapter IV

Duties and Powers of the Commission for Holding Referendum and Sub-commissions

6. The duties and powers of the Commission are as follows:
 - (a) holding referendum;
 - (b) forming, guiding and supervising the sub-commissions;
 - (c) determining and declaring the referendum areas for holding referendum;
 - (d) prescribing the period to hold referendum;
 - (e) guiding and supervising for preparation of list and schedule relating to holding referendum;
 - (f) prescribing the forms, seals, ballot papers and advance ballot papers to be used by the Commission and Sub-commissions for holding referendum;
 - (g) issuing ballot papers and advance ballot papers to the respective District Sub-commission;
 - (h) sending the advance ballot papers to the relevant head of embassy or consulate through the Ministry of Foreign Affairs to enable the persons who are abroad and having the right to vote, to cast vote;
 - (i) declaring the number of person eligible to vote, persons who cast vote, persons who cast vote-in-favour and their comparison in percentage, reporting to the State Peace and Development Council after the referendum has been held;
 - (j) carrying out other necessary matters relating to the referendum.
7. The Duties and powers of the State or Divisional Sub-commissions are as follows:
 - (a) forming District Sub-commissions and Township Sub-commissions in accordance with the directive of the Commission;
 - (b) supervising and coordinating the performance of the works of the District, Township and Wards or Village-tract Sub-commissions;
 - (c) reporting the performance of the works of State and Divisional Sub-commissions to the Commission;
 - (d) sending in advance to the Commission the lists of persons eligible to vote sent by the Township Sub-commissions according to the township;
 - (e) sending the list to the Commission by preparing it in accordance with stipulations by differentiating the list of persons eligible to vote, persons who cast vote, votes-in-favor, votes-against and cancelled votes after collecting the number of votes sent by Township Sub-commissions after the referendum has been held.
8. The Duties and Powers of the District Sub-commissions are as follows:
 - (a) requesting necessary for ballot papers and advance ballot papers for Township Sub-commissions from the Commission and distributing them sufficiently to Township Sub-commissions;
 - (b) supervising and coordinating the performance of works of Townships Sub-commissions and Ward or Village-tract Sub-commissions;
 - (c) carrying out in accordance with the directives of the Commission and State or Divisional Sub-commissions.

9. The Duties and Powers of Township Sub-commissions are as follows:
- (a) forming Ward or Village-tract Sub-commissions in accordance with the directive of the Commission;
 - (b) supervising the referendum held in ward or village-tract;
 - (c) declaring, adding, amending and approving the voting rolls according to the relevant referendum areas relating to the referendum, sending in advance of the approved list of persons eligible to vote to the relevant State or Divisional Sub-commission;
 - (d) requesting necessary ballot papers and advance ballot papers for referendum areas in the township from the District Sub-commission and distributing them sufficiently to the Ward or Village-tract Sub-commissions according to referendum areas and the teams contained in clauses (2), (3), (4), (5) and (6) of sub-section (d) of section 12;
 - (e) declaring the days to vote at the referendum areas in the township;
 - (f) reporting the list to the State and Divisional Sub-commission after preparing it by differentiating the list of persons who cast vote, votes in-favour, votes-against and cancelled votes after collecting the number of votes sent by Ward or Village-tract Sub-commissions, and sending the copy to the Commission and relevant District Sub-commissions;
 - (g) reporting the performance of the works of Township Sub-commission to District Sub-commission and sending the copy to the Commission and relevant State or Divisional Sub-commissions;
 - (h) carrying out other necessary matters relating to the referendum.

10. The Duties and Powers of Ward or Village-tract Sub-commissions are as follows:

- (a) carrying out and taking responsibility for the referendum held in ward or village-tract;
 - (b) submitting to the relevant Township Sub-commission for approval after preparing voting roll for referendum and declaring the approved voting roll in ward or village-tract;
 - (c) declaring the polling booth areas and locations in ward or village-tract referendum area with the approval of Township Sub-commission and appointing members of polling booth team and polling booth officer;
- Proviso:** If any polling booth officer and member of polling booth team is unable to carry out the duty assigned for any reasons on the day of referendum, any suitable citizen who is respected by the local public may be assigned in substitution. Such assignment shall be reported to the Township Sub-commission.
- (d) distributing ballot papers and advance ballot papers obtained from Township Sub-commission to polling booth teams sufficiently;
 - (e) making ballot boxes in accordance with the stipulations;
 - (f) opening ballot boxes of each polling booth at the said polling booth and supervising in counting votes;
 - (g) sending list to Township Sub-commission after preparing it in accordance with stipulations by differentiating list of persons who cast vote, votes-in-favour, votes-against, cancelled votes, ballot paper and advance ballot paper received, remaining ballot papers and advance ballot papers;
 - (h) reporting the performance of the works of Ward or Village-tract Sub-commission to Township Sub-commission;
 - (i) carrying out other necessary matters relating to the referendum.

Chapter V Preparing Voting Rolls

11. (a) Every citizen, associate citizen, naturalized citizen and temporary certificate holder who has completed the age of eighteen years on the day of referendum shall have the right to vote at the referendum. Every person who is so entitled to vote shall be mentioned in the voting roll.
- (b) The names of the following persons who are in conformity with the provisions contained in sub-section (a) are entitled to be mentioned in the voting roll:
- (1) the diplomats, diplomatic staff, consular staff of the Union of Myanmar and members of their household;
 - (2) members of army, navy or air force of Tatmadaw who are out of referendum area on duty on the day of referendum although they live within military unit, and members of their household living together with them;
 - (3) persons who are appointed by the Government to carry out duties outside the Union of Myanmar and members of their household;
 - (4) State scholars who are abroad and members of their household living together with them;
 - (5) other persons who are abroad with the permission of the Government;
 - (6) students who are studying at various universities, degree colleges, colleges, institutes and schools;

Explanation: University, degree-college, college, institute and school means the universities, degree-colleges, colleges, institutes and schools opened or recognized by the Government for study by students. The said expression includes vocational schools, social welfare schools and homes or universities or schools established by the Tatmadaw.

Among the students studying at universities, degree-colleges, colleges, institutes and schools, students who come from other region and are studying there other than students who are included in voting roll of the area where the relevant university, degree-college, college, institute and school is established, are entitled to vote in accordance with the provisions of this Law.

- (7) persons who are taking medical treatment as in-patient in hospital and service personnel who are on duty;
 - (8) persons who are at the worksite of other region, having left their base camp, under the assignment of any Government department or organization;
 - (9) detainees in custody of police station or prisons;
- (c) In preparing the voting roll, temporary workers who come from referendum area of permanent residence to other referendum area individually or in group until the day of referendum is over, they may be included in the voting roll of the referendum area where they are now present. The relevant Township Sub-commission shall be informed to cancel the list of the names of such persons from the voting roll of the referendum area where they originally resided.
- (d) The following persons shall not be included in the voting roll:
- (1) members of religious orders;
 - (2) persons who have been adjudged to be of unsound mind as provided for in the relevant law;
 - (3) persons serving prison terms, having been convicted under order or sentence of a court for any offence;
 - (4) persons who are illegally abroad;
 - (5) foreigners.
12. (a) The voting roll shall be prepared by the Ward or Village-tract Sub-commissions according to their ward or village-tract.
- (b) The Ward or Village-tract Sub-commissions shall include the name of every eligible voter who lives in their ward or village-tract under sub-section (a) of section 11 in the voting roll.
- (c) In preparing voting roll under sub-section (a), the names of persons mentioned in sub-section (b) of section 11 shall not be included in the voting roll of Ward or Village-tract where they reside. If it is included in that voting roll, the name of such person shall be removed from the voting roll.
- (d) In preparing the voting roll for the persons included in sub-section (b) of section 11, the following teams formed with suitable number of members as directed by the Commission shall prepare it:
- (1) for the persons who are abroad and eligible to vote and members of their household living with them, head of the relevant embassy and team or head of consulate and team;
 - (2) for the members of army, navy, air force of Tatmadaw who are out of referendum area on duty on the day of referendum although they reside in military unit and members of their household living together with them, relevant commanding office and team;
 - (3) for the students who are studying at various universities, degree-colleges, colleges, institutes and schools, rector of the university and team if it is the university; principal and team, if it is the degree-college and college; principal and team, if it is the institute and school; head of such school and team, if it is the school for social welfare; head of the school and team, if it is the home, head of the home;
 - (4) for persons taking medical treatments as in-patient in hospital and service personnel who are on duty, medical superintendent of the hospital and team;
 - (5) for the persons who are at the work-site of other region, having left their base camp, under the assignment of any Government department or organization, head of such worksite and team;
 - (6) for detainees in custody of police station, officer-in-charge of relevant police station and team, for detainees in prison, warden and team.
- (e) in preparing voting roll for members of army, navy and air force of Tatmadaw who are eligible to vote under sub-section (a) of section 11 and members of their household, Ward or Village-tract Sub-commission shall carry out as follows:

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- (1) including the names of members of army, navy and air force of Tatmadaw who reside at the regiments, military units, military commands based within their relevant Ward or Village-tract and members of their household with the help of relevant commanding officer;
 - (2) including the names of members of army, navy and air force of Tatmadaw who are out of relevant military unit and the names of members of their household living together with them, in the voting roll of referendum area where they reside.
13. (a) The Ward or Village-tract Sub-commissions shall carry out inspection, declaration, amending and adding to the voting roll. However, in respect of amending, adding to the voting roll, the approval of the relevant Township Sub-commission shall be obtained.
- (b) The teams formed under sub-section (d) of Section 12 shall carry out inspection, declaration, amending, adding and approving the voting roll like the Ward or Village-tract Sub-commissions. If dispute arises relating to voting-roll, approval shall be obtained, for the team formed under clauses (1) and (2) of sub-section (d) of section 12, from the Commission, and for other teams, from their relevant Township Sub commission. The decision of the Commission and Township Sub-commission shall be final and conclusive.

**Chapter VI
Voting**

14. (a) Every person who is included in the voting roll for the referendum is entitled to vote.
- (b) The person who is entitled to vote shall cast vote only at the polling booth of the referendum area in which his name is included.
15. Stipulated ballot box shall be placed at a conspicuous place for public to enable voters to cast vote conveniently at every polling booth where referendum is to be held.
16. A person who is entitled to vote shall have the right to vote only once at the referendum.
17. A person eligible to vote shall obtain the ballot paper from Polling Booth Officer or person assigned by Polling Booth Officer, express his wish secretly at the stipulated place in the polling booth and put it into the ballot box.
18. The persons eligible to vote who are abroad, and persons who are to travel out of the referendum area where they reside on the day referendum is held are entitled to vote with advance ballot paper in accordance with the stipulations.
19. The manner of voting for the persons mentioned in sub-section (b) of section 11 shall be as stipulated in the Rules made under this Law.

**Chapter VII
Postponing and Dissolving of Voting**

20. (a) The relevant Township Sub-commission may postpone once to a suitable date for enabling voting at all polling booths or some polling booths or a polling booth within the stipulated period under sub-section (d) of section 6, if free and fair referendum may not be held stably due to natural disaster or situation affecting the security or any other disaster. In addition, polling booths may be immediately transferred to a place it deems appropriate. Such postponement and transfer shall be submitted to District Sub-commission and the copy shall be submitted to the Commission and relevant State or Divisional Sub-commissions.
- (b) If the persons eligible to vote are unable to vote at any polling booth on stipulated day to vote due to any reasons contained in sub-section (a), the Polling Booth Team shall declare postponement of voting. If it is postponed while being voted, Polling Booth Team shall close the ballot box in the presence of 5 persons eligible to vote and such process of the event shall be submitted immediately to respective the Ward or Village-tract Sub-commission. Such Sub-commission shall report to Township Sub-commission with its recommendation.
- (c) The Ward or Village-tract Sub-commission shall determine and declare a day within the stipulated period under sub-section (d) of section 6 and venue for casting vote by remaining persons eligible to vote at the polling booth declared for postponement.
- (d) New ballot box shall be used for voting on the day postponed.
21. (a) If situation arises to dissolve voting for referendum due to any reasons contained in section 20, the Ward or Village-tract Sub-commission may dissolve some polling booths or all polling booths within its referendum area. If such situation arises, the Ward or Village-tract Sub-commission shall submit its performance immediately to the relevant Township Sub-commission.
- (b) The Township Sub-commission shall report the submission of Ward or Village-tract Sub-commission under sub-section (a), to District Sub-commission with its recommendation immediately and send the copy

- to Commission and relevant State or Divisional Sub-commissions.
- (c) If situation arises to dissolve voting of referendum due to any reasons contained in section 20, the Township Sub-commission may dissolve a referendum area or up to the half of all stipulated referendum areas in its Township. If situation arises to dissolve over half of all referendum areas, the Township Sub-commission shall report to the relevant District Sub-commission and State or Divisional Sub-commission immediately with its recommendation.
- (d) The State or Divisional Sub-commission shall give decision on the submission of Township Sub-commission under sub-section (c). Such decision shall be final and conclusive. The State or Divisional Sub-commission shall report such decision for dissolution to the Commission and send the copy to relevant District Sub-commissions and Township Sub-commissions.

**Chapter VIII
Counting of Votes**

22. (a) The polling booth team, immediately after closing the polling booth, shall:
- (1) inspect the ballot boxes in the presence of not less than ten persons eligible to vote, open such ballot boxes and count the votes. In so counting, votes-in-favour, votes-against and cancelled votes shall be differentiated and counted;
 - (2) continue to obtain the votes from remaining eligible voters in the postponed date under sub-section (c) of section 20. Only after closing such polling booth, votes from such polling booth shall be counted by adding the votes from the ballot boxes closed securely under sub-section (b) of section 20;
 - (3) count only the votes in the ballot boxes closed securely under sub-section (b) of section 20, if voting is unable to be held also on the postponed date under sub-section (c) of section 20;
 - (4) prepare separately the list of voters contained in voting roll, votes in favour, votes against, cancelled votes, ballot papers received and remaining ballot papers and send to the Ward or Village-tract Sub Commission in conformity with clause (1).
- (b) The Ward or Village-tract Sub-Commission shall collect the lists sent under clause (4) of sub-section (a) according to polling booth, prepare combined list, and advance ballot papers received and send to relevant Township Sub-commission with report.
- (c) The Township Sub-commission shall send combined list to State or Divisional Sub-commission with report of:
- (1) the lists collected and prepared according to the Ward or Village-tract sent by Ward or Village-tract Sub-commissions under sub-section (b);
 - (2) the lists obtained after counting advance ballot papers sent by teams formed under clauses (2), (3), (4), (5) and (6) of sub-section (d) of section 12 and advance ballot papers sent by Ward or Village-tract Sub-commissions and lists contained in clause (1). Such Copy shall be sent to the Commission and relevant District Sub-commissions.
- (d) The State or Divisional Sub-commission shall collect and send the voting lists sent by the Township Sub-commissions under sub-section (c) to the Commission.
- (e) The Commission shall count the advance ballot papers sent by teams formed under clause (1) of sub-section (d) of section 12 after differentiating votes in favour, votes against and cancelled votes.

**Chapter IX
Declaring Votes**

23. The Commission shall, after holding the referendum, combine the lists of advance ballot papers submitted by the State or Divisional Sub-commissions under sub-section (d) of section 22 and lists of advance ballot papers counted by the Commission under sub-section (e) of section 22, declare the number of eligible voters, number of voters in favour and the comparison of them in percentage.

**Chapter X
Prohibition and Penalty**

24. In respect of the referendum, no one shall do any of the following:
- (a) voting more than once;
 - (b) possessing the fake ballot paper or fake advance ballot paper;
 - (c) destroying the ballot paper or advance ballot paper;
 - (d) taking away the ballot paper outside the polling booth;
 - (e) opening the ballot box without authority, destroying or affecting it in any other manner;

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- (f) destroying the polling booth;
- (g) making or destroying intentionally the lists, notices or other documents issued by the Commission and Sub-commission so as to be unable to be read;
- (h) lecturing, distributing papers, using posters or disturbing the voting in any other manner in the polling booth or on the premises of polling booth or at the public or private place to destroy the referendum.

25. Whoever violates any prohibition contained in section 24, attempts to violates as such, commit any criminal act by conspiring to violate or abet in violation, shall, on conviction, be punished with imprisonment not exceeding 3 years or with a fine not exceeding one hundred thousand kyats or, with both.

Chapter XI

Obtaining Financial and Staff Assistance

26. (a) The Commission shall:
- (1) submit and request the State Peace and Development Council by calculating the estimated expenditure for holding referendum and expend;
 - (2) allocate, as appropriate, out of the fund requested and obtained under clause (1) to the Sub-commissions.
- (b) The Sub-commissions shall:
- (1) expend the fund allocated by the Commission under sub-section (a) as directed by the Commission and keep the accounts systematically;
 - (2) send their balance statements of accounts to the Commission after holding the referendum.

27. The Commission may co-ordinate and obtain necessary staff and material assistance for the Commission and Sub-commissions from the ministries and organizations.

Chapter XII

Miscellaneous

28. The Commission shall submit the report to the State Peace and Development

Council after declaring the situation of the vote obtained under section 23.

29. (a) If the office of the member of the Commission becomes vacant for any reason, the State Peace and Development Council may substitute and appoint a member for such office;
- (b) If the office of the member of any Sub-commission becomes vacant for any reason, the following Commission or Sub-commissions may substitute and appoint:
- (1) if it is the post of the member of State or Divisional Sub-commissions, the Commission;
 - (2) if it is the post of the member of District Sub-commission, relevant State or Divisional Sub-commission;
 - (3) if it is the post of the member of the Township Sub-commission, relevant State or Divisional Sub-commission;
 - (4) if it is the post of the member of Ward or Village-tract Sub-commission, relevant Township Sub-commission.
- (c) The performance of the Commission or Sub-commission shall not be invalidated due to vacancy of the post of the member of the Commission and Sub-commission.

30. For the purpose of implementing the provisions of this Law, the State Peace and Development Council may make such Rules as may be necessary.

31. The Commission may without contravening to the provisions of this Law or Rules made hereunder issue such notifications, orders and directives as may be necessary without.

Sd./ (Than Shwe)
Senior General
Chairman

The State Peace and Development Council